

**COMMUNITY FOUNDATION for MUSKEGON COUNTY
NONPROFIT FUND AGREEMENT**

[NONPROFIT NAME] FUND

ENDOWED

THIS AGREEMENT (the “**Agreement**”) is made and entered into as of _____, 20___, by and between the Community Foundation for Muskegon County, a Michigan nonprofit corporation with tax exempt status as a public charity (the “**Community Foundation**”), and _____ (together, “**Donor**”) for the purpose of supporting Donor’s charitable activities as defined in Section 170(c) of the Internal Revenue Code of 1986, as amended.

1. **Irrevocable Gift; Fund Assets; Name.** Donor hereby transfers irrevocably to the Community Foundation \$_____ to establish a Nonprofit Endowed Fund to be known as the _____ Fund (the “**Fund**”). Donor and others at any time may make contributions of any amount to the Community Foundation designated for addition to the Fund.

All gifts, bequests, and devises to the Fund shall be irrevocable once accepted by the Community Foundation and shall become assets of the Community Foundation, which has exclusive legal ownership of and control over them, together with accumulated income. Donor hereby represents and warrants that the assets set forth above are unrestricted assets of Donor who has the authority to transfer them to the Community Foundation subject to the terms and conditions of this Agreement.

2. **Fund Distributions.** The Fund is endowed, meaning that Donor intends that it exist into perpetuity. The amount of the Fund that will be appropriated for expenditure or accumulated is subject to both the Community Foundation’s Spending Policy, which is subject to change by the Community Foundation from time to time, and to the Community Foundation’s variance power (as discussed in Section 4 below).

Distributions from the Fund will be made to the Donor according to the Community Foundation’s Spending Policy then in effect. Donor may request that all or a portion of any distribution be retained in the Fund. Donor may from time to time make recommendations to the Community Foundation for additional distributions to Donor of accumulated unspent portions. As required by law, all such recommendations shall be solely advisory, and the Community Foundation may accept or reject them.

3. **Donor Dissolution or Change in Status.** In the event that Donor dissolves or ceases to qualify as a public charity, distributions from the Fund will be directed in a manner that in the opinion of the Board of Trustees of the Community Foundation most nearly meets the purposes of the Fund.

Applicable Policies; Component Fund; Variance Power. The Fund shall be subject to the Community Foundation’s Articles of Incorporation, Bylaws, and other Community Foundation policies that are subject to change from time to time. It is intended that the Fund will be a component fund of the Community Foundation which shall have all powers of

4. modification and removal specified in United States Treasury Regulation section 1.170A-9(f)(11)(v)(B) (or corresponding provisions of any subsequent federal tax laws), including the authority to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Community Foundation's Board of Trustees unnecessary, incapable of fulfillment, or inconsistent with the charitable or other exempt purposes of the Community Foundation or the needs of the community it serves. Although the Fund assets will be accounted for separately for purposes of reporting to Donor(s), such assets shall not be deemed trust property of a separate trust. This Agreement will be interpreted in a manner consistent with the foregoing intention and so as to conform to any applicable tax laws and regulations.
5. **Investment of Fund Assets.** The Fund assets, while accounted for separately, may be commingled with other Community Foundation assets for investment purposes.
6. **Costs of the Fund.** It is understood and agreed that the Fund shall share a fair portion of the total costs and expenses of the Community Foundation. Those costs and expenses charged against the Fund shall be determined in accordance with the then-current administrative fee policy identified by the Community Foundation, as such policy may be amended by the Community Foundation from time to time. Any costs and expenses incurred by the Community Foundation in accepting, transferring, or managing property donated to the Community Foundation for the Fund, including without limitation the Community Foundation's costs and expenses (including reasonable attorney fees) of any claim or proceeding with respect to the Fund, also shall be paid from the Fund.
7. **Miscellaneous.**
 - a. **Entire Agreement; Beneficiaries; Counsel.** This Agreement contains the entire understanding of the parties, and there are no other agreements or understandings, written or oral, in effect between the parties relating to the Fund. Nothing in this Agreement will be construed as giving any person, other than the parties hereto, and their respective successors and permitted assigns as designated in this agreement, any right, remedy or claim under or in respect of this Agreement or any provision hereof. The parties may have discussed tax and legal consequences of this Agreement, but each may rely only upon the advice of its own advisors.
 - b. **Due Authorization; Electronic Signatures/Counterparts.** The undersigned are duly authorized and competent to enter into this Agreement, which may be executed and delivered in two or more counterparts, including by electronic transmission, each of which shall be deemed an original and all of which together shall be deemed to constitute one and the same Agreement. This Agreement may be executed by a handwritten signature or by an electronic signature.

The parties execute this Agreement by its duly authorized officers effective as of the day and year above as evidence of their agreement.

_____ **DONOR** _____

Name, title

Name, title

COMMUNITY FOUNDATION *for* MUSKEGON COUNTY

Todd M. Jacobs, President/CEO