October 24, 2015 - Amendment to the Agreement Between Mr. John Fung, the Donor, of the Dr. Margaret Chang Fung Endowment Fund and the Chinese American Librarians Association (CALA)

This Amendment is made and entered into this____day of 2016 by and between Mr. John Fung ("Donor"), on behalf of himself, his family and the major donors of the Dr. Margaret Chang Fung Memorial Endowment Fund (the "Fung’s Fund") and the Chinese American Librarians Association ("CALA"), and amends as of the date hereof that certain Agreement dated January 21, 2012 and Amendment dated January 19, 2015, between Donor and CALA with respect to establishment and operation of the Fund (the "Original Agreement").

WHEREAS, the Donor has now made an additional generous contribution to the Fung’s Fund with the intent of establishing an endowment at CALA to be used to fund a continuing award to be known as the "Outstanding Library Leadership Award in Memory of Dr. Margaret Chang Fung" (the "Award"); and

WHEREAS, CALA invests the Fung's Fund with CALA’s own choice without considering donors’ recommendations.

WHEREAS, the parties now deem it advisable and in the best interests of the Fung’s Fund to amend the terms of the Original Agreement to modify certain covenants and conditions with respect to the operation of the Fung’s Fund.

NOW THEREFORE for good and valuable consideration, the Original Agreement is hereby amended as follows:

1. Contributions. With Donor's additional contribution, the Fund now contains a principal balance of $19,932 (the "Principal"). Donor reserves the right to make additional donations to the Fund and additional amounts may also be hereafter contributed by third parties to the Fung’s Fund to increase the Principal.

2. Endowment. The Fung’s Fund shall hereafter be operated by CALA as an endowment, whereby only the net income (meaning the excess of profits and gains over the expenses and losses for any period) on the Fund (the "Earnings") may be utilized to fund the Award, and no Principal may be used by CALA. In each year in which Earnings equal to or in excess of $1,000 are available from the Fund, and CALA has identified a qualified recipient for the Award in accordance with the criteria established in the Original Agreement, an Award of $1,000 shall be made. In each year in which sufficient Earnings are not available or a qualified recipient is not located, no Award shall be made for such year.

(a) The amount of the award shall be $1,000 paid to the recipient, unless proscribed otherwise herein.

(b) The award shall be paid from the interest and dividends of the “Fung’s Endowment Fund” restricted fund (hereinafter “Fung’s Fund”.

(c) In the event that the interest and dividends from the Fung’s Fund are insufficient to pay the $1,000 award, CALA will allocate general funds to make up the $1,000 award.

(d) The award shall consist of a check, and a plaque.
(e) CALA’s President shall present the award to the recipient at the CALA Annual Awards Banquet. The recipient’s attendance at the CALA Annual Awards Banquet is strongly encouraged, but not required.

(f) The award recipient shall submit an article for publication in the Journal of Library and Information Science no later than the following Annual Conference.

(g) No goods or services shall be exchanged for the award.

3. Investment of Fund. The Fung’s Fund shall be invested in a prudent and diversified manner to produce a reasonable total annual return, with the assistance of a qualified investment advisor nominated by the Finance Committee of CALA, with consultation from Donor, and approved by the Board of Directors of CALA. The Fund may be commingled with other CALA investments for investment purposes, but CALA shall maintain in its books a separate account showing the Fund’s proportionate share of gain, loss, income and expenses of any common investment fund, including a proportionate share of any advisor fees and other investment expenses. CALA shall keep Donor advised of the investment performance of the Fund, not less than annually, at Donor's request.


(a) In the event the Donor is no longer willing or able to fulfill any responsibilities under the Original Agreement as amended by this Amendment, Donor shall name another party, in writing, to act as the Donor representative in Donor's stead. If Donor fails to do so, Donor's personal representative, if any, or CALA may seek a new representative from among Dr. Margaret Chang Fung's descendants, or may continue to operate the Fund as it deems advisable in order to most closely fulfill the intent of the Donor.

(b) This Amendment together with the Original Agreement shall be interpreted in a manner that is consistent with all applicable federal, state and local laws (including the Internal Revenue Code of 1986, as amended) and CALA's Articles, Bylaws, Constitution, and policies.

(c) In the event there is a material change in circumstances at CALA or otherwise that do not practically permit the continued application of the Fung’s Fund in the manner intended, the Donor and CALA may agree to use of the Fung’s Fund in a manner closely related to the original intent, or as shall be otherwise reasonably determined by the Board of Directors of CALA.

(d) To the extent this Amendment conflicts with the terms of the Original Agreement, this Amendment shall be controlling. Except as modified hereby, the Original Agreement shall continue in full force and effect. Further amendment to the Original Agreement as modified hereby may be agreed by the parties in writing from time to time.

(e) The Original Agreement and this Amendment is governed by the laws of the State of Illinois, may be executed in counterparts, and signatures exchanged electronically or by facsimile shall have the same effect as an original.

In Witness Whereof, the parties have executed and entered into this Amendment.

Donor:
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CALA: Chinese American Librarians Association

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