



DESIGNATED PASS THROUGH FUND AGREEMENT

THIS AGREEMENT is made and entered into as of the ___ day of _____ 20__, by and between _____ (hereinafter "Donor") and the Community Foundation of Southern Indiana, Inc. (hereinafter the "Foundation").

WITNESSETH:

WHEREAS, the Donor desires to create a donor designated pass through fund in the Foundation to accept an IRA charitable rollover/Qualified Charitable Distribution gift; and

WHEREAS, the Foundation is an Indiana nonprofit corporation exempt from federal income taxes under Internal Revenue Code ("Code") section 501(c)(3), a public charity described in section 170(b)(1)(A)(vi) of the Code, and accordingly an appropriate institution within which to establish such a charitable pass through fund; and

WHEREAS, the Foundation is willing and able to create such a fund as a Donor Designated Pass Through Fund, subject to the terms and conditions hereof:

NOW THEREFORE, the parties agree as follows:

I. FUND ASSETS

At the time of transfer of any assets used to create this fund, Donor hereby transfers irrevocably to the Foundation all right, title and interest in and to the property described in the attached Exhibit A to establish a designated pass through fund. All gifts, bequests, and other devises to this Fund shall be irrevocable once accepted by the Foundation. Donor reserves no rights other than as described in this Agreement to the initial assets of the Fund, future income and appreciation of the Fund, or any future donations to the Fund.

II. Gifts to the Fund

No additional gifts may be made to the Fund once it is established.

III. PURPOSE

The Foundation agrees to establish a Designated Pass Through Fund to be known as the _____ **Fund** (hereinafter “Fund”). The primary purpose of the Fund shall be to initiate, promote, organize, sponsor, contribute to and generally further religious, charitable, scientific and educational activities, undertakings and institutions as contained in this Agreement. This Agreement is to be established only by assets received pursuant to the IRA charitable rollover provisions of the Pension Protection Act of 2006 (H. R. 4), made permanent under the Protecting Americans from Tax Hikes Act of 2015 (H. R. 2029) and also known as a Qualified Charitable Distribution. All distributions from the Fund will be made in accordance with this legislation. The Foundation has the power to unilaterally make any changes to this fund necessary to conform it to these legislative provisions.

Specifically, the Fund shall support the charitable organizations listed in Exhibit B attached hereto and made a part hereof. Support shall be divided among the charitable organizations listed in Exhibit B in the amounts designated and shall be for each organization’s general use unless designated otherwise. The minimum required to establish this Fund is \$15,000.00. The minimum amount for each distribution from the Fund is \$1,000.00 unless the Foundation approves a lesser amount in advance, as shown in Exhibit B.

IV. ADMINISTRATIVE TERMS AND CONDITIONS

Donor understands and acknowledges that the Foundation shall hold and administer the Fund, and all contributions and assets allocable to the Fund, on the following terms and conditions:

- A. Conditions for Acceptance of Gifts.** Donor agrees and acknowledges that the establishment of the Fund herein created is made in recognition of, and subject at all times to, applicable law and the terms and conditions of the Articles of Incorporation and Bylaws of the Foundation as from time to time amended, including but not by way of limitations, provisions for:
- (a) Presumption of donors’ intent;
 - (b) Variance from donors’ direction; and
 - (c) Amendments.
- B. No Material Restrictions.** The Fund will be administered by the Foundation as a Designated Pass Through Fund and nothing contained in this Agreement shall be construed as imposing any material restriction or condition that prevents the Foundation from freely and effectively employing the income derived from the Fund’s current assets in furtherance of the Foundation’s charitable purposes and those purposes stated for this Fund.

- C. Authority.** The Foundation shall have the ultimate authority and control over all property in the Fund, and the income derived from it, subject to the terms of this Agreement, applicable law, and the Foundation's Articles of Incorporation and Bylaws as they may be amended from time to time.
- D. Distributable Amounts.** The distributable amounts listed in Exhibit B shall be distributed by the Foundation, as closely as possible, in accordance with the time frames and to the charitable organizations detailed in Exhibit B. If a charity listed in Exhibit B no longer exists as a qualified 501c3 public charity at the time when a distribution is to be made, that charity's distribution will be prorated among the others listed that have not yet received a distribution from the Fund for the same calendar year, or otherwise allocated in the Foundation's sole discretion in a manner that is economically efficient while still meeting the Donor's intent.
- E. Additional Restricted Gifts.** If any gifts to the Foundation for the purposes of the Fund are received and accepted subject to a donors' conditions or restrictions as to the use of the gift or the income therefrom, said conditions or restrictions will be honored, subject, however, to the authority of the Foundation's Board to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Foundation's Board of Directors unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community served by the Foundation, with any modification being as consistent as reasonably possible with the charitable intent of the Donor and Indiana Law.
- F. No Distributions Contrary to Charitable Purpose.** No distribution shall be made from the Fund to any individual or entity if such distribution will in the judgment of the Foundation endanger the Foundation's Code section 501(c)(3) status.
- G. Distributions in the Name of the Fund.** Unless otherwise instructed in writing by Donor, all grants from the Fund will be made in the name of the Fund.
- H. Component Fund.** Notwithstanding anything herein to the contrary, this Fund is intended to be, and the Foundation shall administer the Fund and all contributions to the Fund, as a component part of the Foundation under United States Treasury Regulation Section 1.170A-9(f)(11).
- I. Variance Power.** This Fund is specifically subject to the powers of the Foundation's Board as the governing body of a community foundation as required therein and as set forth in the Articles of Incorporation and Bylaws of the Foundation. Such powers include the power to unilaterally modify any restriction or condition of the Fund in the event such restriction or condition becomes, in effect, unnecessary, obsolete, incapable of fulfillment, or inconsistent with the charitable needs

of the community served by the Foundation, with any modification being as consistent as reasonably possible with the charitable intent of the Donor and Indiana law.

- J. Not a Separate Trust.** All money and property in the Fund shall be held as general assets of the Foundation, held by it in its corporate capacity, and shall not be segregated as trust property of a separate trust or be deemed a trust fund held by it in a trustee capacity.
- K. Power to Modify.** The Board shall oversee distributions from the Fund and shall have all powers of modification and removal specified in United States Treasury Regulation section 1.170A-9(f)(11)(v)(B). The Foundation shall have the authority to modify this Agreement from time to time as may be necessary in order to comply with applicable laws or regulations (or any changes to applicable laws or regulations) that govern such funds.
- L. Investment Authority.** The Board of Directors shall have full authority to invest the assets of the Fund in keeping with the Foundation's Articles and Bylaws and its fiduciary responsibility. Assets will be invested in the Money Market Portfolio. The Donor understands that all earnings of the Fund will be retained by the Foundation.
- M. Powers.** The Foundation shall have all powers necessary, or in its sole discretion desirable, to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest and reinvest the Fund and the power to commingle the assets of the Fund for investment purposes with those of other funds or the Foundation's general assets.
- N. Accounting.** The receipts and disbursements of this Fund shall be accounted for separately and apart from those of other gifts to the Foundation. The Foundation shall keep accurate financial and other records related to the administration of the Fund and shall provide the Donor quarterly written reports on the activity of the Fund. The Foundation shall make available to the Donor a copy of any annual examination of the finances of the Foundation as reported by independent certified public accountants.
- O. Publicity.** Unless directed otherwise by the Donor in writing, the Fund will be included by name in the Annual Report of the Foundation in keeping with the reporting on other similar funds within the Foundation. The Fund may be included by name in additional Foundation marketing materials from time to time.
- P. Administrative Fee.** It is understood and agreed that the Fund shall share a fair portion of the total investment and administrative costs and expenses of the Foundation. Those costs and expenses charged against the Fund shall be determined in accordance with the then current fee schedule identified by the Foundation as applicable to funds of this type, as such schedule may be amended

by the Foundation from time to time. The fee at the time this Fund was established is detailed in Exhibit B, herein.

Q. Continuity of the Fund. The Fund shall continue so long as assets are available in the Fund and the purposes of the Fund can be served by its continuation. If the Fund is terminated, the Community Foundation shall use any remaining assets in the Fund exclusively for charitable or other exempt purposes that:

- a. are within the scope of the charitable and other exempt purposes of the Community Foundation; and
- b. most nearly approximate, in the good faith opinion of the Board, the original purpose of the Fund consistent with Indiana law and the purposes of the Donor.

R. Governing Law. This Agreement and all related proceedings shall be governed by and interpreted under the laws of the State of Indiana. Any action with respect to this Agreement shall be brought in or venued to a court of competent jurisdiction in Indiana.

V. Execution

IN WITNESS WHEREOF, the Donor has executed this Agreement and the Foundation has caused this Agreement to be executed by a duly authorized officer in duplicate originals, all as of the day and year first above written.

DONOR

COMMUNITY FOUNDATION OF SOUTHERN
INDIANA, INC.

Donor Name

Linda S. Speed, President and CEO

EXHIBIT A

LIST OF INITIAL DONATIONS TO FUND

Qualified Charitable Distribution from _____

EXHIBIT B

CHARITABLE DISTRIBUTIONS

Support shall be divided among the charitable organizations listed in the amounts designated and shall be for each organization's general use unless designated otherwise. If a charity listed here no longer exists as a qualified 501c3 public charity at the time when a distribution is to be made, that charity's distribution will be prorated among the others listed that have not yet received a distribution from the Fund for the same calendar year, or otherwise allocated in the Foundation's sole discretion in a manner that is economically efficient while still meeting the Donor's intent. The administrative fee for this Fund is 2.0% of the total amount contributed to the Foundation for this Fund unless otherwise agreed to in advance as shown here.

AMOUNT	CHARITY/LOCATION	TIME FRAME
1. \$1,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	February 1
2. \$1,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	June 1
3. \$2,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	January 1
4. \$2,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	August 1
5. \$2,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	IMMEDIATELY
6. \$2,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	IMMEDIATELY
7. \$2,700.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	IMMEDIATELY
8. \$2,000.00	Insert Charity Name <i>Insert purpose of grant if not for general support</i> Insert Charity Address	IMMEDIATELY
9. \$300.00	Community Foundation of Southern Indiana <i>Fees (one time 2% fee on total contribution)</i>	IMMEDIATELY
Total: \$15,000.00		