



AGREEMENT TO ESTABLISH AN ENDOWMENT FUND

THIS ENDOWMENT FUND AGREEMENT (the "Agreement") is made as of the _____ day of _____, 20____ at Akron, Ohio, between _____ ("_____"), a corporation established under the nonprofit corporation law of the State of Ohio, with its principal office located at _____, and **Akron Community Foundation** ("Foundation"), a corporation organized under the nonprofit corporation law of the State of Ohio, with its principal office located at 345 West Cedar Street, Akron, Ohio 44307-2407.

WHEREAS, (_____) is a 501(c)(3) organization organized for the purpose of _____;

WHEREAS, (_____) desires to create an endowment fund into which persons or corporations may make contributions of cash and other property from time to time for the support of the (_____);

WHEREAS, the Foundation is willing to accept such contributions and to hold and administer such endowment fund for the benefit of (_____) in accordance with the terms of this Agreement;

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

1. **Establishment of Fund.** A fund shall be established on the books of the Foundation which shall be known as the _____ **Endowment Fund** (the "Fund"). The Foundation acknowledges receipt of the property listed in Schedule "A" attached hereto and made a part hereof as the initial property of the Fund.
2. **Property of the Fund.** The Fund shall include the property received herewith, such property as may from time to time be transferred to the Foundation by (_____) or other **donors** for inclusion in the Fund, such property as may from time to time be transferred from any other source for inclusion in the Fund and accepted by the Foundation, and all undistributed income from the foregoing property. The Fund shall be a component fund of the Foundation held by it in its corporate capacity and shall not be deemed a trust fund held by 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.** The Foundation shall have the ultimate authority and control over all property in the Fund, and the income derived therefrom, in accordance with the terms of this Agreement and the Articles of Incorporation and Code of Regulations of the 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.

3. Designation of Purposes. The Fund shall be used for _____
_____.
4. Deviation from Specified Purposes.
- (a) The provisions as referenced in the Revised Code of Regulations of the Akron Community Foundation, permitting deviation from a donor's specified purpose, shall apply to the Fund created herein. Contingent beneficiary if (_____) ceases to exist or is no longer a qualified charitable entity is
Please check one

(name of charitable organization)
or
 a qualified charitable organization that provides a similar purpose or charitable mission.
- (b) If the Foundation ceases to be a qualified charitable organization or if the Foundation proposes to dissolve, the assets of the Fund shall, after payment or making provision for payment of any liabilities properly chargeable to the Fund, be distributed to (_____).
5. Distribution of Net Income. Net income of the fund shall be determined by application of the Foundation's spending policy, which currently makes available on an annual basis up to 5% of the fund's 12-quarter average trailing market value as a component of the Foundation's main asset pool. Distributions shall be made annually or more or less frequently as the parties may from time to time agree. Any net income not distributed shall accumulate in the Fund as undistributed income, shall be reinvested by the Foundation for the Fund, and, together with any interest thereon, shall be available to (_____) as distributable income.
6. Unforeseen Contingencies. In the event of any unforeseen contingency by reason of which expenditure of the principal of the Fund is necessary to accomplish or promote the purposes of (_____), such invasion of principal shall be permitted, upon the request by resolution from the Board of Directors of (_____) and with the approval of the Board of Directors of the Foundation. Approval of the Foundation's Board of Directors shall rest on an independent investigation by the staff of the Foundation as to whether the proposed expenditure is consistent with the Foundation's purposes, and shall not be unreasonably withheld.
7. Return on Assets. The Foundation shall invest the assets of the Fund in a manner consistent with sound and prudent investment practices, and in such a way as to produce a reasonable total annual return. The Fund may be commingled with other Foundation funds for investment purposes; provided, however, that the Foundation shall maintain on its books a separate account showing the Fund's proportionate share of any gains, losses, income and expenses of any such common investment fund of the Foundation.
8. Statements. The Foundation shall provide statements to (_____) of the income, expenditures, and spendable income of the Fund held therein, on a quarterly basis, and at such other reasonable times as (_____) may request.

9. Fees. The Foundation shall charge the Fund an annual administration fee of 1.25% of the average market value of the Fund. The fee may be changed in the future if the Foundation levies the changed fee on all funds administered by it; provided, however, that said fee increases shall not cause the administration fees charged to the Fund by the Foundation to exceed the amount of fees which would be customarily charged by another community foundation.
10. Minimum Fund Balance. The Fund must maintain a minimum fund balance of \$5,000. If the balance of the Fund falls below \$5,000, 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.
11. Statement of Financial Accounting Standards (SFAS) 136 Implications.
Please check one
(a) Contributions used to establish the Fund are "restricted/designated" for endowment purposes.
or
(b) Contributions used to establish the Fund are considered "unrestricted" and could be used by the organization to support any aspect of their charitable mission.
12. Definitions and Construction.
(a) As used in this Agreement:
(1) "Qualified charitable organization" means an organization described in S 501(c)(3) and which is other than a private foundation under S 509(a) of the Internal Revenue Code.
(2) References to any provision of the "Internal Revenue Code" shall be deemed references to the U.S. Internal Revenue Code of 1986 as the same may be amended from time to time and the corresponding provision of any future U.S. Internal Revenue Code.
(b) It is intended that nothing in this Agreement shall affect the status of the Foundation as an entity which is a qualified charitable organization. This Agreement shall be interpreted in a manner consistent with the foregoing intention and so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant thereto applicable to the intended status of the Foundation.

IN WITNESS WHEREOF, each party hereto has executed this Agreement by its duly authorized officers effective as of the day and year first above written.

DONOR'S CORPORATION NAME

By: _____

Title: _____

AKRON COMMUNITY FOUNDATION

By: _____

John T. Petures, Jr.
President and CEO

SCHEDULE A

(List property transferred to the Foundation to establish the Fund)

DRAFT