



AGREEMENT TO ESTABLISH A DONOR ADVISED FUND

THIS AGREEMENT is made and entered this ____ day of _____, 20__ by and between **Akron Community Foundation** (“Foundation”), a corporation organized under the nonprofit corporation law of the State of Ohio, and _____ (“Donor”).

WHEREAS, a fund has been established within Akron Community Foundation called _____ (the "Fund") as a **Donor Advised** fund for distribution by Akron Community Foundation's Board of Directors (the “Board”).

1. The Fund will consist initially of \$_____ transferred upon the execution hereof, together with any property which may later be delivered to Akron Community Foundation by any person or entity when specified to be included in the Fund.

OPTION 1 (Standard Language)

2. The following persons will have the right to make recommendations regarding distributions of income or principal from the Fund on the terms and subject to the conditions in this Agreement (the “Advisors”), in the order set forth below:
 - (i) the Donor while he or she is living and not incapacitated;
 - (ii) upon the Donor’s death, incapacity or resignation as an Advisor, the Donor’s spouse while he or she is living and not incapacitated;
 - (iii) at such time as both the Donor and his or her spouse are deceased, incapacitated or have resigned their positions as Advisors, the Donor’s adult children, if any, while they are living and not incapacitated.

Advisors will cease to serve on their resignation, incapacity or death. At such time as there are no Advisors then serving, the Fund balance will be transferred to the Foundation's Community Fund to become available for distribution as undesignated funds.

3. Distribution recommendations from the Fund by the Advisors must be made in a written instrument to the Board executed by at least a majority of the Advisors then serving. The Advisors must furnish the Board with an updated list of the names and addresses of all persons then serving as Advisors to the Fund and notifying the Board of any Advisors who have ceased to serve due to their incapacity, resignation or death. The Foundation will be entitled to rely on the information provided in the most recent list of Advisors furnished to it until it receives evidence to the contrary.

□ **OPTION 2 (Legacy Language)**

2. The following persons will have the right to make recommendations regarding distributions of income or principal from the Fund on the terms and subject to the conditions of this Agreement (the “Advisors”):
- (i) During the Donor's Lifetime, the Advisors to the Fund will be the Donor and such additional adult persons (but no more than (5)) as the Donor may designate to serve as Advisors in a written instrument executed by the Donor and delivered to the Board during the Donor's lifetime. In the event that the Donor should designate more than (5) persons to serve as Advisors to the Fund at any time, the Board, in its sole discretion, will determine which of such persons will serve as Advisors.
 - (ii) After the Donor's death, the Advisors will be no more than (5) persons consisting of those persons, if any, whom the Donor designated to serve as Advisors during his or her lifetime in accordance with the provisions set forth in clause (i) above, together with such additional adult persons as the Advisors serving from time to time may designate to serve as additional Advisors to the fund in a writing executed by at least a majority of the Advisors then serving and delivered to the Board.

Advisors will cease to serve on their resignation, incapacity or death. At such time as there are no Advisors then serving, the Fund balance will be transferred to the Foundation's Community Fund to become available for distribution as undesignated funds.

3. While the Donor is living and not incapacitated and has not resigned his or her position as Advisor, any distribution recommendations from the Advisors must be in writing executed at a minimum by the Donor and delivered to the Board. If the Donor should resign or become incapacitated during his or her lifetime, or after the Donor's death, any distribution recommendations must be in writing executed at a minimum by a majority of the Advisors then serving. The Advisors must furnish the Board with an updated list of the names and addresses of all persons then serving as Advisors to the Fund in a written instrument signed by all persons serving as Advisors to the Fund and notifying the Board of any Advisors who have ceased to serve due to their incapacity, resignation or death. The Foundation will be entitled to rely on the information provided to it in the most recent list of Advisors furnished to it until it receives evidence to the contrary.
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4. The final decision on all distributions of income from the Fund will be approved by the Board and will be consistent with its exempt purposes as specified in the Articles of Incorporation and Code of Regulations and or By-Laws of Akron Community Foundation.
5. The name of the Fund will be _____ of Akron Community Foundation and correspondence from the Foundation will bear that legend.

- 6. Distributions from the Fund will be only from income.

OR

Distributions from the Fund will be made only from income, but, if deemed necessary and subject to Board approval, distributions may be from principal.

- 7. The Fund will be the property of Akron Community Foundation and will not be deemed a separate trust fund held for it in a trustee capacity. **It is understood that, except as otherwise specifically provided herein, this Agreement and all the contributions to the Fund are irrevocable.** Akron Community Foundation may commingle the property of the Fund with the property of other component funds held by Akron Community Foundation; provided, however, that the separate identity of the Fund will be maintained and distributions from the Fund will be clearly identified as such to the Grantees.
- 8. It is understood and agreed that all assets held by the Fund will be subject to the Articles of Incorporation and Code of Regulations and/or By-laws of Akron Community Foundation (as they may be amended from time to time), including the power contained therein for the Board to modify, through the Cy Pres Doctrine, any restrictions or conditions on the distribution of funds for any specified organization if, in its sole judgment, those restrictions become, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the area served by Akron Community Foundation.
- 9. The Donor understands and agrees that the Fund will share a fair portion of the total administrative cost of Akron Community Foundation. The administrative cost charged against the Fund will at all times be reasonable, will be in accordance with the current fees schedule applicable to funds of this type, and will not exceed usual and customary rates.
- 10. Donor advised funds must maintain the minimum fund balance, which is currently \$5,000. If the balance of the Fund falls below the minimum fund balance, then the Fund balance will be transferred to the Foundation's Community Fund, at the Foundation's discretion, to become available for distribution as undesignated funds.

CONSENT

The undersigned hereby consent and agree to the terms herein set forth.

AKRON COMMUNITY FOUNDATION

By: _____
John T. Petures Jr.
President and CEO

DONOR

By: _____