

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

DONOR ADVISED FUND AGREEMENT

This Agreement made and entered into as of the __day of __, 20__, between **THE SPARTANBURG COUNTY FOUNDATION** (the “Foundation”) and _____ (“Donor”).

WHEREAS, the Donor desires to make an irrevocable charitable gift to the Foundation for the creation of a donor advised fund and to designate the Donor or another individual(s) as an “Advisor” to the Fund for the purpose of making non-binding recommendations from time to time with respect to distributions from the Fund, subject to the terms and conditions of this Agreement; and

WHEREAS, the Foundation agrees to accept said property in order to create and administer a fund under the terms and conditions of this Agreement;

NOW, THEREFORE, the Donor and the Foundation hereby agree as follows:

1. Creation of Fund. Upon signing this Agreement, the Donor has irrevocably transferred and delivered to the Foundation, and the Foundation has accepted and received, all of Donor’s right, title, and interest in and to the property described on Exhibit “A” attached hereto and made a part hereof, for the creation of a separate donor advised fund consisting of such initial contribution of property, any subsequent contributions thereto, and any and all income derived therefrom (the “Fund”). The Fund shall be known as the

_____ **FUND.** Under no circumstances may any part of the Fund revert to the Donor or provide the Donor, advisors or related parties with any direct or indirect pecuniary benefit. The Donor, advisors or related parties shall not receive any benefit from the Foundation or from any recipients of distributions from the Fund, and the Donor, advisors and related parties are prohibited from using the Fund to fulfill a charitable pledge. Neither the Donor nor any other person shall have any right or power to revoke or terminate this Agreement or any of the terms of this Agreement, except as may otherwise be provided in Paragraph 9 herein.

2. Administration of Fund Generally. The principal and net income of the Fund shall be used and administered in furtherance of the exempt purposes of the Foundation and shall be subject to all of the terms and conditions of the Articles of Incorporation, Trust Indenture, and

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO §§ 15-48-10, et seq.,
CODE OF LAWS OF SOUTH CAROLINA (1976), AS AMENDED.**

Bylaws of the Foundation, as amended from time to time. The Fund shall be the property of the Foundation held by it in its corporate capacity as a component fund of the Foundation and shall not be deemed a trust fund held by it in a trustee capacity. The Foundation shall have the ultimate authority and control over all property in the Fund, and income derived therefrom, in accordance with the Articles of Incorporation and By-Laws of the Foundation (as they may be amended from time to time), and the terms of this Agreement, applied in a manner not inconsistent with said Articles and By-laws. All provisions of the Articles of Incorporation, Trust Indenture, Bylaws, and Policies and Procedures Statement are incorporated herein and made a part of this Agreement by reference. The Fund will be administered under and subject to the Foundation's governing documents and policies, as amended from time to time, including its "variance power" which gives the Foundation's Board the ability to redirect funds should the purposes for which they were given become obsolete. Grants from the Fund may be made only to tax-exempt charitable organizations, and may not be made to any individuals, either directly or indirectly.

3. Advisor. Donor shall have the right during Donor's lifetime to designate Donor or another individual(s) as an advisor to the Foundation with respect to distributions from the Fund (the "Advisor"). Donor hereby designates _____ (**list advisors**) as the Advisor. If more than one person is designated the Advisor, the Foundation may rely upon the advice and recommendations of:

___ Any one such person individually; or

___ All such persons collectively; or

___ Otherwise, as follows: _____

The Donor may designate a new Advisor during Donor's lifetime by delivering to the Foundation written instructions signed by Donor. The Advisor may consult with, advise, and make non-binding recommendations to the Foundation with respect to the timing, amount and charitable recipients of distributions from the Fund. The Foundation shall consider and evaluate such advice and recommendations, but such advice or recommendations shall be solely advisory and under no circumstances shall the Foundation be legally bound by such advice and recommendations. Donors, advisors, or related parties are prohibited from receiving grants, loans, compensation or similar payments from the Fund.

4. **Fee to the Community Fund.** The Fund shall make a minimum annual contribution fee to the Community Fund of the Foundation in the amount specified by the Foundation's Contribution Fee Schedule.

5. **Voluntary Contribution to Community Fund.** The Community Fund is a community endowment that ensures Spartanburg County will continue to have the philanthropic resources to meet present and future needs. Please consider making a voluntary annual contribution to the Community Fund through your existing fund at the Foundation.

____ Yes, it is my desire to support the community's broader charitable needs through The Spartanburg County Foundation's Community Fund. In the _____ Fund's, first year, and until further notice, I recommend that _____% (or \$_____) be used annually for grants recommended by The Spartanburg County Foundation's Board of Trustees.

____ No; I do not recommend a portion of my Fund for the Community Fund.

6. **Duration of the Fund.** The Fund shall terminate no later than:

____ The date of the death of the Donor, or _____

____ The date of death of the survivor of the Donor and the Donor's spouse.

After my death, if the Fund shall have a value of more than \$10,000.00, the Fund will become endowed with _____ to serve as successor advisor(s) to the Fund. Successor advisors may make recommendations as to the recipients of the grantable amount in the Fund. At the death of the successor advisor(s), the balance of the Fund will become an unrestricted fund of the Foundation's Community Fund and will serve our community forever as my permanent charitable legacy under the name _____ Fund.

7. **Reports.** The Foundation shall provide to the Donor (and to the Advisor if the Advisor is not also the Donor) a copy of the annual report of the Fund prepared under the general accounting and auditing programs of the Foundation.

8. **Ultimate Control of Fund.** Notwithstanding any other provision contained herein, the Foundation shall at all times have the power to freely and effectively employ the assets of the Fund, and the income derived therefrom, in furtherance of its exempt purposes. Nothing contained herein shall prevent the Foundation from exercising ultimate authority and

control over such property in accordance with its Articles of Incorporation, Trust Indenture, Bylaws, Policies and Procedures Statement for Advised Funds, all as amended from time to time, and any other resolutions and procedures duly adopted by the Board of Trustees.

9. Arbitration. Any controversy or claim arising out of or relating to this Agreement or the breach thereof shall be settled by arbitration pursuant to the provisions of §§ 15-48-10, *et seq.*, Code of Laws of South Carolina (1976), as amended, or such other laws of the State of South Carolina as shall govern arbitration proceedings and be in effect at the time of such arbitration, and judgment upon the award rendered may be entered in any court having jurisdiction thereof.

10. Modification or Amendment. The Foundation shall have the power, acting alone, to amend this Agreement in any manner required for the sole purpose of ensuring that the Fund qualifies and continues to qualify as a component fund of the Foundation to be held exclusively for charitable and eleemosynary purposes, in accordance with the governing documents of the Foundation, and any such amendment shall apply retroactively to the inception of this Agreement. Such amendment shall be accomplished by means of an instrument in writing attached to the original executed copy of this Agreement, with copies to the Donor. The Foundation is hereby exonerated from any and all liability in connection with any exercise of the powers of amendment herein granted, if taken in good faith reasonably believed by the Foundation to be in accordance with the provisions and intent hereof. In no event shall this Agreement be amended in such a way as to cause the Fund not to be treated as a component fund of the Foundation.

11. Governing Law. Nothing in this Agreement shall affect the status of the Foundation as an organization (a) described in Section 501(c)(3) of the *Internal Revenue Code of 1986*, as amended (the “Code”), and (b) which is not a private foundation as defined in Section 509(a) of the Code. This Agreement shall be interpreted in a manner consistent with the foregoing intention and in order to conform with the requirements of the foregoing provision of the federal tax laws and any regulations issued thereunder, and any provision held to the contrary or in violation thereof is null and void *ab initio*.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

IN THE PRESENCE OF:

THE SPARTANBURG COUNTY FOUNDATION

By: _____
Its President

(SPONSOR'S NAME)

Its Donor



FUND TYPE FEES & MINIMUMS

UNRESTRICTED FUNDS

The Community Impact Fund – For those who wish to leave a legacy of influence that will continue to meet the ever-changing needs of Spartanburg County for years to come, there's no better avenue than the Foundation's Community Impact Fund. There are no Foundation Support Fees for this unrestricted fund.

DONOR ADVISED FUNDS

Donors who create donor advised funds may make (or may designate other persons to make) recommendations to the Foundation regarding the not-for-profit or religious organizations that are recipients of grants from the fund.

Minimum Balance is \$2,500.

Annual Foundation Support Fee (applied quarterly):

- » 1.5% (or \$500 whichever is greater) on the first **\$1 million** of the balance of the fund
- » 1.0% on the next **\$500,000** of the balance of the fund
- » 0.6% on the next **\$2 million** balance, up to \$9,999,999
- » 0.25% on **\$20 million+** balance of the fund
- » 0.75% on the next **\$500,000** of the balance of the fund
- » 0.5% on **\$10 million** balance, up to \$19,999,999

NOTE: Graduated Breakpoints do not apply to fund levels above \$10 million.

AGENCY ENDOWMENT, DESIGNATED, FIELD OF INTEREST, SPECIAL & OTHER FUND TYPES

Donors who create **designated funds** may specify the specific not-for-profit or religious organizations which are to receive grants from the fund. An organization can also establish an **agency endowment** for itself. Donors who create **field of interest** funds may specify a broad category of interest (such as education, the arts, children's health, animal protection, the elderly, or the environment) for which grants may be made.

Minimum Balance is \$5,000.

Annual Foundation Support Fee (applied quarterly):

- » 1.0% on the first **\$1 million** of the balance of the fund
- » 0.6% on the next **\$500,000** of the balance of the fund
- » 0.35% on **\$10 million** balance, up to \$19,999,999
- » 0.75% on the next **\$500,000** of the balance of the fund
- » 0.4% on the next **\$2 million+** balance of the fund
- » 0.175% on **\$20 million+** balance of the fund

NOTE: Graduated Breakpoints do not apply to fund levels above \$10 million.

Fundraising Funds - Rate of 1.5% of Fund Value plus a \$20 per transaction fee. See Fundraising Policy.

SCHOLARSHIP & AWARD ENDOWMENT FUNDS

Donors who create a scholarship endowment may provide students with financial assistance based on academic or other criteria they choose. Grants are awarded directly to the individual's educational institution.

Minimum Balance is \$10,000.

Annual Foundation Support Fee (applied quarterly): 2.0% of the balance of the fund

For combined scholarship funds of \$5 million or greater, contact the Foundation.

SUPPORTING ORGANIZATIONS

Supporting organizations, established under Section 509 of the tax code, are foundations that exist as a part of The Spartanburg County Foundation. They operate as separate charities with their own bylaws and board members, and make their own grant recommendations. The Foundation handles all distributions and paperwork, as well as audits and tax reports.

Minimum Balance is \$1,000,000.

Annual Foundation Support Fee (applied quarterly):

- » 1.5% (or \$500 whichever is greater) on the first **\$1 million** of the balance of the fund
- » 1.0% on the next **\$500,000** of the balance of the fund
- » 0.6% on the next **\$2 million** balance, up to \$9,999,999
- » 0.25% on **\$20 million+** balance of the fund
- » 0.75% on the next **\$500,000** of the balance of the fund
- » 0.5% on **\$10 million** balance, up to \$19,999,999

NOTE: Graduated Breakpoints do not apply to fund levels above \$10 million.