

AMENDMENT TO OPERATING AND FUNDING AGREEMENT

This Amendment (“Amendment”) to the Operating and Funding Agreement (“Agreement”) is made and entered into, and is effective, as of this 28th day of November, 2006, by and between Scripps Florida Funding Corporation, a Florida not-for-profit corporation (“Funding”), and The Scripps Research Institute, a California nonprofit public benefit corporation (“Scripps”). Capitalized terms used in this Amendment without other definition shall, unless expressly stated otherwise, have the meanings specified in the Agreement.

WITNESSETH

WHEREAS, Scripps has, as of June 7, 2006, amended its Scripps Florida Business Plan and certain Schedules, which Business Plan was further updated on July 20, 2006, to reflect: (i) the occurrence of a “Force Majeure Event,” as defined in the Agreement (specifically, Palm Beach County’s decision to stop construction on the Mecca site as a result of judicial proceedings, and the subsequent relocation of the Scripps Florida project to the FAU / Briger sites; (ii) the delays caused by such relocation; (iii) the new construction schedule for the Scripps Florida permanent facilities; and (iv) Scripps’ experiences in Florida to date, including the requirements of the new Grant Agreement with Palm Beach County (collectively, the “Events”).

WHEREAS, as a result of these Events, Scripps approved a Revised Business Plan for Scripps Florida on June 7, 2006, which includes certain revised schedules and projections.

WHEREAS, Scripps has submitted the Revised Business Plan to Funding, and has requested this amendment of the Agreement to include certain Revised Schedules.

WHEREAS, the purpose of this Amendment is to amend the Agreement to include and incorporate the Revised Schedules required by the Revised Business Plan.

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, the parties hereby agree as follows:

1. Revised Schedules Adopted and Incorporated into the Agreement. Pursuant to Section 15.6 of the Agreement, the following Revised Schedules are

hereby appended and incorporated into the Agreement, and shall supersede, and be substituted in their entirety for, the originally attached Schedules:

- Revised Schedule 4.2(a) Quarterly Disbursements
- Revised Schedule 4.2(b) Proposed Disbursements
- Revised Schedule 4.4(c) Disbursement Conditions (revised as to Items 1 and 4 only).
- Revised Exhibit E (revised as to Items 1 and 3)

2. Amendment to Section 9.12 of the Agreement. Section 9.12 of the Agreement is hereby amended in its entirety to read as follows:

9.12. Job Creation and Equipment Purchases. During the first ten (10) years of the term of this Agreement, but not later than December 31, 2013, Scripps shall create 545 positions, acquire associated research equipment for Scripps Florida, and pay for related maintenance of the equipment, in a total of not less than \$45 million, as described in detail in Section 1 of Schedule "4.4(c)".

3. The Agreement, as amended hereby, is ratified and confirmed in all respects.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to the Operating and Funding Agreement as of the day set forth on the first page of this Amendment.

THE SCRIPPS RESEARCH INSTITUTE,
a California nonprofit public benefit corporation

By: _____

Name: Dr. Richard Lerner
Title: President

SCRIPPS FLORIDA FUNDING CORPORATION,
a Florida not-for-profit corporation

By: _____

Name: Marshall M. Criser, Jr.
Title: Chairman

The execution of the foregoing Amendment is hereby acknowledged and approved, and the terms of this Amendment to the Operating and Funding Agreement, including the Revised Schedules, are hereby incorporated to the extent applicable into the Funding and Program Agreement dated January 15, 2004, between the Scripps Florida Funding Corporation and the Office of Tourism, Trade and Economic Development (“OTTED”), and shall supersede and be substituted for any terms not consistent with this Amendment.

STATE OF FLORIDA,
EXECUTIVE OFFICE OF THE GOVERNOR,
OFFICE OF TOURISM, TRADE, AND ECONOMIC
DEVELOPMENT (“OTTED”)

By: _____
Pamella J. Dana, Director

EXHIBIT “E”

MONITORING INSTRUMENT

<u>DELIVERABLE</u>	<u>YES</u>	<u>NO</u>	<u>NOT APPLICABLE</u>
1. Number of jobs created consistent with Revised Business Plan, Appendix C?			
2. Number of jobs created verified?			
3. Average salaries for categories of jobs created consistent with Revised Business Plan, Appendix C?			
4. Average Salaries verified?			
5. Person designated to assist in collaborative efforts with OTTED (beginning June 2004)?			
6. Compliance with OTTED’s requests for cooperation verified by OTTED?			
7. Equipment purchases / contracts consistent with approved Budget?			
8. Equipment purchases / contracts verified?			
9. UCC statement filed / updated for new capital equipment purchased during quarter?			
10. Required quarterly financial information provided?			
11. Liability insurance valid, with Funding listed as additional insured?			
12. Receipt of non-state funding sources consistent with Budget?			
13. Evidence of collaborative efforts with Florida universities delivered and verified?			
14. Report of dollar and value of grants?			
15. Evidence of workforce recruitment activities at public and private universities provided and verified?			
16. Evidence of policy to promote supplier diversity?			
17. Evidence of policy to use Florida vendors?			
18. Evidence that the Internet-based job listing system of the Agency for Workforce Innovation is being used?			
19. Establishment and implementation of policy of equal employment opportunities?			
20. Establishment and implementation of policy awarding preferences in employment to Florida residents, excluding professional scientific staff positions?			

21. Records made available in timely manner as required by Funding?			
22. Compliance with required applicable disbursement conditions verified?			
23. Verification that Scripps is in good standing, has not declared bankruptcy, has filed any required tax returns?			
24. Certification by Scripps that Grant Funds have been spent in accordance with Operating and Funding Agreement and Section 288.955, Fla. Stat.?			

REVISED Schedule 4.2(a)

Quarterly Disbursements

- A. Year 1: Upon the review and acceptance of the proposed budget, a legal opinion from Scripps' counsel in a form substantially similar to Exhibit C to the Agreement, and a fully executed and enforceable agreement for temporary facilities of at least 5,000 square feet in Florida, Funding shall, within five (5) business days from the Effective Date, release to Scripps a quarterly installment to pay for anticipated staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the first quarter of 2004. For the balance of 2004, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' anticipated costs for staffing, operating expenses and equipment purchases on May 1, August 1, and November 1, respectively, in accordance with the approved Business Plan. In the event that Scripps finds it necessary to amend its Business Plan during 2004, Scripps shall furnish a copy of the amended Business Plan to Funding as soon as practicable. Quarterly installments shall be adjusted by Funding in accordance with the Business Plan, as amended. By August 31, 2004, Scripps will also provide Funding with the annual Report in the form prescribed by Section 9.3 of this Agreement.
- B. Year 2: Upon Funding's receipt of the audited financial statements, the Annual Science Report required by Section 9.4 of this Agreement (the "Annual Science Report"), the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2005, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2005. For the balance of 2005, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2005, September 15, 2005, and December 15, 2005, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2005.
- C. Year 3: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2006, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2006. For the balance of 2006, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2006 and December 15, 2006, respectively,

in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2006.

- D. Year 4: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2007, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2007. For the balance of 2007, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2007, September 17, 2007, and December 15, 2007, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2007.
- E. Year 5: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 17, 2008, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 17, 2008. For the balance of 2008, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 16, 2008, September 15, 2008, and December 15, 2008, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by September 2, 2008.
- F. Year 6: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 16, 2009, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 16, 2009. For the balance of 2009, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2009, September 15, 2009, and December 15, 2009, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2009.
- G. Year 7: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2010, release to Scripps a quarterly installment to pay for

staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2010. For the balance of 2010, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2010, September 15, 2010, and December 15, 2010, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2010.

- H. Year 8: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2011, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2011. For the balance of 2011, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2011, September 15, 2011, and December 15, 2011, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2011.
- I. Year 9: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2012, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2012. For the balance of 2012, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 15, 2012, September 17, 2012, and December 17, 2012, respectively, in accordance with the approved Business Plan, as amended. Scripps will also provide Funding with the Annual Report by August 31, 2012.
- J. Year 10: Upon Funding's receipt of the audited financial statements, the Annual Science Report, the updated progress report on the Annual Report (if necessary), and revisions to the approved Business Plan, if any, Funding shall, on March 15, 2013, release to Scripps a quarterly installment to pay for staffing costs, operating expenses, and equipment purchases expected to be incurred by Scripps during the quarter commencing March 15, 2013. For the balance of 2013, Funding shall provide Scripps with quarterly installments of the remaining funds to pay Scripps' costs for staffing, operating expenses, and equipment purchases on June 17, 2013, September 16, 2013, and December 16, 2013, respectively, in accordance with the approved Business Plan, as

amended. Scripps will also provide Funding with the Annual Report by September 3, 2013.

REVISED Schedule “4.2(b)”

PROPOSED DISBURSEMENTS

	Grant Year Ending March 2005	Grant Year Ending March 2006	Grant Year Ending March 2007	Grant Year Ending March 2008	Grant Year Ending March 2009	Grant Year Ending March 2010	Grant Year Ending March 2011	Grant Year Ending March 2012	Grant Year Ending March 2013	Grant Year Ending March 2014
Proposed Disbursement ⁽¹⁾	\$20,801	\$55,309	\$38,090	\$35,759	\$52,445	\$32,679	\$22,365	\$32,786	\$14,766	\$5,000

⁽¹⁾ Amounts are shown in thousands and are exclusive of interest income earned by Funding on these amounts. Interest income shall be distributed first for Funding Expenses, with the balance of all such interest income distributed to Scripps in each year as earned and paid to Funding. Each proposed annual disbursement would be paid in quarterly installments beginning at the beginning of the year noted.

REVISED Schedule “4.4(c)”
DISBURSEMENT CONDITIONS

REVISED AS TO ITEMS NOS. 1 AND 4 ONLY:

1. New Jobs and Salaries.

Grant Year ending March:	1 st Year	2 nd Year	3 rd Year	4 th Year	5 th Year	6 th Year	7 th Year	8 th Year	9 th Year	10 th Year
2005	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Calendar Year To Measure Jobs	--	--	2006	2007	2008	2009	2010	2011	2012	2013
Faculty ⁽²⁾	--	--	≥14	≥15	≥16	≥20	≥25	≥31	≥33	≥38
Scientific Staff ⁽³⁾	--	--	≥110	≥124	≥141	≥159	≥184	≥226	≥263	≥298
Administration ⁽⁴⁾	--	--	≥25	≥30	≥53	≥64	≥67	≥70	≥79	≥89
Total New Jobs ⁽¹⁾	38	168	200	225	280	324	367	436	500	545

⁽¹⁾ The number of Scripps Florida jobs will be measured at the end of each calendar year. Funding may allow Scripps to deviate downward from Total New Jobs by 25% in any year to allow Scripps flexibility in achieving the objectives set forth in the Business Plan; provided, however, that Scripps must have no fewer than 545 positions by December 31, 2013. In measuring Scripps Florida jobs, the term “employee” shall include (a) any person predominantly working at the Scripps Florida FAU and Briger sites or otherwise working in Palm Beach County, Florida, and working under the direction and control of Scripps, or (b) any person who is a graduate of a Florida university who is a participant in the Scripps/Oxford program and is working under the direction and control of Scripps, in the case of both (a) and (b), regardless of the source of funds providing a salary or other compensation to that person.

(2) Faculty includes tenure track Professors, Associate Professors and Assistant Professors.

(3) Scientific Staff includes non-tenure track scientists (Research Faculty and Staff Scientists), research associates / post-docs, lab technicians and grad students. Postdoctoral fellows (“postdocs”) have a postgraduate degree and are continuing their research training by working directly under the supervision of a professor in their chosen field. Because postdocs are under the supervision and control of the Scripps Florida faculty, they are included as employees in the headcount in the above Table. Postdocs receive stipends rather than salaries. The stipends are generally paid by TSRI, either directly or as a pass-through from another sponsoring organization. In some instances, the stipends are paid directly to the postdoc by the sponsoring organization. In these instances, stipend support has not been included in the salary calculations given below.

(4) Administration includes all other support personnel.

Salary Range by Employee Category*

<u>Category</u>	<u>Range</u>
Professors	\$138,000 to \$330,000+plus
Associate Professors	\$ 84,000 to \$177,000
Assistant Professors	\$ 72,000 to \$129,000
Research Faculty	\$ 72,000 to \$265,000
Staff Scientists	\$ 54,000 to \$113,000
Research Associates	\$ 34,000 to \$ 55,000
Administration**	\$ 48,600

* The base salary of all persons employed in a particular category falls within the range for that category. These ranges are increased each year to reflect the change in the CPI for that annual period. Certain employees of Scripps Florida may receive additional compensation for assuming administrative responsibilities beyond their scientific duties. By way of example, a faculty member who also serves as an Associate Dean of the Graduate School, will receive additional compensation for that service. The ranges set forth above do not incorporate such additional compensation.

** Represents the average expected salary for this Employee Category rather than the range that would result by combining all Administrative positions. The various job classifications and range of salaries for these classifications is great. In this instance, an expected average salary, rather than a range, is a better representation.

2. Non-State Funding.

Beginning 18 months after Scripps' occupancy of its permanent facility, Scripps shall annually obtain \$100,000 of non-state funding for each full-time equivalent tenured-track faculty member employed at Scripps Florida.

3. Accreditation.

No later than 3 years after Scripps' occupancy of its permanent facility, Scripps shall apply to the relevant accrediting agency for accreditation of its Florida graduate program.

4. Equipment Purchases.

Scripps shall purchase a minimum of \$45 million in equipment during the Term of the Agreement. Scripps has purchased equipment for Scripps Florida in accordance with the schedule below for Years 1 and 2, and the additional amount required to be spent on equipment (approximately \$20 million) will be spent according to the following schedule:

	<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>	<u>4th Year</u>	<u>5th Year</u>	<u>6th Year</u>	<u>7th Year</u>	<u>8th Year</u>	<u>9th Year</u>	<u>10th Year</u>
Purchases (in millions) \$45 million total required	\$11,156	\$13,686	\$3,000	\$1,000	\$10,000*	**	**	**	**	**

* Scripps will purchase \$10 million of equipment within 18 months of occupying its Permanent Facilities.

** Scripps will purchase \$6.158 million of equipment over the last five years of funding.

5. Doctoral Research.

No later than 18 months after occupying its permanent facility, Scripps shall establish a program for qualified graduate students from Florida universities permitting them access to the facility for doctoral thesis-related research.

6. Summer Internships.

No later than 18 months after occupancy of the permanent facility, Scripps shall establish a summer internship for high school students.

7. Research Program.

No later than 3 years after occupancy of the permanent facility, Scripps shall establish a research program for middle and high school teachers.

8. Adjunct Professors.

No later than 18 months after occupancy of the permanent facility, Scripps shall establish a program for adjunct professors.

9. Access for Science Projects.

No later than 6 months after commissioning its high throughput technology, Scripps shall establish a program to allow open access for qualified science projects.

10. Collaboration With Florida Colleges and Universities.

Beginning June 2004, Scripps shall commence collaborative efforts with Florida public and private colleges and universities, and shall continue cooperative collaboration through the term of the Agreement.

11. Seminar Series.

Beginning 18 months after Scripps occupies the permanent facility, Scripps shall establish an annual seminar series featuring a review of the science work done by Scripps and its collaborators.

12. Collaboration with OTTED.

Beginning June 2004, Scripps shall commence collaboration efforts with the Office of Tourism, Trade and Economic Development by complying with reasonable requests for cooperation in economic development efforts in the biomed/biotech industry, and no later than July 2004, Scripps shall designate a person who shall be charged with assisting in these collaborative efforts.