

**The Dr. Robert C. and Veronica Atkins Chair in Metabolic Nutrition  
at the University of California, Berkeley**

*A Gift Agreement between The Dr. Robert C. and Veronica Atkins Foundation and  
The University of California, Berkeley Foundation for the benefit of University of  
California, Berkeley*

WHEREAS, The Dr. Robert C. and Veronica Atkins Foundation ("Foundation"), a Pennsylvania nonprofit corporation, wishes to make gifts as provided in this Agreement to the **University of California, Berkeley Foundation ("UCBF")**, a California nonprofit corporation, for the benefit of the University of California, Berkeley ("UC Berkeley"); and

WHEREAS, the Foundation's gifts set forth in this Agreement are to be applied to support the Dr. Robert C. and Veronica Atkins Chair in Metabolic Nutrition and shall come in the form of annual expendable gifts until such time as the Foundation makes a gift to endow the fund as further described in this agreement; and

WHEREAS, the **UCBF** wishes to accept the gifts and agrees to establish a permanent endowment fund to support the Dr. Robert C. and Veronica Atkins Chair in Metabolic Nutrition ("Atkins Chair") at **UC Berkeley** and to administer the funds diligently in accordance with the requirements of this agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound, the parties hereto agree as follows:

**1. The Atkins Chair**

**UC Berkeley** shall establish the Atkins Chair in the College of Natural Resources ("CNR") to support the teaching and research efforts of an outstanding investigator seeking to understand the complex biology of metabolism, especially as it relates to obesity and diabetes, and other diseases related to obesity, and to develop new treatment strategies for these conditions. The Atkins Chair will provide leadership in metabolic studies at **UC Berkeley** and serve as a proponent of metabolic research, and research training, with a goal of improving human health in the community and beyond. The Atkins Chair will be a national and international representative of **UC Berkeley** in the area of metabolic diseases.

**2. Foundation Gifts and the Establishment of the Fund**

The Foundation hereby promises to make the following gifts to the **UCBF**:

a. The Foundation will make annual gifts of One Hundred Thousand Dollars (\$100,000) each to be used and expended currently to support the Atkins Chair (individually, "Annual Gift" and collectively, "Annual Gifts"). The first Annual Gift will be made to the UCBF on or before May 31<sup>st</sup>, 2008. Subject to the provisions of Paragraph 2(d) below, the Foundation will thereafter make the Annual Gift each year on or before January 15 until the January 15th immediately preceding the date the Foundation makes the gift described in Paragraph 2(b) below or the termination of this Agreement as provided in Paragraph 2(c) below.

b. If the Foundation receives unrestricted funds equal to or in excess of Twenty-Five Million Dollars upon the death of Veronica Atkins, either from the Marital Trust under Will of Dr. Robert C. Atkins, from the estate of Veronica Atkins, or from a combination of those sources ("Additional Funds"), within ninety (90) days of actual receipt of such Additional Funds, the Foundation will give Two Million Dollars (\$2,000,000) to the UCBF to create a permanent endowed fund to be known as The Dr. Robert C. and Veronica Atkins Chair Fund (the "Fund"). The UCBF recognizes and specifically acknowledges that the \$2,000,000 grant is a fixed amount not due until the death of Veronica Atkins and that such amount shall not increase because of the passage of time between the date of this Agreement and actual payment of the grant, the effects of inflation, or any assumed or imputed interest on the grant between the date of this Agreement and actual payment.

c. In the event the Foundation does not receive the Additional Funds, the Foundation shall have no obligation to make all or any part of the gift to the UCBF described in Paragraph 2(b) above. In the event the Foundation's obligation to make the grant under Paragraph 2(b) to endow the Fund is extinguished, the Foundation shall have no obligation to continue to make Annual Gifts to the UCBF described in Paragraph 2(a) above and this Agreement shall terminate upon the Foundation's ceasing to make such Annual Gifts.

d. The Foundation's pledge under Paragraph 2(b) above to endow the Fund may be prepaid (without premium or discount) at any time in the Foundation's discretion. In each year following a partial prepayment of the pledge under Paragraph 2(b) above, the Foundation's \$100,000 Annual Gift under Paragraph 2(a) above shall be proportionately reduced. If the Foundation's pledge under Paragraph 2(b) is prepaid in full, the Foundation's obligation to make Annual Gifts under Paragraph 2(a) above shall thereupon cease.

3. **Operation of the Fund and Use of Annual Gifts**

The Fund shall be held by the UCBF as a permanent endowment fund for the purposes set forth in this Agreement and shall be accounted for separately by the UCBF as if segregated in a separate account. In order to facilitate the administration and investment of the Fund, the UCBF may pool the assets of the Fund with the UCBF's other

investment assets, such as its endowments and other restricted and unrestricted funds; provided that a separate accounting of principal and income is maintained. The UCBF shall make distributions from the Fund in accordance with the UCBF's endowment fund spending policy as it is adopted and revised from time to time by the UCBF. To that end, the UCBF may use income earned by the Fund and, if necessary, appreciation of the Fund in excess of the sums contributed to the Fund, solely to support the Atkins Chair as set forth in this Agreement. The UCBF may never make a distribution of the original gifts contributed to the Fund; provided, however, that the Annual Gifts shall be applied and expended currently to support the Atkins Chair.

#### 4. Implementation and Administration

The Chancellor of UC Berkeley shall be responsible for carrying out the intended purpose of the Fund. The Chancellor shall, from time to time, determine the appropriate focus and emphasis for the Atkins Chair from the field of metabolism and related disciplines and shall accordingly direct the department, center or other area of UC Berkeley in which the Atkins Chair may from time to time reside. The Atkins Chair shall be a professor or associate professor conducting outstanding work in the field of metabolism or obesity. Incumbents for the Atkins Chair shall be selected in accordance with UC Berkeley policy and practices governing faculty appointments and in accordance with the principles of academic freedom. UC Berkeley shall appropriately recognize the Foundation in internal and external publications upon receipt of the Foundation's prior consent.

#### 5. Cy Pres

If, in the future, the Chancellor of UC Berkeley determines that the fulfillment of the purposes of the Fund as described in this Agreement become impracticable, inappropriate, or impossible of fulfillment, the Chancellor, in collaboration with the Foundation, shall have the right to designate a new purpose or purposes benefiting UC Berkeley, as shall be in accordance with UC Berkeley's exempt purposes, for which the UCBF shall be required to apply the Fund.

If the Chancellor of UC Berkeley makes the above determination prior to the death of Veronica Atkins, the Atkins Foundation is relieved of any responsibility for the final \$2,000,000 grant and any further \$100,000 payments. Under this circumstance, UC Berkeley is also relieved of any future responsibilities contained in this agreement.

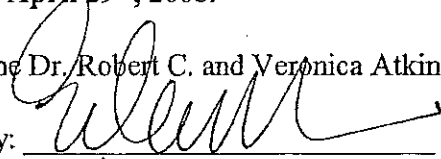
#### 6. General

- a. All grants to the UCBF under this Agreement shall be made in cash, readily marketable securities or other property acceptable to the UCBF. In order to receive any payment due under this Agreement, the UCBF must be an organization exempt from Federal income tax at the time any payment is to be made.

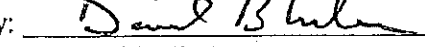
- b. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. This Agreement constitutes the entire agreement and understanding between the parties hereto and supersedes all prior discussions and correspondence between the parties regarding the matters set forth in this Agreement. Any amendment to this Agreement shall be in writing and signed by the parties or their respective successors and assigns.
- c. A ceremony to inaugurate the Atkins Chair shall be held at a time mutually convenient to the Foundation, CNR at UC Berkeley and the UCBF.
- d. The College of Natural Resources will provide the Foundation with an annual report on the chair-holder's activities. In addition, whenever the chair-holder changes to a new faculty member, the University will alert the Foundation and provide the Foundation an opportunity meet them and learn about their research activities.
- e. The validity of this Agreement shall be governed by, and the Agreement shall be construed in accordance with, the laws of the Commonwealth of Pennsylvania. The Fund shall be administered in accordance with the laws of the State of California..

IN WITNESS WHEREOF, the Foundation, CNR at UC Berkeley and the UCBF by their duly authorized officers, have caused this Gift Agreement to be executed on or as of April 29<sup>th</sup>, 2008.

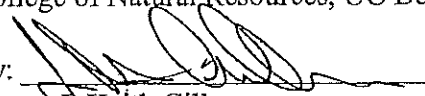
The Dr. Robert C. and Veronica Atkins Foundation

By:   
Name: Eileen R. Heisman  
Title: Director

University of California, Berkeley Foundation

By:   
Name: David Blinder  
Title: Vice President

College of Natural Resources, UC Berkeley

By:   
Name: J. Keith Gilliss  
Title: Interim Dean