

Cooperative Agreement
P19AC00333
Between
THE UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
AND
WOLF TRAP FOUNDATION FOR THE PERFORMING ARTS
DUNS No: 077798502
1645 Trap Road
Vienna, Virginia 22182

CFDA: 15.954

Project Title: PROGRAM MANAGEMENT AND OPERATIONS AT WOLF TRAP NATIONAL PARK FOR THE PERFORMING ARTS

Amount of Federal Funds Obligated: \$0.00. Property Assignment: The National Park Service's contribution consists of the Assigned Spaces and Facilities.

Total Amount of Award: \$0.00. Property Assignment: The National Park Service's contribution consists of the value of Assigned Spaces and Facilities.

Period of Performance: April 30, 2019 through December 31, 2039.

This Cooperative Agreement (Agreement) is entered into by the National Park Service (NPS) within the U.S. Department of the Interior and Wolf Trap Foundation for the Performing Arts (Foundation or Recipient) (collectively, the Parties).

BACKGROUND AND OBJECTIVES

The purpose of this Agreement is to support essential operations at the Filene Center and Children's Theatre-in-the-Woods, and in other areas, at Wolf Trap National Park for the Performing Arts. Established in 1966, the mission of Wolf Trap National Park for the Performing Arts (Park) is to present opportunities to experience live performances and to participate in related educational programs, and to provide associated outdoor recreational opportunities, within the national capital region. This mission is accomplished in cooperation with Wolf Trap Foundation for the Performing Arts, the private, nonprofit partner of the NPS whose mission is to present and create excellent and innovative performing arts programs for the enrichment, education, and enjoyment of diverse audiences and participants.

In 1966, Congress established the Park, a unit of the National Park System, as a result of Mrs. Catherine Filene Shouse donating a portion of her farm in Vienna, Virginia, known as the Wolf Trap Farm, to the United States government to create the first national park dedicated to the performing arts in The Wolf Trap Farm Park Act, P.L. 89-671, 80 Stat. 950 (Oct. 15, 1966). The Park was subsequently renamed Wolf Trap National Park for the Performing Arts in 2002, P.L. 107-219, 116 Stat. 1330 (Aug. 21, 2002). The Foundation was established by Mrs. Shouse in 1968 at the request of the Secretary of the

Interior, who recognized the importance of a mutually beneficial partnership with a non-federal partner to achieve the purpose for which the Park was established.

Congress has recognized the importance of the partnership for the Park through amendments to the Park's enabling legislation which, among other things, direct the NPS to enter into a cooperative agreement with the Foundation regarding the presentation of performing arts and related educational and cultural programs in the Park. Although the Foundation is not considered a traditional Cooperating Association or Friends Group, this Agreement establishes standards and practices to be consistent with laws, regulations, and policies of the NPS. In addition, the Foundation's fundraising in support of activities in and related to the Park will be authorized by the NPS under a separate Philanthropic Partnership Agreement.

Over time, the Foundation and the NPS have worked in close partnership under a series of cooperative agreements to provide outstanding, innovative performing arts experiences and related arts education programs for the diverse audiences who visit Wolf Trap National Park for the Performing Arts. The Foundation contributes to the fulfillment of this shared mission by assuming responsibility for integral performing arts functions of the Park, including artistic programming, public relations, marketing, box office functions, and providing key employees whose roles are directly related to the presentation of the performing arts. In turn, the NPS oversees Park management, sponsors interpretive programming, maintains buildings and grounds, provides visitor services, provides safety and security of the Park and visitors, and directs the operation and maintenance of facilities that support the performing arts mission of the Park.

The purpose of this Agreement is to renew and update the partnership between the NPS and the Foundation, to ensure that the Park, a unit of the National Park System, continues to serve as a nationally renowned performing arts and cultural destination park and provides the highest quality visitor experience, as the only national park dedicated to the performing arts. Over time, the responsibilities of the partners have evolved to better align with the respective expertise of each partner and to more effectively and efficiently support the goals and missions upon which the partnership is founded. While the Foundation has taken on additional responsibilities and financial obligations in this Agreement, the NPS will remain substantially involved. The partners also acknowledge that the ability and opportunity to leverage resources will continue to sustain the Park's primary mission and public purpose through this Agreement.

This Agreement will renew this long-standing public-private partnership so that these unique and educational visitor experiences and Park resource protections continue over the long-term. In part, this will be accomplished by assigning federal facilities and property to the Foundation to maintain in the Park in a manner that follows law, regulation, and policy. The Foundation is authorized to generate programmatic income through activities and fees charged for approved use of the facilities in support of the Park mission. The public-private partnership also enables the NPS and the Foundation to engage in strategic planning related to deferred maintenance, capital improvements, and

technical equipment and to ensure the operations are in keeping with applicable environmental, cultural, and historic requirements for federal property.

Public Purpose:

The Park was established to serve as a park “for the performing arts and related educational programs” and related recreational use in service to the public. The Park serves as a venue for artists spanning the performance arts spectrum to share their talents with Park visitors, exposing the public to a diverse exhibition of national and international culture. Reflecting the diversity of the public and its interests, the partnership between the Park and the Foundation provides a wide range of programs that preserve traditional arts and respond to contemporary interests. The types of programming presented by the Foundation include, but are not limited to: music, dance, and other performing arts performances; educational programs for adults and children; public festivals; and artist training programs. The programs and performances at the Park provide visitor experience opportunities that engage and attract a diverse visitor base, not only from the Washington, D.C. metropolitan area, but from all over the United States and around the world.

Furthermore, this Agreement serves a public purpose by promoting facilities management and conservation practices that will continue to protect the Park’s features and structures, including the iconic Filene Center. Additionally, this Agreement promotes appropriate historic preservation of facilities within the Park that may be defined as historically significant, or as contributing historical and/or cultural features (as delineated under the National Historic Preservation Act). This Agreement ensures the Park is maintained and protected according to federal property and land use regulations, including the laws and regulations applicable to the National Park System, so that it may be enjoyed by future generations.

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ARTICLE I – LEGAL AUTHORITY

The NPS enters into this Agreement pursuant to:

54 U.S.C. § 100101 et seq. (NPS Organic Act); 54 U.S.C. § 101702 (Living Exhibits and Interpretive Demonstrations, Cooperative Agreements); 16 U.S.C. § 284d (Wolf Trap Farm Park Act, cooperative agreement with the Foundation); 54 U.S.C. § 102302 (National Capital region arts and cultural affairs grant program); 54 U.S.C. § 101101 (Donations); 54 U.S.C. § 100804 (Interpretation and Education); 54 U.S.C. § 320102(f) (Historic Sites Act); 54 U.S.C. § 103104 (Cost Recovery); and any other applicable authorities.

ARTICLE II – DEFINITIONS

Administrative Use – means the use of a Park Facility by the Foundation for routine work such as facility management, internal meetings, planning sessions, inventories, and other activities in preparation for and/or in support of its activities pursuant to this Agreement.

- Artist** – means a person, persons, or group contracted by the Foundation to present Performing Arts and/or Arts Education in the Park.
- Artist Agreement** – means an agreement between a person, persons, or groups and the Foundation to present Performing Arts and/or Arts Education in the Park.
- Artist Hospitality and Theatrical Support Areas** – means those areas within the Center that provide amenities and logistical support for the presentation of performances, including but not limited to: green room; artist lounge and game area; ensemble and individual dressing rooms; canteen; catering kitchen; wardrobe room and prop room; offices; and video control room.
- Arts Education** – means the process of teaching and learning how to create and produce the visual and Performing Arts and how to understand and evaluate art forms created by others.
- Assigned Spaces and Facilities** – means the Assigned Spaces and Facilities as defined in ARTICLE III – ASSIGNMENT OF SPACES, FACILITIES, AND PROPERTY UTILIZATION.
- Capital Improvement** – means projects that are outside the scope of Routine and Cyclical Maintenance including but not limited to construction of new facilities and major repairs such as work related to replacing or upgrading components such as roof, HVAC, facility expansions, extensive plumbing or electrical work, repairs requiring heavy equipment, and other improvements to buildings, structures, and bridges.
- Center** – means the iconic building, open-air amphitheater structure, covered seating, lawn, and plaza area within the Park known as the Filene Center and includes all real property, equipment, and fixtures associated with those spaces that are within or directly related to the Filene Center as depicted on the map in Attachment D (Assigned Spaces and Facilities Map). All right, title, and interest in the Center is vested in the United States.
- Children’s Theatre** – means the open-air amphitheater, the physical structure, and all its related components, commonly known as the Children’s Theatre-in-the-Woods.
- Contract** – means a contract or other legal instrument between the Foundation and a third party to carry out Foundation activities pursuant to this Agreement that involve the provision of services that are outside the scope of Routine and Cyclical Maintenance within the Park or that involve providing services in the Park on an extended or recurring basis (i.e., not associated with a single performance or special event). When capitalized in this Agreement, the term “Contract” excludes Vendor Agreements and Artist Agreements.
- Contractor** – means a person or entity that enters into a Contract or other legal instrument with the Foundation to carry out Foundation activities pursuant to this Agreement that involve the provision of services that are outside the scope of Routine and Cyclical Maintenance within the Park or that involve providing services in the Park on an extended or recurring basis (i.e. not associated with a single performance or special event). When capitalized in this Agreement, the term Contractor excludes Vendors and Artists. An example of a Contractor is the entity providing meal service at Ovation’s restaurant.

- Event Security** – means protection of persons and property prior to, during, and following performances while providing positive experiences for Park patrons, visitors, Artists, staff, volunteers, and others in the Park. This includes, but is not limited to: traffic and crowd control; access control to secured areas; provision of screening services (front and back of house); patron security checkpoints; and general presence and deterrence.
- Fire Detection System** – means a remotely monitored system of electronic devices for the detection of fire, smoke, and heat that is automatically activated, and manually actuated devices to alert building occupants and initiate emergency response. Fire Detection Systems do not include fire suppression systems and devices.
- Government Improvements** – means the buildings and structures within the Park as well as the utility systems, fixtures, and other government-owned permanent improvements in the Assigned Spaces and Facilities, constructed or acquired by the NPS in whole or in part and provided for the purpose of this Agreement. Any additions, alterations, improvements, or replacements heretofore or hereafter to Government Improvements shall become the property of the U.S. Government. Nothing herein shall be deemed to create in the Foundation or any of its Third Party Contractors any right, title, interest, or any possessory interest in the Government Improvements, or in improvements to such Government Improvements, made available for their use by this Agreement.
- Grounds** – means all the areas outside the exterior of the buildings to include all permeable and non-permeable surfaces. Grounds includes: planting beds; picnic areas; asphalt surfaces; grassy areas, whether used for parking or otherwise; benches; trash cans; bike racks; snow and ice operations; handrails; interpretive and wayfinding signs; kiosks; bulletin boards; trails; and pathways.
- Intellectual Property** – means all tangible or intangible contributions, products, marks, or works of authorship prepared, produced, originated, developed, generated, used, or acquired by the Park or the Foundation.
- Law Enforcement** – means the function of providing authorized armed personnel from the NPS to perform law enforcement duties. Law Enforcement responsibilities include the prevention of violations of the law and the investigation and/or detention of individuals suspected of violating the law.
- Operational Use** – means the use of a Park Facility by the Foundation to carry out public functions authorized in this Agreement and the Annual Work Plan, such as presentation of Performing Arts, Arts Education, and cultural programs, food and beverage service, authorized sales of Park or performance-related merchandise, and third party rentals.
- Park** – means Wolf Trap National Park for the Performing Arts.
- Park Facilities** – means Grounds and permanent and temporary structures in the Park including: utility systems (potable water, sanitary systems); fire hydrants; site electrical; communication systems; stormwater management systems; HVAC systems; intrusion and fire alarm systems; and CCTV systems.
- Performing Arts** – refers to forms of creative activity and cultural expressions that are performed in front of an audience, including but not limited to music, dance, and drama.

- Performance Season** – means the time period of each year during which Performing Arts programs at the Park occur pursuant to this Agreement, which is typically from mid-May to the end of September. The dates of the Performance Season will be set forth in the Annual Work Plan.
- Permit** – means written authorization from the NPS to engage in uses or activities that are otherwise prohibited, restricted, or regulated within the Park. This includes the “blanket permit” for Foundation activities agreed to in the Annual Work Plan.
- Physical Security** – means protection of buildings, facilities, and structures from physical actions and events that could cause serious loss or damage. This includes protection from fire, burglary, theft, and vandalism, and access control to facilities.
- Physical Security System** – means the multi-faceted protection of buildings, facilities, structures, and personnel from unauthorized access, physical actions, and events through the use of systems including but not limited to: mechanical or electronic access control; CCTV systems; and, remotely monitored automated intrusion detection systems.
- Program Income** – means gross income earned by the Recipient that is directly generated by a supported activity on Park property or earned as a result of the Federal award during the period of performance, including but not limited to income from: fees for services performed; fees for the use or rental of real or personal property acquired under the Federal award; the sale of commodities or items fabricated under the Federal award; license fees and royalties on patents and copyrights; and principal and interest on loans made with Federal award funds. The addition method of Program Income shall be applied to this Agreement. With prior approval of the NPS, Program Income may be added to the Federal award by the NPS and the Recipient. The Program Income must be used for the purposes and under the conditions of the Federal award.
- Recipient** – means a non-federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The Recipient under this Agreement is the Foundation. “Foundation” and “Recipient” may be used interchangeably under this Agreement.
- Routine and Cyclical Maintenance** – refers to projects to maintain an asset in its normal state of repair with similar material in keeping with the original design of the structure. These are considered ordinary maintenance, repairs, and replacements for daily operation of the Park. Examples of Routine and Cyclical Maintenance may include functions such as: recurring and preventative maintenance; custodial functions (such as routine cleaning); changing light bulbs and furnace filters; cleaning gutters and downspouts; maintenance of appliances; trash removal; snow removal; lawn maintenance; interior painting; public utility servicing; and other repairs that do not involve construction.
- Stagehands** – means the technical and professional personnel employed by the Foundation to carry out specific performance and production related functions within the Center.
- Theatrical Equipment** – means equipment including, but not limited to: portable lighting equipment; portable sound amplification equipment, including speakers, microphones, and input devices; theatrical lighting and controls; man or aerial lifts;

sound consoles; lighting consoles; stage and backstage equipment such as platforms, risers, stairs, music and microphone stands, and other specialized equipment; special electrical, lighting, and sound equipment utilized in connection with specific performances; washers and dryers; sewing machines; and other specialized equipment used to support performances in the Park.

Theatrical Infrastructure – means infrastructure that directly supports the programs presented in the Park by the Foundation, including but not limited to: rigging systems; orchestra pit lift; electrical systems; counterweight system; chain motors; fire curtain; stage curtains; stage flooring; Public Address System (PA System); Stage Lighting Dimming and Distribution System; catwalks; rain shields; orchestra shell; and other fixtures and controls associated with the Center’s physical infrastructure required for the production and presentation of programs by the Foundation.

Third Party Contract – means a legal instrument by which the Foundation purchases property or services needed to carry out its activities pursuant to this Agreement. The term Third Party Contract includes Contracts, Vendor Agreements, and Artist Agreements.

Third Party Contractor – means a third party with whom the Foundation enters into a contract or other legal instrument by which the Foundation purchases property or services needed to carry out its activities pursuant to this Agreement. The term Third Party Contractor includes Contractors, Vendors, and Artists.

Tools and Materials – means hand, stationary, and portable power tools; welding equipment; and other stage equipment used by Stagehands for operation of the Center to support performances and for maintenance and installation of stage and theatrical equipment.

Utilities – means services such as electricity, gas, water, sewage, and internet service within the Park.

Vendor – means a person or entity providing services, supplies, or equipment to the Foundation that support the Foundation’s work in the Park authorized under this Agreement, or services, supplies, or equipment for projects within the scope of Routine and Cyclical Maintenance within the Park.

Vendor Agreement – means an agreement between the Foundation and its Vendor(s) and may consist of invoices for supplies, equipment, or work. Examples of Vendors are food and beverage suppliers, entities providing floral deliveries, and entities supplying event support equipment.

ARTICLE III – ASSIGNMENT OF SPACES, FACILITIES, AND PROPERTY UTILIZATION

A. In General

1. The Foundation may use the Shared Assigned Spaces and Facilities and Fully Assigned Spaces and Facilities (together, the Assigned Spaces and Facilities) within the Park, as identified in map Attachment D (Assigned Spaces and Facilities Map) and pursuant to the terms of this Agreement and in support of the Park’s mission. The Foundation has no additional

explicit or implied rights or interests in the Assigned Spaces and Facilities other than those set forth in this Agreement.

2. Any use of the Assigned Spaces and Facilities not identified in this Agreement or an active Annual Work Plan and/or referenced Facilities Management Agreement (Attachment F) shall require prior written approval (such as special use permits) in accordance with the rules of the Park.
3. The Foundation may use certain Assigned Spaces and Facilities as detailed in this ARTICLE for the presentation of Performing Arts, Arts Education, and cultural programs, and other revenue generating activities as identified in this Agreement and may charge a fee for such programs and use, under the following conditions:
 - i. All Program Income from the ticket sales, revenue, or fees must be reported and directly support the mission and public purpose of the Park. All Program Income is subject to the regulations under 2 C.F.R. § 200.307, and facilities management responsibilities will be in accordance with Attachment F (Facilities Management Agreement).
 - ii. The Foundation shall conform to the responsibilities and restrictions as set forth in Section F of this ARTICLE (Food and Beverage Operations).
4. The Foundation may not transfer the use, assignment, or benefits of the Assigned Spaces and Facilities. Any third-party use of Assigned Spaces and Facilities must directly support the purpose and objectives of this Agreement and be bound by the terms of this Agreement.
5. The Foundation's Third Party Contractors shall have no explicit or implied rights in any of the Assigned Spaces and Facilities.
6. The NPS will have use of the Assigned Spaces and Facilities, without charge, for occasional employee functions, volunteer recognition events, and NPS-sponsored (and excluding permitted third-party events) special events/interpretive programming, provided there is no conflict with the Foundation's activities. The NPS will be responsible for cleaning and returning furniture to its original location after such events. The NPS will provide the Foundation with fourteen (14) days advance notice of any such uses.
7. For out-of-Performance Season events in Assigned Spaces and Facilities, with the exception of the Holiday Sing, the Foundation agrees to reimburse the NPS for any incremental costs incurred in connection with the events.
8. In performing the activities authorized in this Agreement, the Foundation is responsible for using its best efforts to protect the Park's natural and cultural resources, including the Park's iconic structures, as well as resources associated with the pastoral setting and cultural landscapes, including those resources which may be eligible or be designated as

historic and/or culturally significant in accordance with the National Environmental Policy Act and the National Historic Preservation Act.

9. For the first year after this Agreement is signed, the NPS is responsible for ensuring that all Physical Security, Fire Detection Systems, and fire suppression systems for the Assigned Spaces and Facilities meet National Fire Protection Association codes and standards. After the first full year, and upon the NPS's certification that all such systems meet applicable codes and standards, for the remainder of the term of this Agreement, the Foundation will assume this responsibility for all Fully Assigned Spaces and Facilities and the NPS will remain responsible for all Shared Assigned Spaces and Facilities.
10. Capital Improvements to any Assigned Spaces and Facilities are not authorized by this Agreement and require additional agreements with the NPS.

B. Assignment of Shared Spaces and Facilities to the Foundation and Authorized Activities

1. Authorization and Assignment: The Foundation may use the identified Shared Assigned Spaces and Facilities as identified in Attachment D (Assigned Spaces and Facilities Map) and listed below, and generate Program Income from identified authorized activities for each space.
2. Program Income: All Program Income from authorized uses of the Shared Assigned Spaces and Facilities is subject to the regulations under 2 C.F.R. § 200.307 and facilities management responsibilities will be in accordance with Section E of this ARTICLE and Attachment F (Facilities Management Agreement).
3. Identification of Shared Assigned Spaces and Facilities: The following are Shared Assigned Spaces and Facilities:
 - i. Filene Center
 1. Shared Assigned Space: The Foundation shall have Administrative Use of the Filene Center year-round and Operational Use of shared spaces within the Filene Center during the Performance Season and at other times authorized in the Annual Work Plan, including the Center's back of house and front of house, except for the second floor and stage door areas.
 - a. This Agreement may be amended in the future to assign space within the Center's second floor and stage door areas to the Foundation for Administrative Use and Operational Use to prepare and present programs during the Performance Season and at other times authorized by the Annual Work Plan.
 - b. In the event that any Theatrical Infrastructure is replaced at the shared or sole cost of the

Foundation, such property will be assigned to the Foundation.

2. Authorized Activities: Program and production activities associated with presentation of Performing Arts and Arts Education programming during the Performance Season. Various spaces within the Center are occupied and used by the Foundation and Third Party Contractors to support performances, related programming and production activities during the Performance Season. The activities authorized are anticipated to result in Program Income as identified in the Annual Work Plan.
- ii. Children's Theatre-in-the-Woods
 1. Shared Assigned Space: The Foundation shall have shared Administrative Use and Operational Use of the Children's Theatre during and limited to the Performance Season to present interactive Performing Arts and related Arts Education programming intended for children and families.
 2. Authorized Activities: The activities authorized at the Children's Theatre that are anticipated to result in Program Income include program and production activities associated with the presentation of Performing Arts and Arts Education programs pursuant to the Annual Work Plan. The Shared Assigned Spaces within the Children's Theatre may be used by the Foundation and Third Party Contractors to support performances, related programming, and production activities during the Performance Season and at any other times authorized by the Annual Work Plan.
 - iii. Concession Stand A Building, Main Gate Buildings, South Gate Building
 1. Shared Assigned Space: In general, the Concession Stand A Building, Main Gate Building, and South Gate Building are assigned to the Foundation as Shared Assigned Spaces for Administrative Use year-round and Operational Use during the Performance Season and at other times authorized by the Annual Work Plan.
 - a. The following interior spaces within these buildings are assigned to the Foundation:
 - i. Concession Stand A;
 - ii. Concession Stand B;
 - iii. Box Office;
 - iv. Gift Shop;
 - v. Merchandise Booth; and,
 - vi. South Gate Concession Stand.

- b. The following interior spaces within these buildings are not assigned to the Foundation:
 - i. The ranger station, restrooms, and first aid room in the Main Gate Building; and,
 - ii. All restrooms within the Concession Stand A and South Gate Buildings.
2. Authorized Activities: The activities authorized within the Concession Stand A Building, Main Gate Building, and South Gate Building that are anticipated to result in Program Income include:
- a. Concession Stand A, Concession Stand B, and South Gate Concession Stand: The Foundation is authorized to provide food and beverage service to ticketed patrons at Concession Stand A, Concession Stand B, and South Gate Concession Stand during the Performance Season and at any other times as may be authorized by the Annual Work Plan. The assignment may be occupied and used by the Foundation and Third Party Contractors to support performances through food and beverage service during the Performance Season and at any other times as may be authorized by the Annual Work Plan.
 - b. Box Office: The Foundation staff (full-time and seasonal) are authorized to operate during the pre-performance and Performance Season to provide patron services related to ticketing for performances. The Foundation is authorized to use the Box Office to sell and distribute tickets for events in the Park.
 - c. Gift Shop and Merchandise Booth: The Foundation is authorized to operate the Gift Shop and Merchandise Booths, and to sell merchandise at South Gate, during the Performance Season and at any other times as may be authorized by the Annual Work Plan to offer Park-related and Artist merchandise for purchase that supports the programmatic and thematic mission of the Park.
 - i. The Foundation and approved Contractors and Vendors are authorized to sell and rent performance and Park-related apparel, stickers, posters, recorded material, lawn seats, and other merchandise immediately before, during, and after authorized

programs and activities identified in the Annual Work Plan in the Assigned Spaces.

- ii. All Foundation or Park-related proposed retail and rental items must be approved by the Parties in the Annual Work Plan.

iv. Trap Road Marquee

1. Shared Assigned Space: The Foundation is assigned the electronic display components of the Trap Road Marquee.
 - a. The Marquee structure and associated electrical wiring are the responsibility of the NPS.
2. Authorized Activities: The activities authorized at the Trap Road Marquee include the primary use by the Foundation to provide digital messaging consistent with the Park's mission during the Performance Season and at any other times as may be authorized by the Annual Work Plan.
3. All uses of the Marquee shall conform to the responsibilities and restrictions as set forth in ARTICLE IV, Section F (Communications, Public Information, and Media Relations).

v. Encore Hill Parking Area

1. Shared Assigned Space: The Foundation shall have Administrative Use year-round and Operational Use during the Performance Season and at any other times as may be authorized by the Annual Work Plan.
2. Authorized Activities: The activities approved at the Encore Hill Parking Area that are anticipated to result in Program Income include:
 - a. Parking as a benefit for Foundation supporters during the Performance Season as identified in the Annual Work Plan.
 - b. Thirty (30) minutes prior to each Filene Center performance, Encore Hill, with the exception of eight empty spaces, shall be available for general public parking.
 - c. Parking for other Foundation events and activities year-round as identified in the Annual Work Plan.

C. **Spaces and Facilities Fully Assigned to the Foundation and Authorized Activities**

1. Authorization and Assignment: The Foundation may use the identified Fully Assigned Spaces and Facilities year-round and generate Program Income from identified authorized activities for each space as identified in Attachment D (Assigned Spaces and Facilities Map).
2. Program Income: All Program Income is subject to the regulations under 2 C.F.R. § 200.307.

3. Identification of Fully Assigned Spaces and Facilities: The following are Fully Assigned Spaces and Facilities:
 - i. Meadow Pavilion
 1. Assigned Space: The Foundation shall have year-round use of the Meadow Pavilion and associated hardscape.
 2. Authorized Activities: The activities approved at Meadow Pavilion that are anticipated to result in Program Income include providing Performing Arts events, Arts Education and cultural programs, as identified in the Annual Work Plan. In addition, the Foundation may use the Meadow Pavilion to rent to third parties for public and private programs, social and corporate events, and Foundation-sponsored events, as identified in the Annual Work Plan.
 - ii. Ovations Restaurant
 1. Assigned Space: The Foundation is assigned year-round use of the Ovations Restaurant building, tent, deck, associated restrooms, and janitorial closet.
 2. Authorized Activities: The activities authorized at the Ovations Restaurant building, tent, and deck that are anticipated to result in Program Income include the primary use by the Foundation during the Performance Season to provide on-site restaurant and "to-go" food and beverage service to patrons for Center performances, as identified in the Annual Work Plan. In addition, the Assigned Space and Facility may be used by the Foundation to provide rental opportunities for public and private programs, social and corporate events, and Foundation-sponsored events, during or outside of the Performance Season, as identified in the Annual Work Plan.
 - a. The assignment may be occupied and used by Foundation Contractors to support Center performances through food and beverage service during the Performance Season, as identified in the Annual Work Plan.
 - iii. Encore Circle Lounge and Patio
 1. Assigned Space: The Foundation is assigned the Encore Circle Lounge building, tent, and patio year-round.
 2. Authorized Activities: The activities authorized at the Encore Circle Lounge and Patio that are anticipated to result in Program Income include the primary use as a courtesy lounge and patio area available for Foundation supporters during the Performance Season, as identified in the Annual Work Plan. In addition, the Encore Circle Lounge and Patio may be used for the Foundation to provide rental opportunities for public and private

programs, social and corporate events, and Foundation-sponsored events, during or outside of the Performance Season, as identified in the Annual Work Plan.

iv. Associates Building

1. Assigned Space: The Foundation is assigned use of the Associates Building year-round.
2. Authorized Activities: The activities authorized that are anticipated to result in Program Income include the primary use and activities by the Foundation's catering/food and beverage services for the Associates Building.

v. Terrace Deck and Associates Deck

1. Assigned Space: The Foundation is assigned the Terrace Deck and Associates Deck year-round.
2. Authorized Activities: The activities authorized at Terrace Deck and Associates Deck that are anticipated to result in Program Income include the primary use and activities by the Foundation to provide rental opportunities for public and private programs, social and corporate events, and Foundation-sponsored events during or outside of the Performance Season, as identified in the Annual Work Plan.

vi. Meadow Kiosk

1. Assigned Space: The Foundation is assigned the Meadow Kiosk year-round.
2. Authorized Activities: The activities authorized at Meadow Kiosk that are anticipated to result in Program Income include the primary use and activities by Foundation staff and volunteers during Children's Theatre performances to provide patron services, facilitate performance ticketing, and sell visitor convenience items and Park-related and Artist merchandise.
 - a. NPS staff and volunteers also operate out of the kiosk to provide patron and visitor services and Park information.

vii. Box Office Trailer - Press Trailer

1. Assigned Space: The Foundation is assigned the Box Office Trailer - Press Trailer year-round.
2. Authorized Activities: The activities authorized at the Box Office Trailer - Press Trailer that are anticipated to result in Program Income include the primary use and activities by Foundation staff (full-time and seasonal) during the pre-performance and Performance Season to provide patron services and facilitate performance ticketing, and to perform key public relations and media functions.

D. Foundation Maintenance and Facility Responsibilities

1. In General:

- i. In all Fully Assigned Spaces and Facilities, the Foundation shall assume responsibility and payment for Routine and Cyclical Maintenance, Utilities, all necessary janitorial and housekeeping activities, and overall facility management and replacement needs in accordance with Attachment F (Facilities Management Agreement).
- ii. In all Shared Assigned Spaces and Facilities (except the Center and Children's Theatre), the Foundation shall assume responsibility and payment for Routine and Cyclical Maintenance, and all necessary janitorial and housekeeping activities in accordance with Attachment F (Facilities Management Agreement).
- iii. The Foundation is responsible for providing, maintaining, and replacing equipment necessary for the Foundation's activities in the spaces identified in Sections B and C of this ARTICLE.
- iv. For all Shared Assigned Spaces and Facilities (except the Center), utility costs shall be shared equally between the Parties where there are no sub-meters for the Foundation spaces.
- v. Where food or beverage service is authorized in an Assigned Space and Facilities, such use shall conform to the responsibilities and restrictions as set forth in Section F of this ARTICLE (Food and Beverage Operations).
- vi. For the first year after this Agreement is signed, the NPS is responsible for maintenance and repair of automated Physical Security and Fire Detection Systems and for all portable and fixed fire suppression systems. After the first full year, and upon the NPS's certification that all such systems meet applicable codes and standards, for the remainder of the term of this Agreement, the Foundation is responsible for maintenance and repair of automated Physical Security and Fire Detection Systems, including the provision of telecommunications services at the Foundation's expense, and is responsible for all portable and fixed fire suppression systems, at all Fully Assigned Spaces and Facilities.
- vii. The Foundation agrees to reimburse the NPS for any incremental costs (such as security and maintenance support) incurred in connection with Foundation-sponsored special events (such as deck rentals) and Foundation events occurring on dark nights during the Performance Season and outside of the Performance Season.

2. Additional Specific Responsibilities

i. Filesc Center

- I. The Foundation is responsible for Routine and Cyclical Maintenance as needed of the following interior spaces and as further detailed in the Annual Work Plan:

- a. Image Magnification (IMAG) Room and equipment;
 - b. Backstage and furnishings;
 - c. Artist Hospitality and Theatrical Support Areas; and,
 - d. Stagehand Bunk and Break Rooms.
2. The Foundation will be responsible for maintenance, repair and replacement for all Theatrical Infrastructure that has been replaced by the Foundation and assigned under this Agreement.
- ii. Children's Theatre
 1. The Foundation is responsible for Routine and Cyclical Maintenance for the following equipment:
 - a. Sound mixer;
 - b. Speakers;
 - c. Wired microphones and stands; and,
 - d. Wireless microphone systems.
 2. The Foundation will be responsible for Routine and Cyclical Maintenance for all Theatrical Infrastructure that has been replaced by the Foundation and assigned under this Agreement.
 - iii. Trap Road Marquee: The Foundation is responsible for operating, performing Routine and Cyclical Maintenance on, and replacing as needed, the electronic display.
 - iv. Encore Hill Parking Area
 1. The Foundation is responsible for maintaining the Encore Hill Parking Area infrastructure, distribution of parking passes, and reporting resulting Program Income.
 2. The Foundation is responsible for seeding and other turf management activities, with the exception of mowing.

E. NPS Responsibilities in Shared Assigned Spaces and Facilities

1. The NPS will provide janitorial services for shared spaces identified in the Center and Children's Theatre, as well as for the restrooms within Main Gate, Concession Stand A Building, and South Gate Concession Stand.
2. The NPS will provide Routine and Cyclical Maintenance service for the Center and the Children's Theatre to ensure the proper functioning of all mechanical, electrical, and plumbing systems.
3. The NPS will provide central monitoring services of Physical Security and alarm monitoring systems as set forth in ARTICLE IV, Section D (Law Enforcement and Security).
4. The NPS will provide general mowing services for the Encore Hill Parking Lot.
5. The NPS is responsible for the structure and electrical wiring of the Trap Road Marquee.

6. The NPS will have the following Grounds maintenance and operation responsibilities related to this Agreement:
 - i. Maintenance and repair of paved surfaces, driveways, walkways, parking areas;
 - ii. Landscaping, tree pruning and removal, and grounds maintenance; and.
 - iii. Winter maintenance (e.g., snow plowing, maintaining walkways).
7. The NPS will provide Theatrical Equipment, subject to available appropriations, for use by the Foundation in connection with the programs presented in the Center and Children's Theatre.
8. Subject to available appropriations, the NPS will be responsible for maintenance, repair, and inspection of all Theatrical Equipment and Theatrical Infrastructure that has not been assigned to the Foundation pursuant to this Agreement.
9. Should the NPS plan infrastructure improvements involving Park Facilities or Utility services that affect the Foundation, the NPS will share such plans with the Foundation so that cost and timing benefits may be coordinated.
10. The NPS will, in good faith, continue to seek to provide appropriations or other available funding in support of its activities under this Agreement related to Park maintenance, cyclic and replacement projects, Park deferred maintenance projects, and Performing Arts-related endeavors at the Park.

F. Food and Beverage Operations

1. The Foundation is authorized to carry out food and beverage operations within the specified Assigned Spaces and Facilities in furtherance of this Agreement. Program Income from authorized food and beverage operations is subject to the regulations under 2 C.F.R. § 200.307.
2. The Foundation's food and beverage operational management practices and procedures, and those of its Contractors and Vendors, shall be consistent with NPS regulations, policies, and practices.
3. The sale, use and possession of alcoholic beverages within the Park is permitted in accordance with the provisions of 36 C.F.R. § 2.35.
4. The Foundation and/or any Contractors or Vendors shall ensure that all inspections and permits related to the use and sale of alcohol and food service are in place for Assigned Spaces and Facilities at which such items are sold and shall ensure that documentation related to these inspections and permits are available for NPS review and inspection.
5. Prior to the Performance Season, the Foundation shall provide to the Superintendent copies of annual Virginia ABC licenses and permits for all Assigned Spaces and Park Facilities where alcoholic beverages are served.

G. Government Owned Property

1. The Foundation may use Government-owned real or personal property in furtherance of this Agreement in accordance with this Agreement, the

applicable Annual Work Plan, and any Special Use Permits issued by the NPS.

2. The Foundation will have no ownership interest in any Tools and Materials, equipment, and personal property furnished by the NPS. Tools and Materials, equipment, and personal property will be returned in the same condition received except for normal wear and tear in project use. Property management standards set forth in 2 C.F.R. § 200.310 through § 200.316 apply to this Agreement.
 - i. Any Tools and Materials, Theatrical Equipment, other equipment, or other personal property purchased or replaced by the Foundation shall become the property of the Foundation.

II. Emergencies and Emergency Repairs

1. If the Foundation believes there is an emergency, it shall notify the NPS as soon as possible and may take immediate actions that are urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources. The NPS will document in writing that an emergency occurred and describe the actions taken in response to the emergency.
2. The Foundation may request reimbursement for work undertaken in response to an emergency as defined above. The NPS will consider reimbursement requests on a case-by-case basis and may approve such requests subject to available appropriations, and any other applicable laws or regulations, including procurement regulations.
3. The NPS may require immediate action by, or a stoppage of activity of, the Foundation and/or its Third Party Contractors in emergency situations. Such notice is to be delivered to the Foundation, which will provide emergency contacts. After notice to the Foundation, the NPS reserves the right to contact the Foundation's Third Party Contractors directly in the case of emergencies. Follow-up actions that are taken in response to an emergency, but that are beyond the scope of actions needed to control immediate harm to life, property, or resources presented by the emergency, are subject to the normal federal compliance process and must be approved by the NPS.
4. Routine repair or replacement of Theatrical Equipment shall not constitute an emergency for the purposes of this Agreement.

ARTICLE IV – STATEMENT OF WORK

A. Theatrical Production and Programming

1. Authorization: The Foundation is authorized and responsible for contracting for the production and presentation of and/or to itself present Performing Arts programs at the Center and the Children's Theatre, and, if approved by the Superintendent, the Foundation may present such programs elsewhere in the Park. The Foundation shall be financially and otherwise responsible for all such programs. The Foundation will present programming that is consistent with the NPS's mission for the Park and

will consult annually with the Superintendent to mutually discuss programming and potential impact on operational resources for both the Foundation and the Park based on factors to include: the most recent engagement of the artist, information regarding the artist's engagements at other venues on the current tour, and the goal to engage audiences of all types at the Park. Such a discussion shall not be genre specific in nature.

2. Schedule of Performances: The Foundation shall furnish a preliminary schedule of the upcoming season to the Superintendent on or before March 1 and a detailed schedule of the forthcoming season programs on or before May 1. Changes and additions to the schedule shall be presented to the Superintendent as soon as possible. The preliminary schedule, detailed schedule, and all changes and additions will be appended to the Annual Work Plan for the relevant Performance Season.
 - i. In general, performances shall be scheduled in order to provide a time interval of at least four (4) hours between performances.
 - ii. The Performance Season for the Center and the Children's Theatre, including the number of performances, shall be determined by agreement of the Parties and set forth in the Annual Work Plan
 - iii. The NPS and the Foundation shall jointly determine, and adjust as needed, the daily opening and closing times of the Center consistent with the public convenience and the nature of performances.
3. Foundation Responsibilities
 - i. The Foundation will endeavor to have available as of February 1 of each year, cash reserves sufficient to meet any deficit that may reasonably be expected to arise during that upcoming Performance Season.
 - ii. For each scheduled performance authorized under this Agreement, the Foundation shall furnish personnel including, but not limited to, as applicable: stage and production managers, Stagehands, technicians, hospitality, transportation, complete casts, directors, theatrical consultants, musicians, conductors, supernumeraries, choreographers, make-up personnel, wardrobe personnel, scenery, and all other back-of-house personnel required for the proper functioning and presentation of performances and conducting of rehearsals.
 - iii. The Foundation shall provide any other necessary specialized equipment, costumes, special electrical and sound equipment utilized by specific performances, all literary and musical material, theatrical sets and props, and maintenance and tuning of pianos.
 - iv. The Foundation shall be responsible for the seasonal preparations to open and close the Center and Children's Theatre for Theatrical Equipment and services authorized in this Agreement. The delineation of responsibilities will be included in the Annual Work Plan.

- v. The Foundation shall incorporate reasonable and necessary contractual language that the NPS determines to be in the best interest of the agency including, but not limited to, language for the protection of life and property.
 - vi. The Foundation, in good faith and to the extent possible, shall provide the Park twenty-one (21) business days advance notice and review of plans for the proposed use and display of fireworks and pyrotechnic displays associated with its activities, for approval by the NPS Authority Having Jurisdiction (AHJ); ensure that all inspections relating to such use are performed by certified persons; ensure conformance of such use with all applicable National Fire Protection Association (NFPA) codes; and, ensure that all necessary and required permits for such use are obtained.
4. NPS Responsibilities: The NPS shall provide the services as herein described in support of the approved schedule up to the appropriations available to the Park for those purposes.
- i. The NPS will notify the Foundation of NPS-sponsored events, which will be consistent with Park interpretive themes and other NPS initiatives, and will not conflict with the purpose and objectives of this Agreement or conflict or compete with the business interests of the Foundation.
 - ii. The NPS will provide staff including a House Manager for the Center, ushers, parking attendants, personnel for the supervision of visitors, police and fire protection, law enforcement, security, traffic control, security of facilities, first aid service, and maintenance to support the presentation of performances and conducting of rehearsals.
 - iii. Unless otherwise assigned to the Foundation under ARTICLE III, the NPS will provide and maintain Theatrical Equipment and Theatrical Infrastructure, subject to available appropriations, for use by the Foundation in connection with the programs presented in the Center and Children's Theatre.
 - iv. The NPS shall: provide for the timely review of proposed use and display of fireworks and pyrotechnic displays associated with Foundation activities; ensure that all inspections are performed by certified persons; coordinate approval with the NPS AHJ; shall ensure conformance with all applicable NFPA codes; and, ensure that all necessary and required permits are obtained.
 - v. The NPS will ensure that the Foundation has the access necessary to perform its responsibilities under this Agreement, provided such access shall not disrupt the NPS's functions. The NPS has the right at any time to enter any areas of the Park, including the Center, to carry out its responsibilities; provided that, whenever possible, such right shall be exercised in a manner that will not disrupt preparation for, rehearsal of, or performance of programs presented

by or on behalf of the Foundation. The NPS shall give the Foundation adequate written notice of all activities of the NPS that it is aware of which may affect the Foundation in carrying out its responsibilities under this Agreement.

5. Third Party Event Requests

- i. In General: The NPS will ensure all public and private programming requested by any third party and authorized by the NPS meets the mission interest of the NPS and also does not conflict with this Agreement and does not unreasonably compete with the business interests of the Foundation.
- ii. The Center: In the event of any third party request for authorization from the NPS to conduct an event, program, or other activity relating to the Performing Arts at the Center outside of the Performance Season, such event, program, or other activity may be permitted if the Parties mutually determine that the request is consistent with and supports the mission of the Park and does not conflict with the purpose and objectives of this Agreement.
 1. If such an event is determined to meet the mission interest of the Park and is approved, the Foundation shall be substantially involved in the coordination and execution of the event, so as to ensure that agreed-to standards for event production and patron experience at the Center are maintained to the satisfaction of both Parties.
- iii. Meadow Pavilion: The Meadow Pavilion is assigned year-round to the Foundation. In the event of any third party request for authorization from the NPS to conduct an event, program, or other activity at the Meadow Pavilion, that event, program, or activity may be permitted if the Parties mutually determine that the request is consistent with and supports the mission of the Park and does not conflict with the purpose and objectives of this Agreement.
 1. If such an event is determined to meet the mission interest of the Park and is approved, the Foundation shall be substantially involved in the coordination and execution of the event, so as to ensure that agreed-to standards for event production and patron experience in the Park are maintained to the satisfaction of both Parties.
- iv. Children's Theatre and Non-Assigned Spaces and Facilities: The Children's Theatre is a shared Assigned Space and Facility to the Foundation only during the Performance Season. In the event of a third party request for authorization from the NPS to conduct an event, program, or other activity at Children's Theatre outside of the Performance Season or in other spaces or facilities not assigned to the Foundation, the NPS will consult with the Foundation in good faith regarding the request to ensure that the event, program,

or other activity supports the mission of the Park and does not conflict with the purpose and objectives of this Agreement

1. In the event of such a third party request for authorization from the NPS that involves a ticketed musical performance or where a musical performance is the central component of the event, the NPS will consult with the Foundation to ensure the event does not conflict with this Agreement and does not conflict or compete with the business interests of the Foundation.
6. The NPS will, in good faith, continue to seek to provide appropriations or other available funding in support of the NPS's activities under this Agreement.

B. Educational and Interpretive Programming

1. Foundation Responsibilities:

- i. Consistent with 16 U.S.C. § 284d, the Foundation is authorized to present educational and cultural programs at the Center and the Children's Theatre, and in such other areas of the Park as may be authorized. This includes but is not limited to pre-performance discussions, master classes, school field trips, workshops, stay-and-plays, arts education, and resident artists, in order to share a diverse range of skills, crafts, artistic techniques, and arts history with the public.
- ii. Provide the NPS with access to research Foundation archival materials and records associated with the history of Wolf Trap Farm, Wolf Trap National Park for the Performing Arts, Catherine Filene Shouse, and Performing Arts activities and programs in the Park, in order to develop Park programs and educational materials.

2. NPS Responsibilities:

- i. Provide services traditional to national parks including informational pamphlets, wayside exhibits, websites, social media, and other services for visitors and the public, and for other tours and related activities in the Park, including the Center and the Children's Theatre. This includes activities such as providing interpretative programs for the Park.
- ii. Provide periodic Park special events, youth programs, NPS artist-in-residence programs, and other NPS initiatives.

3. Joint Responsibilities:

- i. Coordinate interpretive and educational programming with scheduled performing arts presentations at the Center, the Children's Theatre, and other areas in the Park so that such programming complements and does not interfere with scheduled Performing Arts presentations.

C. Program Admission and Box Office

1. In General:

- i. Program admission and box office sales are governed under 54 U.S.C. § 101702(c) to facilitate the administration of the Park. The Secretary has authorized the NPS – and, through this Agreement, the Foundation – to sell at fair market value products and services produced in the conduct of living exhibits and interpretive demonstrations in the Park, including performing arts, education, and cultural programs.
 - ii. The Parties must credit the Program Income from those sales and contracts to the accounts and/or appropriation bearing the cost of performances, exhibits, and demonstrations.
 - iii. These funds and proceeds shall be used by the Parties to directly support expenditures attributable to the programs and activities associated with the presentation of performances in the Park under this Agreement.
 - iv. Under 54 U.S.C. § 101702(c), starting for the 2020 Performance Season and annually thereafter, the Foundation shall remit to the NPS a percentage of gross ticket sales for performances in the Park to help offset costs that the NPS incurs that are attributable to the presentation of these performances in the Park.
 - v. As used in this section, “gross ticket sales” means the gross amount received by the Foundation in connection with the sale of tickets for performances in the Park, excluding: credit card fees; ticket/order sales fees and related charges; all credits and refunds made to patrons with respect to transactions otherwise included in gross ticket sales; discounts; and sales and excise taxes.
 - vi. The Parties may at the conclusion of each Performance Season, but not less than every three years, review and determine whether an adjustment is appropriate to the then-existing percentage of gross ticket sales to be distributed to the NPS, based on a review of the established NPS Event Security costs and other costs related to the presentation of Performing Arts programming in the Park under this Agreement.
 - vii. Any adjustment to the percentage of gross ticket sales to be distributed to the NPS shall be determined by mutual agreement of the Parties and documented as part of the Annual Work Plan.
2. Foundation Responsibilities:
- i. The Foundation shall arrange for the sale and distribution of tickets at the Box Office in the Park, online, and at other locations for all ticketed programming and events that the Foundation presents in the Park.
 - ii. The Foundation may sell at fair market value, tickets, products, and services produced in the conduct of Performing Arts, educational, and cultural programs which are considered living exhibits, and interpretive demonstrations in the Park pursuant to 54 U.S.C. § 101702(c). The Foundation may:

1. Retain such revenue and proceeds from the sales and revenue to be expended in support of the costs of performances, exhibits, and demonstrations; and
 2. Ticket sales and program fees will be reported as Program Income as required in ARTICLE IX - FINANCIAL MATTERS, REPORTS, AND DELIVERABLES.
- iii. Starting with the 2020 Performance Season and annually thereafter, the Foundation shall distribute a percentage of gross ticket sales for performances in the Park, to be credited to the NPS appropriation bearing the cost of the performance support.
1. The percentage of gross ticket sales to be distributed for the 2020 and 2021 Performance Seasons shall be 1.75%.
 2. For the 2022 Performance Season and beyond, the percentage will be reviewed and mutually agreed upon in the Annual Work Plan. The frequency of such review may be annually agreed to by the Parties, or no less than three years.
 3. The Foundation shall transfer these funds to the NPS on a monthly basis, no later than five (5) business days after the end of the month of the date of the performance(s) for which the revenue was collected. The funds must be transferred to the NPS and may not be retained or expended by the Foundation.
- iv. The Foundation may charge admission fees to performances and fees for special programming, classes, camps, and other activities at or below fair market value.
1. Admission charges and service or convenience fees shall be no higher than levels currently in effect for similar performances and venues in the Washington, D.C. Metropolitan Area.
 2. The Foundation shall conduct a comparability review upon request of the Superintendent.
- v. The Foundation may offer for sale at reduced prices and/or set aside blocks of tickets for free distribution in furtherance of its charitable and educational objectives, consistent with the policies agreed to by the Parties in the Annual Work Plan.
- vi. Copies of Box Office statements shall be provided to the NPS on a daily basis during the Performance Season. Such statements shall include a specific listing of the number of sold and complimentary tickets.
- vii. The Foundation shall provide the Department of the Interior, without charge, a box of eight (8) seats for each performance at the Center. The tickets will be considered government property and will be used by the Department consistent with 5 C.F.R. § 2635.101(b)(9), 5 C.F.R. § 2635.702, and 5 C.F.R. § 2635.704.

- viii. The Foundation agrees not to sell tickets that exceed the maximum seating capacity of 7,028 for the Center or 700 for the Children's Theatre. In the event of a change in seating capacity for the Center or the Children's Theatre, the Parties will agree to an amendment of this Agreement to change the maximum number of tickets that may be sold.

3. NPS Responsibilities:

- i. The NPS has the authority to direct funds collected pursuant to 54 U.S.C. § 101702(c) to support costs and expenditures arising from the presentation of performances in the Park. Priority use of the percentage of gross ticket sales distributed to the NPS shall be for established Event Security purposes, though the funds may be used for other costs associated with the presentation of performances in the Park, including, but not limited to, ushers, parking operations, janitorial services, and utilities, at the discretion of the Superintendent.
- ii. The NPS will periodically review its responsibilities and costs for Event Security and other activities in support of the performances in the Park in consultation with the Foundation.
- iii. The NPS will maintain separate accounts for both revenue collected and expenditures made under the authority of 54 U.S.C. § 101702(c). The NPS shall provide a detailed statement of revenue and expenditures of these funds to the National Capital Regional Director no later than October 30 of each year, clearly showing how the funds collected under this authority were spent in accordance with their intended purpose.

D. Law Enforcement and Security

- 1. NPS Responsibilities: The NPS and the NPS's United States Park Police (USPP) shall provide the services set forth herein subject to available funding.
 - i. Law Enforcement
 - 1. Provide Law Enforcement necessary for public safety and to ensure the general integrity of the Park, the Center, and all other buildings and structures in the Park.
 - 2. Coordinate with other federal, state, or local law enforcement agencies for mutual aid or as may otherwise provide assistance in accordance with applicable law.
 - 3. Respond to life, health, and safety emergencies within the Park, including but not limited to, during the Performance Season.
 - ii. Physical Security
 - 1. Provide, monitor, and inspect automated Physical Security and Fire Detection Systems where currently installed in Park Facilities.

2. Provide, monitor, and inspect, consistent with NFPA codes and standards, fire suppression systems where currently installed for all Park Facilities, and maintain such systems in Shared Assigned Spaces.
3. Utilize the NPS National Capital Region and USPP Communication Centers (dispatch) for monitoring security and alarm systems.

iii. Event Security

1. Serve as the overall lead for the coordination and management of Event Security in support of the Performance Season and other Foundation activities in the Park pursuant to this Agreement.
2. Provide Event Security, as determined and agreed to by the NPS and the Foundation in consideration of established concert industry and law enforcement standards and guidelines, and as further detailed in the Annual Work Plan and Physical Security Plan and Operational Event Security Plan, for all Performance Season events pursuant to this Agreement, including traffic and crowd control, patron security checkpoints and screening, ushers, transportation escorts for performers and/or patron/public bus transports, coordination of Emergency Medical Services, and general presence and deterrence.
3. Coordinate with the Foundation on the issuance and tracking of event badges for scanning and tracking at patron checkpoints and staff entrances during performances.
4. Coordinate with the Foundation with regard to the assignment, creation, issuance, and tracking of parking passes.
5. Provide, through NPS/USPP or contract security on a reimbursable (cost recovery) basis, and upon the Foundation's request, additional and special security support to the Foundation required by its activities under this Agreement and provided that adequate advance notice is provided, including but not limited to screening for VIP "meet & greet" events, special visits by dignitaries or other VIPs, and guarding of Artist performance-related personal property.

iv. Security Planning and Training

1. Develop and update as needed, with the Foundation, a Physical Security Plan and an Operational Event Security Plan. These plans may be consolidated into a single plan.
2. Utilize the Annual Work Plan each year to detail an established level of Law Enforcement and Event Security

personnel for the Performance Season, as well as to identify any known projected additional Event Security requests above that level.

3. Coordinate and provide training to NPS and Foundation staff, as well as to any contracted staff and volunteers. This training may include, but is not limited to training related to: package and bag inspections; suspicious packages and persons; and response to threats. Training shall be provided at dates and times mutually agreed to by the Parties.
4. Participate in Foundation and tour management-conducted security meetings, as applicable, prior to each performance.

2. Foundation Responsibilities:

i. Physical Security

1. Provide telecommunications connections, solely at Foundation expense, for existing Physical Security and Fire Detection Systems.
2. After the first full year of this Agreement, and upon the NPS's certification that all such systems meet applicable codes and standards, for the remainder of the term of this Agreement, the Foundation will maintain, repair, and replace existing automated Physical Security and Fire Detection System components in Fully Assigned Spaces and Facilities as identified in ARTICLE III – ASSIGNMENT OF SPACES, FACILITIES AND PROPERTY UTILIZATION.
3. Maintain, repair, and replace existing fire suppression systems in Fully Assigned Spaces and Facilities. Fire suppression systems include but are not limited to portable fire extinguishers, kitchen hood systems, and chemical or water based components.
4. Acquire any necessary additional Physical Security components for Foundation Assigned Spaces and Facilities and ensure they are compatible with, and coordinated and incorporated into the NPS/USPP monitoring systems.

ii. Event Security

1. Provide coded tickets for scanning and tracking at patron checkpoints and staff entrances for performances.
2. In coordination with the NPS, create and issue staff event badges for scanning and tracking at patron checkpoints and staff entrances during performances.
3. In coordination with the NPS, create and issue all parking passes allotted to the NPS and assign, create, issue, and track all parking passes allotted to the Foundation for use by Foundation staff, volunteers, Third Party Contractors,

- and performance-related support as addressed in the Annual Work Plan.
4. Reimburse the NPS for special and additional Event Security in excess of the established level of Event Security as identified in the Annual Work Plan. Alternatively, the Foundation, in consultation with the NPS, may enter into contracts for these services.
 5. Provide the NPS advance notice to the extent possible regarding Artist or performer requests for additional Event Security not identified in the Annual Work Plan and which are reimbursable costs.
- iii. **Planning and Training**
1. Direct appropriate staff and/or volunteers to attend security-related training provided by the NPS, to be scheduled in advance at mutually agreed-to dates and times, including but not limited to training related to: package and bag inspections; suspicious packages and persons; and response to threats related to its responsibilities pursuant to this Agreement.
 2. Invite designated NPS staff to Foundation and tour management-conducted security meetings, as applicable, prior to each performance.
3. **Joint Responsibilities:**
- i. Jointly develop a Physical Security Plan for Park Facilities and an Operational Event Security Plan.
 - ii. Meet annually prior to the Performance Season to discuss and identify Law Enforcement, Physical Security, Event Security, and related issues.
 - iii. Mutually agree on the timing and content of security training for NPS and Foundation staff, contractors, and volunteers.
 - iv. Meet annually after the Performance Season to discuss and identify Law Enforcement, Physical Security, Event Security, and operational issues arising out of the performances and schedule.
 - v. Timely share Law Enforcement and security information and intelligence related to performances and other activities with the other Party to help provide for public and employee safety and the protection of Park resources.
 - vi. Notify the other party in advance of any dignitaries and/or VIPs that either party becomes aware of and that may require coordination for additional Law Enforcement and Event Security requirements and/or awareness. Such information shall be conveyed in as timely a manner as possible to the other Party's designated personnel for security as identified in the Annual Work Plan.

- vii. If the Superintendent or his or her designee, after consultation with the Foundation President/CEO or his or her designee and the USPP on-site Officer-in-charge, declares a closure of the Center and/or other areas of the Park for the protection of life, property, and/or public safety in response to weather, Law Enforcement, and/or other public safety emergencies, the Superintendent shall consult and coordinate with the Foundation President/CEO or his or her designee and the USPP on-site Officer-in-charge with regard to effecting the closure.

E. Third Party Contracts

1. Authorization: In consultation with the NPS, the Foundation is authorized to enter into Third Party Contracts, in support of its activities pursuant to this Agreement, including, but not limited to, the following: Performing Arts and Arts Education; Ovations restaurant; food and beverage catering and sales in Assigned Spaces and Facilities; rental of event support equipment such as chairs, tables, and other; event designers and decorators; floral displays/florists; photobooths; face painting; balloon displays; lighting; maintenance and repair of Assigned Spaces and Facilities; transportation and valet services; ticket services; photography; and other activities.
2. General Foundation Responsibilities
 - i. The Foundation shall be responsible for the cost of all services provided by Contractors, Vendors, and Artists in support of the Foundation's activities pursuant to this Agreement.
 - ii. All Contracts, Vendor Agreements, and Artist Agreements pursuant to this Agreement must be consistent with and subsidiary to the terms of this Agreement. The Foundation is wholly responsible for guaranteeing compliance by Contractors, Vendors, and Artists with the terms of this Agreement and with all applicable laws, regulations, and policy.
 - iii. The Foundation shall take measures to avoid or mitigate conflicts of interest in its selection of Contractors, Vendors, or Artists.
3. Foundation Responsibilities with Respect to Contracts
 - i. Consultation with the NPS: The Foundation will consult with the NPS regarding the types of Contracts it proposes to enter into pursuant to this Agreement on an annual basis as part of the Annual Work Plan. Prior to executing any Contract in support of its activities pursuant to this Agreement, the Foundation will provide to the NPS:
 1. A copy of the proposed Contract;
 2. Written confirmation that the Contractor:
 - a. Has all required federal, state, and county licenses to do the work contemplated by the Contract;
 - b. Is not suspended or debarred from federal contracting;

- c. Demonstrates relevant experience and competence to perform the work contemplated in the Contract; and,
 - d. Has obtained adequate insurance or is insured by the Foundation commensurate with its activities, expected public involvement, and associated risks as determined by a reputable insurance provider in accordance with ARTICLE VIII – INSURANCE AND LIABILITY.
 - ii. Content: All Contracts must contain standardized language requiring the Contractor to:
 - 1. Comply with all applicable laws, regulations, rules, orders, and other legal requirements, and NPS policies;
 - 2. Comply with the terms and conditions of the Annual Work Plan or other applicable permit issued by the NPS;
 - 3. Comply with any NPS order declaring a closure of the Center and/or other areas of the Park; and,
 - 4. Be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence because of, or in any way related to the work performed under the Contract.
 - iii. Third Party Beneficiary: The Foundation shall ensure that the NPS is a third-party beneficiary of all Contracts and that such Contracts do not contain a binding arbitration clause or other clause that may affect the NPS's ability to seek judicial review in its capacity as a third-party beneficiary to the Contract.
 - iv. Submittals: The Foundation will provide the NPS with a final signed version of any Contract within 30 days of its execution.
- 4. Foundation Responsibilities with Respect to Vendor Agreements
 - i. Content: The Foundation shall ensure that Vendors have any required federal, state, and county licenses, are not suspended or debarred from federal contracting, and demonstrate relevant experience and competence to perform the work contemplated. The Foundation shall further ensure that all Vendors have adequate insurance or are insured by the Foundation commensurate with their activities, expected public involvement, and associated risks as determined by a reputable insurance provider in accordance with ARTICLE VIII – INSURANCE AND LIABILITY. All Vendor Agreements must contain an acknowledgement that the Vendor is responsible for all damages to persons or property that occur as a result of the Vendor's fault or negligence because of, or in any way related to, the work performed; alternatively, the Foundation agrees to accept liability to the NPS for any damage caused by a Vendor.

- ii. Compliance: The Foundation will make its best effort to ensure that Vendors comply with all applicable laws, regulations, rules, orders, and other legal requirements.
 - iii. Consultation with the NPS: The Foundation will consult with the NPS regarding the types of Vendor Agreements it proposes to enter into pursuant to this Agreement on an annual basis as part of the Annual Work Plan. In support of this consultation, the Foundation will supply a list of known Vendors to be appended to the Annual Work Plan and will consult with the NPS regarding NPS's concerns with respect to any individual Vendors.
5. Foundation Responsibilities with Respect to Artist Agreements:
- i. Content: Pursuant to Section A of this ARTICLE (Theatrical Production and Programming), Artist Agreements shall incorporate reasonable and necessary contractual language that the NPS determines to be in the best interest of the agency including, but not limited to, language for the protection of life and property. In addition, Artist Agreements must contain standardized language requiring the Artist to:
 - 1. Comply with all applicable laws, regulations, rules, orders, and other legal requirements, and NPS policies;
 - 2. Comply with the terms and conditions of the Annual Work Plan or other applicable permit issued by the NPS;
 - 3. Comply with any NPS order declaring a closure of the Center and/or other areas of the Park; and,
 - 4. Be responsible for all damages to persons or property that occur as a result of the Artist's fault or negligence because of, or in any way related to the work performed under the Artist's Agreement.
 - ii. Consultation with the NPS: The Foundation shall consult with the NPS with respect to Theatrical Programming as required in Section A of this ARTICLE (Theatrical Production and Programming).
6. NPS Responsibilities:
- i. Consult with the Foundation regarding the types of Vendors the Foundation proposes to contract with in support its activities under this Agreement and to timely advise the Foundation as to any concerns with respect to any individual Vendor.
 - ii. Consult with the Foundation to develop standardized language to be included in Contracts and Artist Agreements.
 - iii. Consult with the Foundation with respect to any proposed Contractors and, in its sole discretion, within 14 days: 1) review and provide written comments on any Contract the Foundation proposes to enter into; 2) notify the Foundation that it has no comments on the Contract; or 3) notify the Foundation it is declining to review the Contract.

F. Communications, Public Information, and Media Relations

1. In General: The Parties will promote the Park as an important performing arts, cultural, educational, and natural resource destination, and as one of America's national parks. The Parties will further promote their public-private partnership as nationally renowned for providing excellent performing arts and cultural programs and the highest quality visitor experience at the only national park dedicated to the performing arts.
2. Joint Responsibilities:
 - i. Designate in the Annual Work Plan a point of contact for each Party who will be responsible for managing or otherwise coordinating that Party's joint responsibilities under this Section.
 - ii. Work collaboratively on a cohesive branding and communications strategy for the Park, as part of the Annual Work Plan.
 - iii. Develop and mutually agree on standardized language for communications, public information, and media relations materials including for digital, audio, and print media, and logo use standards, to describe and represent the role of the NPS, the role of the Foundation, and the purpose of the partnership.
 - iv. Collaborate on the development of and follow the NPS's *Donor and Partner Recognition Plan*, which will be Attachment E to this Agreement, which sets out the criteria and procedures for communicating and acknowledging support from partners, donors, and sponsors, and describes the form and duration of recognition for different types and levels of support acknowledged in the Park and through partnership communications and public information materials.
 - v. Co-brand or cross-promote, as appropriate and as agreed to by the Parties in the Annual Work Plan, products, services, or efforts that refer to or result from the partnership under this Agreement.
 - vi. Agree to adhere to any applicable performance-specific contract restrictions for video and audio recording and photography.
 - vii. Collaborate to create a plan for all signs within the Park that appropriately represents each Party. The plan may include a comprehensive and systematic approach to wayfinding and signage inside and outside of the Park. The plan may also provide for pre-approval of certain signs in the Park.
 - viii. Comply with 16 U.S.C. § 284k and refer to the Park as "Wolf Trap National Park for the Performing Arts" in any reference to the Park in any map, publication, sign, notice, or other official document or official communication of either the NPS or the Foundation.
3. Foundation Responsibilities:
 - i. Maintain press relations, provide press materials and advertising services, and permit promotional activities through all available means of communication, including digital, print, and social media

- communications, for performances and programs the Foundation is authorized to present in the Park pursuant to this Agreement.
- ii. Protect Foundation trademarks, service marks, and other Foundation-owned intellectual property related to this Agreement.
 - iii. To the extent pre-approved standardized language is not used for communications, public information, and media relations materials that describe and represent the role of the NPS, the role of the Foundation, or the purpose of the partnership, provide the NPS with the opportunity to review and approve the proposed language in advance.
 - iv. Present for NPS review and written approval, signs of any size or design, prior to installation or display in the Park.
 - v. The Foundation is authorized to display information related to performances and programming at the Park, and any NPS requested or other information as mutually agreed to by the Parties, in the following locations and in any other locations approved by the Superintendent:
 1. Electronic marquee adjacent to Trap Road;
 2. Image magnification (IMAG) screens at the Filene Center; and,
 3. Digital displays including but not limited to those near the main gate and box office, the plaza kiosk, gift shops, and menu boards at food and beverage stands.
 - vi. Refer all media inquiries about the NPS, its work, or the Park to the NPS's designee as identified in the Annual Work Plan.
 - vii. The Foundation may furnish printed programs for performances and distribute them free of charge at all events presented by the Foundation at the Park, provided:
 1. Printed performance programs shall include requested messages from NPS and/or Department of the Interior officials; and,
 2. Printed performance programs may include advertising only if they are distributed during performances to patrons within the Foundation's Assigned Spaces and Facilities.
 - viii. The Foundation may furnish and distribute informational pamphlets regarding its authorized programs and activities in the Park, and distribute them free of charge at all events presented by the Foundation at the Park.
 - ix. Ensure that an NPS logo is used according to NPS standards on Park signage within and around the Park and on publicity materials produced by the Foundation, as agreed to in the Annual Work Plan, to acknowledge the Park is a National Park Service site and to highlight the NPS partnership with the Foundation.

4. NPS Responsibilities:

- i. Promote and maintain NPS brand attributes, including, but not limited to: NPS logos and graphic identity, and any services, responsibilities, programs, and products offered by the NPS.
- ii. The NPS may promote the Park through social media. The NPS will make its best efforts to coordinate social media messaging with the Foundation.
- iii. Promote the natural, cultural, and recreational resource values of Wolf Trap National Park for the Performing Arts.
- iv. To the extent that the NPS communicates about Foundation programs, performances, and activities, it shall in good faith coordinate its messaging with the Foundation and adhere to Artist and Foundation communication standards.
- v. Protect NPS trademarks, service marks, and other NPS-owned intellectual property.
- vi. Refer all media inquiries about the Foundation or its work to the Foundation's designee as identified in the Annual Work Plan.
- vii. Provide any messages from NPS and/or Department of the Interior officials to be included in printed performance programs.
- viii. Grant permission to the Foundation to distribute informational pamphlets about its programs and activities in the Park.
- ix. Provide timely review of any communications materials provided by the Foundation to the NPS.

G. Intellectual Property

1. The NPS and the Foundation agree and acknowledge that negotiations regarding a formal agreement on the Parties' respective uses of Intellectual Property remain ongoing as of the Effective Date of this Agreement. The Parties shall work diligently to amend this Agreement to include mutually agreeable provisions and attachments that will be incorporated into this Section in the near term.

H. Commercial Filming, Audio Recording, and Still Photography

1. Authorization: The Foundation is authorized to film, photograph, broadcast (television, radio, and digital), tape, or record within its Assigned Spaces and Facilities, or other areas authorized in the Annual Work Plan, in furtherance of the purposes of this Agreement. To the extent this involves filming, broadcasting, taping, photographing, or recording of performances, this authorization is contingent upon the Foundation obtaining any required permission from the performers and/or any required license for such activities, and compliance with any other applicable law. This authorization does not include Commercial Filming activities.
2. Foundation Responsibilities:
 - i. Commercial Filming: All Commercial Filming activities taking place within the Park require an NPS permit. The Foundation shall apply to the NPS for an appropriate permit for any Commercial

Filming activities, and shall refer all third party requests for such activities to the NPS for an appropriate permit. "Commercial Filming" means the film, electronic, magnetic, digital, or other recording of a moving image by a person, business, or other entity for a market audience with the intent of generating income. Examples of Commercial Filming include, but are not limited to feature film, videography, television broadcast, or documentary, or other similar projects. Commercial Filming activities may include the advertisement of a product or service, or the use of actors, models, sets, or props. 54 U.S.C. § 100905 mandates a reasonable fee and cost recovery for Commercial Filming activities and similar projects in a System unit, and such costs may not be waived.

- ii. Audio Recording: The Annual Work Plan will serve as a blanket permit for the Foundation's audio recording activities in furtherance of this Agreement in the Assigned Spaces and Facilities, and those of Artists pursuant to the terms of their agreements with the Foundation. Any audio recording for the purpose of commercial sale of such recording will not be permitted under the Annual Work Plan and will require a separate permit. For any audio recording activities not authorized by the Annual Work Plan, the Foundation shall apply to the NPS for an appropriate permit and shall refer all third party requesters to the NPS for an appropriate permit, where such permit is required pursuant to 36 C.F.R. § 5.5, which is incorporated herein by reference.
- iii. Still Photography: "Still Photography" means the capturing of a still image on film or in a digital format. The Annual Work Plan will serve as a blanket permit for the Foundation's Still Photography activities in furtherance of this Agreement in the Assigned Spaces and Facilities, and those of Artists pursuant to the terms of their agreements with the Foundation. For any Still Photography activities not authorized by the Annual Work Plan, the Foundation shall apply to the NPS for an appropriate permit

3. NPS Responsibilities:

- i. In its sole discretion, timely review, process, and approve or deny applications for permits for Commercial Filming, Still Photography, or audio recording required pursuant to this section.
- ii. Establish terms and conditions for each permit.
- iii. Provide itemized, estimated reimbursable costs required to administer and monitor the activities authorized in the permit.

I. Annual Work Plans

- 1. In General: The Annual Work Plan is a collaborative product intended to lay out the projects, programs, and operations that the NPS and the Foundation agree to work on in the forthcoming year or years. The Annual

Work Plan will serve as a blanket NPS permit for the activities identified in the Plan. An Annual Work Plan may include a single year or multiple years, as agreed to by the Parties. The initial Annual Work Plan will be added to the Agreement as Attachment G through a formal modification. Subsequent Annual Work Plans will be attached to this Agreement as riders to Attachment G.

2. Content of Annual Work Plans: Annual Work Plans will:
 - i. Identify the Parties' projects, programs, and production activities associated with the presentation of performances and educational programs in the Center, Children's Theatre, and any other locations in the Park authorized in accordance with this Agreement.
 - ii. Identify the dates of the Performance Season and of any other performances outside of the Performance Season, such as the Holiday Sing, and, to the extent known at the time of Annual Work Plan development, the planned performance schedule for the Center and Children's Theatre. This schedule will be reflected in an addendum to the Annual Work Plan, and updated as additional performances are confirmed.
 - iii. Starting with the 2020 Annual Work Plan, document the percentage of gross ticket sales to be distributed by the Foundation to the NPS as provided in Section C of this ARTICLE (Program Admission and Box Office).
 - iv. Identify designated individuals to serve as primary points of contact for issues relating to the implementation of this Agreement and the Annual Work Plan, including but not limited to: programming and production; house management; communications, media relations, and public relations; Event Security, Physical Security, and Law Enforcement; box office/patron services; permits; maintenance; planning for compliance with the National Environmental Policy Act, the National Historic Preservation Act, and any other required compliance activities; and any other key areas as mutually agreed to by the Parties.
 - v. Identify the actions and timeline for the transition of agreed upon responsibilities that may shift between the Parties.
 - vi. Identify the number and allocation of parking passes for use by Foundation and NPS staff, volunteers, patrons, Contractors, Vendors, and performance support.
 - vii. Provide for the recruitment and supervision of volunteers for the Foundation's activities pursuant to this Agreement and other projects identified in the Annual Work Plan, and provide for reporting of volunteer numbers and hours annually to the NPS.
 - viii. Identify interpretive messages, themes, special occasions, dates, and anniversaries for mutual promotion.

- ix. Identify, to the extent known at the time of Annual Work Plan development, planned and anticipated communications and media relations activities.
 - x. Identify, to the extent known at the time of Annual Work Plan development, planned and anticipated Commercial Filming, audio recording, and Still Photography activities that require a separate NPS permit.
 - xi. Identify any projects proposed in that year's Annual Work Plan that may require National Environmental Policy Act and National Historic Preservation Act planning, compliance, and review prior to NPS approval.
 - xii. Identify annual maintenance projects, which will be guided by the Facilities Management Agreement, attached as Attachment F.
 - xiii. Identify, to the extent known at the time of Annual Work Plan development: all Contractor Agreements entered into by the Foundation, or that the Foundation plans to enter into, with respect to its Activities pursuant to this Agreement for the upcoming Performance Season; and, a list of known Vendors.
 - xiv. Any additional information or designations agreed to by the Parties.
3. Annual Work Plan Development and Monitoring: The Parties will engage in the following activities to develop the content and monitor the implementation of Annual Work Plans:
- i. The NPS and the Foundation will jointly meet once a year to develop an Annual Work Plan that sets out programming, operations, maintenance, special events, marketing and promotions, requirements, and expectations for the year.
 - ii. A draft Annual Work Plan will be completed by November 30 each year for the work to be completed the following year. A final Annual Work Plan will be completed by January 30 of each year.
 - iii. The Parties will meet semi-annually to review the status of the Annual Work Plan and operations at the Park.
4. Additional Coordination:
- i. The NPS and the Foundation agree to commit energy, people, and resources to goals of mutual interest, as identified in the Annual Work Plan.
 - ii. The Foundation will make its best efforts to attend bimonthly calls and the annual meeting of National Capital Region partners to facilitate coordination and collaboration across partners and park sites.
 - iii. The Foundation and the NPS will make their best effort to remain informed of the current state of venue management, with special regard to peer nonprofits arts centers and venues with similar capacities and national standing.

- iv. The Superintendent will be a nonvoting liaison to the Foundation Board of Directors. The Foundation will invite the Superintendent on an annual basis to a meeting of the Foundation's full board, and to other Foundation board meetings at which the Foundation's operations in the Park will be discussed, with the intent to present, engage, act as a liaison and foster partnership; provided, however, that such invitation may be limited to a portion of such meetings, and that nothing in this section shall be construed to prohibit the Foundation Board of Directors from discussing the Foundation's operations in the Park at such meetings without the Superintendent present.
 - v. The NPS retains the authority to permit third party demonstrations and special events (as opposed to Foundation private event rentals in its Assigned Spaces and Facilities) under 36 C.F.R. § 7.96.
 - 1. The NPS will not permit any special events in the Center during the Performance Season or in the Assigned Spaces and Facilities. The NPS will coordinate with the Foundation to accommodate its calendar and avoid conflicts with calendared events as best as possible when permitting any other special events. Any special events must be consistent with the terms of this Agreement, specifically including but not limited to Section A.5 of this ARTICLE (Third Party Event Requests).
 - 2. Third party demonstrations will be permitted in the areas identified in the Superintendent's Compendium. The NPS will coordinate with the Foundation with respect to any permitted demonstration.
 - vi. For special events or special uses authorized in an Annual Work Plan, the Foundation shall refer any third party renters to apply for a special use permit from the NPS pursuant to 36 C.F.R. § 5.3 if the third party renter intends to contract directly for event-related services to be provided in the Park. For services provided by Contractors or Vendors, the Annual Work Plan shall be the permit for such services.
5. Activities Not Specifically Authorized in the Annual Work Plan:
- i. Capital Improvements will be implemented under separate agreements and will be subject to the availability of funds from the Foundation and the NPS.
 - ii. The NPS may permit an NPS-approved Cooperating Association to conduct sales in the Park, such as a pop-up NPS bookstore, to offer, including but not limited to interpretative materials and visitor convenience items, to visitors and patrons. The NPS will ensure that any such activity is conducted to enhance the visitor and patron experience and does not conflict or compete with the

authorized sales of souvenir, interpretive, or similar items by the Foundation in the Park.

- iii. For any special events or special uses, not authorized in this Agreement or in the Annual Work Plan, the Foundation, or the relevant third party, will apply to the NPS for Special Use Permits to authorize those activities in the Park.

J. Lapse in Appropriations

1. At the Foundation's request, the NPS will provide the Foundation with all then-governing law and Executive Branch policy related to lapse in Federal appropriations.

K. Fundraising

1. The Parties intend to enter into a separate agreement(s) that will authorize fundraising and other philanthropic activities by the Foundation associated with its activities in the Park or associated with the Park in accordance with NPS Director's Order #21 on Donations and Fundraising (DO #21) and its Reference Guide. Authority for fundraising activity within the Park is not within the scope of this Agreement.

ARTICLE V – TERM OF AGREEMENT

The Agreement will become effective upon the date of the last signature in ARTICLE XIII (Effective Date) and will expire on December 31, 2039 (Expiration Date), unless terminated earlier per ARTICLE X. The period from the Effective Date to the Expiration Date is the period of performance for the Agreement (Agreement Term).

ARTICLE VI – KEY OFFICIALS

- A. Key officials are essential to ensure maximum coordination and communications between the Parties and the work being performed. They are:

1. For the NPS:

Financial Assistance Awarding Officer (FAAO):

Andrew Lubner
Chief Financial Assistance
Washington Contracting Office & National Capital Region
National Park Service
12795 W. Alameda Pkwy
WCP Lakewood, CO 80228
Phone: 303-969-2378
andrew_lubner@nps.gov

Agreement Technical Representative (ATR):

Linda Lutz-Ryan
Regional Chief of Interpretation and Education
National Capital Region
National Park Service
1100 Ohio Drive, SW, Washington DC
202-619-7154 Office
Linda_Lutz-Ryan@nps.gov

Park Superintendent:

George C. Liffert, Superintendent
Wolf Trap National Park for the Performing Arts
1551 Trap Road
Vienna, VA 22182-1643
george_liffert@nps.gov
703-255-1808 office
703-255-1971 fax

B. For the Foundation:

Signatory:

Arvind Manocha, President and CEO
Wolf Trap Foundation for the Performing Arts
Executive Office
1645 Trap Road
Vienna, VA 22182
Phone: 703-255-1900
arvindm@wolfttrap.org

Staff Contact:

Georgia Grena, Vice President, Finance
Wolf Trap Foundation for the Performing Arts
1645 Trap Road
Vienna, VA 22182
Phone: 703-255-1907
Georgiag@wolfttrap.org

- C. Communications. The Foundation shall address any communication regarding this Agreement to the ATR with a copy to the AO. Communications that relate solely to technical matters may be sent only to the ATR.

- D. Changes in Key Officials. Neither the NPS nor the Foundation may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include a justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in key officials will be made only by a modification to this Agreement.

ARTICLE VII – AWARD AND PAYMENT

- A. The NPS's contribution consists of the Assigned Spaces and Facilities.
- B. At the time of execution of this Agreement, no award of funds by the NPS to the Foundation is contemplated. In the event of an award beyond the Assigned Spaces and Facilities, the commitment of funds in furtherance of this Agreement will be authorized through a modification or individual task agreement issued against this Agreement. The following documentation will be submitted by the Foundation prior to the issuance of a modification or award of a task agreement: Complete SF 424 form set (Application for Financial Assistance), budget breakdown with narrative, a proposal that includes a work plan/timeline, and complete breakdown of in-kind contributions or matching funds, if applicable. Any funding modifications or task agreement awards are subject to availability of funds.
- C. In order to receive a financial assistance award and to ensure proper processing, it is required that the Foundation maintain its registration with the System for Award Management (SAM), accessed at <http://www.sam.gov>. Failure to maintain registration can impact obligations and payments under this Agreement and/or any other financial assistance or procurement documents the Foundation may have with the Federal government.

ARTICLE VIII – INSURANCE AND LIABILITY

- A. Insurance. The Foundation shall be required to obtain property and liability insurance as specified below to cover claims brought by third parties for death, bodily injury, property damage, or other loss resulting from one or more identified activities carried out in connection with this Agreement.
1. Property Insurance:
 - i. Filene Center and Other Assigned Spaces and Facilities: During the term of this Agreement, the Foundation is required to maintain, at its expense, property insurance for the Center and other Assigned Spaces and Facilities consisting of all-risk or special form insurance, including fire, vandalism, theft, and malicious mischief insurance. The amount of such insurance shall be the full insurable value of the Center and the other Assigned Spaces and Facilities.
 1. Theatrical Infrastructure: The Foundation shall maintain adequate insurance to cover the repair and replacement of all fixtures and Theatrical Infrastructure, including but not

- limited to, that which is defined in ARTICLE II – DEFINITIONS.
2. Boiler, HVAC and Machinery Insurance: The Foundation shall maintain adequate insurance on these systems at full replacement cost.
 3. The insurance required need not cover repair/replacement in the event of breakage unrelated to an insurable event.
- ii. The policy or policies required shall provide that in the event of loss, the proceeds of the policy or policies shall be payable to the Foundation to be used solely for the repair or replacement of the property damaged or destroyed, as approved and directed by the NPS with any balance of the proceeds not required for repair or replacement to be used to cover Foundation costs incurred, with any remainder to be payable to the NPS; provided, however, that the insurer, after payment of any proceeds to the Foundation, will have no obligation or liability with respect to the use or disposition of the proceeds by the Foundation.
 - iii. The policy or policies shall specify that proceeds shall be payable whether or not any damaged or destroyed improvements are actually rebuilt. The policy shall include an endorsement that waives any provision of the policy that requires a building or structure to be replaced at its original site, provided that, such endorsement shall not operate to increase the insurance company's liability under the policy.
 - iv. All insurance proceeds received by or payable with respect to damage or destruction of the Center and other Assigned Spaces and Facilities (except proceeds of insurance covering loss or damage of the Foundation's Personal Property), less actual expenses incurred in connection with their collection, shall be held by the Foundation in an interest bearing account, with all interest accrued thereon deemed proceeds of insurance for purposes of this Agreement. However, if required by the NPS, an insurance trustee acceptable to the NPS shall hold such proceeds for application in accordance with this Agreement.
2. General Liability: The Foundation is required to purchase commercial general liability insurance or equivalent, at its own expense with a minimum limitation of one million dollars (\$1,000,000) per person for any one claim, and an aggregate limitation of five million dollars (\$5,000,000) for any number of claims arising from any one incident. The policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against the United States for payment of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk. Prior to beginning the work authorized herein, the

Foundation shall provide the NPS with confirmation of such insurance coverage.

3. Third Party Contractors: The Foundation shall ensure that all Third Party Contractors have adequate insurance to carry out the proposed activities for which they are contracted, including but not limited to any fireworks and pyrotechnic displays in connection with activities under this Agreement. The Foundation assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers for both the Foundation and any Third Party Contractors. No approval by the NPS of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the NPS of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible. Other than with respect to Artist Agreements and Vendor Agreements, the policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against the United States for the payment of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk.
4. Worker's Compensation and Employer's Liability Insurance: Worker's compensation insurance in the statutory amounts and coverage required under worker's compensation, disability and similar employee benefit laws applicable to the Center and other Assigned Spaces and Facilities and to the Foundation use and occupancy of the Center and other Assigned Spaces and Facilities; and employer's liability insurance with limits of not less than One Million (\$1,000,000) for bodily injury per incident and Three million (\$3,000,000) aggregate, or such higher amounts as may be required by law.
5. All property and liability insurance policies shall name the United States of America as an additional insured.
6. All of the insurance required and all renewals shall be issued by one or more companies of recognized responsibility licensed to do business in the state in Virginia with a financial rating of at least a Class A- (or equivalent) status, as rated in the most recent edition of Best's Insurance Reports (or equivalent) or as otherwise acceptable to the NPS.
7. All insurance policies shall provide that such policies shall not be cancelled, terminated or altered without thirty (30) days prior written notice to the NPS. The Foundation must provide to the NPS a copy of each policy and a certificate of the policy executed by a properly qualified representative of the insurance company evidencing that the required insurance coverage is in full force and effect on or before the Commencement Date, and annually thereafter. The Foundation shall maintain all policies provided throughout the term of the Agreement and the Foundation shall renew such policies before the expiration of the term of the policy.

8. If the NPS at any time, but not more than annually, believes that the limits or extent of coverage, deductibles or self-insurance retention, with respect to any of the insurance required by this Agreement are insufficient, the NPS may determine the proper and reasonable limits and extent of coverage, deductibles and self-insurance retention limits for such insurance and such insurance shall thereafter be carried by the Foundation until changed pursuant to the provisions of this Agreement.
- B. Indemnification. The Foundation hereby agrees to indemnify, save, and hold harmless, the federal government and/or the NPS: (1) from and against fines, claims, damages, losses, judgments, and expenses arising from any act or omission of the Foundation, its officers, directors, employees, representatives, Third Party Contractors, or agents; and (2) for damage or loss to government property resulting from such an activity. This obligation shall survive the termination of this Agreement. This indemnification shall include all damages, interest payments, reasonable attorney's fees, costs and expenses that may be levied against or incurred by the NPS, including without limitation costs of collection of all amounts owed to the NPS by the Foundation and costs of all actions by the NPS against the Foundation to enforce the Foundation's compliance with this Agreement. This obligation to indemnify and hold harmless the federal government and/or the NPS shall not apply to any claim to the extent such claim is due to the negligence or wrongful acts of the federal government and/or the NPS.
- C. Investigation and Defense. The Foundation shall cooperate with the NPS in the investigation and defense of any claims that may be filed with the NPS arising out of the activities of the Foundation, its officers, directors, employees, representatives, Third Party Contractors, or agents.

ARTICLE IX – FINANCIAL MATTERS, REPORTS, AND DELIVERABLES

- A. Financial Matters
 1. In General. The Foundation shall maintain its 501(c)(3) nonprofit status in good standing and maintain proper accounting books and records under a system of accounts and financial controls that is consistent with Generally Accepted Accounting Principles of the United States (GAAP).
 2. Separate Accounts. The Foundation shall, in accordance with 16 U.S.C. § 284d(c)(4), maintain accounts for Foundation activities outside of the Park separate from Foundation accounts for all revenue generated from the presentation of performing arts, educational and cultural programs, and any other activities pursuant to this Agreement within the Park.
 3. Right of Inspection and Audit. The Secretary of the Interior and the Comptroller General of the United States, or their duly authorized representatives, will have access, for the purpose of financial or programmatic review and examination, to any books, documents, papers, and records of the Foundation that are pertinent to this Agreement to make audits, examinations, excerpts, and transcripts at all reasonable times

during the period of retention in accordance with 2 C.F.R. § 200.333 and 16 U.S.C. § 284d(c)(1). The Foundation agrees to take appropriate corrective action based on audit findings.

B. Reports and the Provision of Certain Information.

1. IRS Form, Annual Audit, and Annual Report: By May 15 of each year, the Foundation will provide the NPS:

- i. A copy of its most recent IRS Form 990 and any amendments thereto;
- ii. Its annual audited financials; and,
- iii. A copy of the Foundation's annual report.

2. Standard Form 425: The Foundation will submit to the NPS a completed Standard Form 425 (SF-425) Federal Financial Report (FFR) to document and report annually the Program Income resulting from specific projects, tasks, or activities for which Federal Spaces and Facilities are assigned, in accordance with the schedule set forth below.

- i. Annual SF-425 reporting period end dates shall be December 31.
- ii. A final SF-425 shall be submitted at the completion of the Agreement.
- iii. For the final SF-425, the reporting period end date shall be the end date of the Agreement.
- iv. Annual reports shall be submitted no later than May 15 following the annual reporting period. The final report shall be submitted no later than 90 days after the end period date. All reports shall be submitted electronically to the NPS Financial Assistance Awarding Officer with a copy to the NPS Agreements Technical Representative submitted electronically.
- v. Each SF-425 shall be accompanied by a copy of the Annual Performance Report described in subsection 3 of this Section and a detailed breakdown of the Foundation's Program Income (revenue), program expenses (costs), overhead costs associated with the planning and execution of the Performance Season, and breakdown and details related to all other Program Income from Foundation and Third Party Contractor activities in support of this Agreement and/or identified in the associated Annual Work Plan.

3. Annual Performance Report: By May 15 of each year and to meet the requirements pursuant to 16 U.S.C. § 284d(c)(2) and 2 C.F.R. § 200.328, the Foundation shall prepare an annual report to the Secretary, which shall also be submitted to the appropriate committees of the United States House of Representatives and the United States Senate, summarizing the activities of the previous year (together with a comparison of goals and objectives with actual accomplishments) and presenting a plan for the forthcoming year. The Foundation will coordinate with the Secretary regarding any information that the Secretary may wish to submit to Congress in connection with the Annual Performance Report. Summary information in the report shall include:

- i. A financial summary of the Foundation's economic activity at the Park.
- ii. A summary of the Foundation's outcomes and accomplishments of the Performance Season and other programmatic activities in the Park including, but not limited to:
 1. The number and types of programs and performances presented.
 2. The number of individuals attending programs and performances presented by the Foundation.
- iii. A description of successes, problems, and recommendations for next year; overall, how the Performance Season achieved the goals described in this Agreement and associated Annual Work Plan.

ARTICLE X – MODIFICATION, REMEDIES FOR NONCOMPLIANCE, AND TERMINATION

- A. This Agreement may be modified only by a written instrument executed by the Parties. Modifications will be in writing and approved by the NPS Financial Assistance Awarding Officer and the authorized representative of the Foundation.
- B. Additional conditions may be imposed by the NPS if it is determined that the Foundation is noncompliant with the terms and conditions of this Agreement. Remedies for noncompliance can be found in 2 C.F.R. § 200.338.
- C. This Agreement may be terminated consistent with applicable termination provisions for agreements found in 2 C.F.R. §§ 200.339 through 200.342. Pursuant to 16 U.S.C. § 284d, the NPS may terminate the Agreement at the convenience of the United States if the Secretary determines that such termination is required in the public interest.

ARTICLE XI – GENERAL AND SPECIAL PROVISIONS

A. General Provisions

- i. **OMB Circulars and Other Regulations.** The following Federal regulations are incorporated by reference into this Agreement (full text can be found at <http://www.ecfr.gov>):
 - i. **Administrative Requirements:** *2 C.F.R., Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, in its entirety;*
 - ii. **Determination of Allowable Costs:** *2 C.F.R., Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E;*
 - iii. **Audit Requirements:** *2 C.F.R., Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart F; and*

- iv. **Code of Federal Regulations/Regulatory Requirements:**
 1. *2 C.F.R. Part 182 & 1401*, "Government-wide Requirements for a Drug-Free Workplace";
 2. *2 C.F.R. 180 & 1400*, "Non-Procurement Debarment and Suspension", previously located at 43 C.F.R. Part 42, "Governmentwide Debarment and Suspension (NonProcurement)";
 3. *43 C.F.R. 18*, "New Restrictions on Lobbying";
 4. *2 C.F.R. Part 175*, "Trafficking Victims Protection Act of 2000";
 5. *FAR Clause 52.203-12, Paragraphs (a) and (b)*, Limitation on Payments to Influence Certain Federal Transactions;
 6. *2 C.F.R. Part 25*, System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS); and,
 7. *2 C.F.R. Part 170*, "Reporting Subawards and Executive Compensation."
2. **Non-Discrimination.** All activities pursuant to this Agreement shall be in compliance with the requirements of Executive Order 11246, as amended; Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. §§ 2000d *et seq.*); Title V, Section 504 of the Rehabilitation Act of 1973, as amended, (87 Stat. 394; 29 U.S.C. § 794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §§ 6101 *et seq.*); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex.
3. **Lobbying Prohibition.** The Parties shall abide by the provisions of 18 U.S.C. § 1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273 (2002), which provides as follows: "No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Members or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the

Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31." In addition to the above, the related restrictions on the use of appropriated funds found in Div. F, § 402 of the Omnibus Appropriations Act of 2008 (P.L. 110-161) also apply.

4. **Anti-Deficiency Act.** Pursuant to 31 U.S.C. § 1341, nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress for the purposes of this Agreement for that fiscal year or to involve the NPS in any contract or other obligation for the further expenditure of money in excess of such appropriations.
5. **Minority Business Enterprise Development.** Pursuant to Executive Order 12432, it is national policy to award a fair share of contracts to small and minority firms. The NPS is strongly committed to the objectives of this policy and encourages all recipients of its cooperative agreements to take affirmative steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with the Executive Order.
6. **Assignment.** No part of this Agreement shall be assigned to any other party without prior written approval of the NPS and the assignee.
7. **Member of Congress.** Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.
8. **Agency.** The Foundation is not an agent or representative of the United States, the Department of the Interior, the NPS, or the Park, nor will it represent itself as such to third parties. NPS employees are not agents of the Foundation and will not act on behalf of the Foundation.
9. **Non-Exclusive Agreement.** This Agreement in no way restricts the Foundation or the NPS from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
10. **Survival.** Any and all provisions which, by themselves or as applied to a particular occurrence or circumstance, are reasonably expected to be performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement shall survive expiration or termination of this Agreement.
11. **Partial Invalidity.** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the Parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each

provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12. **Captions and Headings.** The captions, headings, article numbers and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience or reference and in no way shall be construed as defining or limiting the scope or intent of the provision of this Agreement nor in any way affecting this Agreement.
13. **No Employment Relationship.** This Agreement is not intended to and shall not be construed to create an employment relationship between the NPS and the Foundation or its representatives. No representative of the Foundation shall perform any function or make any decision properly reserved by law or policy to the Federal government.
14. **No Third-Party Rights.** This Agreement creates enforceable obligations between the NPS and the Foundation. Except as expressly provided herein, it is not intended nor shall it be construed to create any right of enforcement by, or any duties or obligation in favor of, persons or entities not a party to this Agreement.
15. **Foreign Travel.** The Foundation shall comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 §§ C.F.R. §§ 301-10.131 through 301-10.143.

B. Special Provisions

1. Public Information and Endorsements

- i. The Foundation shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which state or imply governmental, Departmental, bureau, or government employee endorsement of a business, product, service, or position which the Foundation represents. No release of information relating to this Agreement may state or imply that the U.S. Government approves of the Foundation's work products, or considers the Foundation's work product to be superior to other products or services. Nothing herein is intended to prevent the U.S. Department of the Interior or the NPS from recognizing any contributions made by the Foundation to the NPS, or from authorizing the inclusion of such recognition in materials generated by the NPS.
- ii. All information submitted for publication or other public releases of information regarding this Agreement shall follow ARTICLE IV, Section F (Communications, Public Information, and Media Relations) and if necessary, shall carry the following disclaimer: "The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade

- names or commercial products does not constitute their endorsement by the U.S. Government.”
- iii. The Foundation must obtain prior written NPS approval for any public information releases concerning this award which refer to the Department of the Interior or any bureau or employee (by name or title). The specific text, layout photographs, etc. of the proposed release must be submitted with the request for approval.
 - iv. The Foundation further agrees to include this provision regarding Public Information and Endorsements in any contract entered into pursuant to this Agreement.
2. **Retention and Access Requirements for Records.** All Foundation financial and programmatic records, supporting documents, statistical records, and other grants-related records relating to this Agreement shall be maintained and available for access in accordance with 2 C.F.R. §§ 200.333 through 200.337.
3. **Audit Requirements**
- i. A non-Federal entity that expends \$750,000 or more during the non-Federal entity’s fiscal year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. §§ 7501–7507) and 2 C.F.R. Part 200, Subpart F, which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ccea3fa13c665e525051f4&node=sp2.1.200.f&rgn=div6>.
 - ii. A non-Federal entity that expends less than \$750,000 during the non-Federal entity’s fiscal year in Federal awards is exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
 - iii. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this Agreement are found at 2 C.F.R. Part 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.
4. **Procurement Procedures.** It is a national policy to place a fair share of purchases with minority business firms. The Department of the Interior is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women’s business enterprises, whenever possible. recipients of Federal awards shall take all of the following steps to further this goal:

- i. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
 - ii. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
 - iii. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
 - iv. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
 - v. Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.
5. **Prohibition on Text Messaging and Using Electronic Equipment Supplied by the Government while Driving.** Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, prohibits the use of text messaging while driving on official business or while using U.S. Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or -rented vehicles, government-owned or -leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.
6. **Seat Belt Provision.** The Foundation is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating Foundation owned, rented, or personally-owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for its employees about the importance of wearing seat belts and the consequences of not wearing them.
7. **Trafficking in Persons.** This term of award is pursuant to paragraph (g) of Section 106 of the Trafficking Victims Protections Act of 2000, as amended (2 C.F.R. § 175.15).
 - i. *Provisions applicable to a recipient that is a private entity.*
 1. You as the Recipient, your employees, contractors under this award, and contractors' employees may not—
 - a. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - b. Procure a commercial sex act during the period of time that the award is in effect; or
 - c. Use forced labor in the performance of the award or subawards under the award.

2. The NPS as the Federal awarding agency may unilaterally terminate this award, without penalty, if the Recipient or a contractor that is a private entity—
 - a. Is determined to have violated a prohibition in paragraph i.1 of this award term; or
 - b. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph i.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to you or the contractor using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (NonProcurement),” as implemented by our agency at 2 C.F.R. part 1400.
- ii. Provisions applicable to any recipient.
 1. The Recipient must inform the NPS immediately of any information you receive from any source alleging a violation of a prohibition in paragraph i.1 of this award term.
 2. The NPS’s right to terminate unilaterally that is described in paragraph i.2 of this section:
 - a. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
 - b. Is in addition to all other remedies for noncompliance that are available to the NPS under this award.
 - iii. The Recipient must include the requirements of paragraph i.1 of this award term in any Contract you make to a private entity.
8. **Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights**
 - i. This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).

- ii. The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 § U.S.C. 4712.
- iii. The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all Third Party Contracts over the simplified acquisition threshold, 42 C.F.R. § 52.203-17 (as referenced in 42 C.F.R. § 3.908-9).

9. Reporting Subawards And Executive Compensation

- i. Subawards are not authorized by this Agreement.
- ii. Reporting Total Compensation of Recipient Executives.
 - 1. Applicability and what to report. The Recipient must report total compensation for each of its five most highly compensated executives for the preceding completed fiscal year, if—
 - a. There is Federal lands, facilities or improvements assigned;
 - b. The total Federal funding authorized to date under this award is \$25,000 or more;
 - c. In the preceding fiscal year, the Recipient received—
 - i. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and
 - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and,
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
 - 2. Where and when to report. The Recipient must report executive total compensation described in paragraph A.1. of this award term:
 - a. As part of your registration profile at <https://www.sam.gov>.

- b. By the end of the month following the month in which this award is made, and annually thereafter.

10. Conflict of Interest

i. Applicability.

1. This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
2. In the procurement of supplies, equipment, construction, and services by recipients, the conflict of interest provisions in 2 C.F.R. § 200.318 apply.

ii. Requirements.

1. Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the Recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
2. In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of the Recipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or in development of the requirement leading to the funding announcement.
3. The Recipient may not solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient.

iii. Notification.

1. Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 C.F.R. § 200.112, Conflicts of interest.

- iv. Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The Recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

- v. Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 C.F.R. Part 18 and 31 U.S.C. § 1352.
- vi. Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- vii. Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 C.F.R. § 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 C.F.R. Part 180).

11. Minimum Wages Under Executive Order 13658

- i. Executive Order 13658. This Agreement is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 C.F.R. part 10 pursuant to the Executive Order, and the following provisions.
- ii. Minimum Wages
 - 1. Each worker (as defined in 29 C.F.R. § 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.
 - 2. The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of

Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

3. The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 C.F.R. § 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.
 4. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.
 5. If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. § 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.
- iii. Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.
 - iv. Contract Suspension/Contract Termination/Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 C.F.R. part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 C.F.R. part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the

contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 10.52.

- v. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.
- vi. Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.
- vii. Payroll Records
 1. The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1)(i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:
 - a. Name, address, and social security number.
 - b. The worker's occupation(s) or classification(s)
 - c. The rate or rates of wages paid.
 - d. The number of daily and weekly hours worked by each worker.
 - e. Any deductions made; and
 - f. Total wages paid.
 2. The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.
 3. Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 C.F.R. part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any

further payment or advance of funds until such time as the violations are discontinued.

4. The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.
 5. Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.
 6. The contractor (as defined in 29 C.F.R. § 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.
- viii. Certification of Eligibility.
1. By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 C.F.R. § 5.12(a)(1).
 2. No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.
 3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.
- ix. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. § 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

1. The employer must inform the tipped employee in advance of the use of the tip credit;
 2. The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;
 3. The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and
 4. The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.
- x. Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 C.F.R. Part 10, or has testified or is about to testify in any such proceeding.
- xi. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. Part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.
- xii. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and

customarily used for notices to workers about terms and conditions of employment.

12. **Rights in Data.** The Recipient must grant the United States of America a royalty-free, non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, of all copyrightable material first produced or composed under this Agreement by the Recipient, its employees or any individual or concern specifically employed or assigned to originate and prepare such material. Notwithstanding the foregoing, the Foundation and NPS understand and agree that this license shall not cover third party copyrightable material, including, but not limited to, third party copyrightable works that are performed, broadcast, displayed, transmitted, or otherwise exploited by Artists on or in connection with Park Facilities, or copyrightable material that is developed by the Foundation separate and apart from its obligations under the Agreement.

ARTICLE XII – ATTACHMENTS

The following completed documents are attached to and made a part of this Agreement: *[Insert approved budget and any other relevant documents, such as the detailed statement of work if applicable.]*

Attachment A. SF-424 – Application for Federal Assistance

Attachment B. SF-424A – Budget Information – Non-Construction Programs

Attachment C. SF-424 B – Assurances – Non-Construction Programs

Attachment D. Assigned Spaces and Facilities Map

Attachment E. Donor and Partner Recognition Plan (not finalized at time of signing and will be appended to the Agreement through a modification)

Attachment F. Facilities Management Agreement (not finalized at the time of signing and will be appended to the Agreement through a modification)

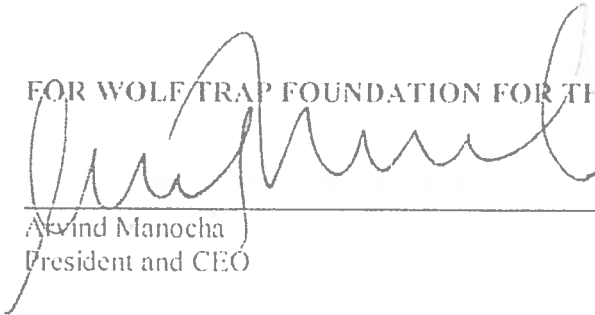
Attachment G. Annual Work Plan (not finalized at the time of signing and will be appended to the Agreement through a modification)

The Standard Forms (SF) can be downloaded electronically at www.grants.gov or by contacting the NPS Awarding Officer.

ARTICLE XIII – SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

FOR WOLFTRAP FOUNDATION FOR THE PERFORMING ARTS



Arvind Manocha
President and CEO

4/30/19 .

Date

FOR THE NATIONAL PARK SERVICE



Andrew E. Lubner
Awarding Officer

4/30/19

Date

Attachment D. Assigned Spaces and Facilities Map



Assigned Spaces and Facilities to Wolf Trap Foundation

- Shared Assigned Spaces and Facilities
- Fully Assigned Spaces and Facilities
- Trails
- Park Boundary

Shared Assigned Facilities and Spaces

- Filene Center
- Children's Theatre-in-the-Woods
- Concession Stand A Building
- Main Gate Buildings
- South Gate Concession Stand Building
- Trap Road Marquee
- Encore Hill Parking Area
- The Barn

Fully Assigned Spaces and Facilities

- Meadow Pavilion
- Ovations Restaurant
- Encore Circle Lounge and Patio
- Associates Building
- Terrace Deck and Associates Deck
- Meadow Kiosk
- Box Office Trailer - Press Trailer

April 2019



2017 Aerial Photography Courtesy of the Virginia Base Mapping Program

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