DONOR ADVISED FUND

AGREEMENT BETWEEN

THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA, INC.

AND

NAME OF DONOR(S)
(the “Donor(s)”)  

ESTABLISHING THE

NAME OF FUND

With this agreement (“Agreement”), a fund is being established in, and as part of The Community Foundation of Western North Carolina, Inc. (the “Foundation”). The Foundation shall hold, administer and distribute such property as a component fund, to be known as the NAME OF FUND (the “Fund”). The Donor(s) and the Foundation understand and acknowledge that the Fund will be administered by the Foundation subject to its Articles of Incorporation and Bylaws, the Charitable Recommendations attached as Exhibit A, the Schedule of Administrative Fees attached as Exhibit B, the Donor Advised Fund Terms and Conditions attached as Exhibit C, and any related policies, as each such document or policy may be amended or adopted from time to time by the Foundation.

1. Type of Fund. The Fund shall have broad charitable purposes. This is a donor advised fund and shall meet the requirements of a donor advised fund under Section 4966 of the Internal Revenue Code of 1996, as amended (“the Code”).

2. Gifts. Gifts to the Foundation are irrevocable. Gifts may be added to the Fund at any time by the Donor(s) or others.

3. Fund investment. The Foundation shall have absolute authority and discretion as to the investment and reinvestment of the assets of the Fund. The Foundation may commingle the assets in the Fund with other assets held by the Foundation, but the Foundation shall maintain detailed accounting records specifically identifying the portion of the investments and income of the Foundation which are properly allocable to the Fund. The Foundation may elect from time to time to delegate investment decisions to the trust department of a state or federally regulated banking institution or to an investment management firm. In such event, neither the Foundation nor the Foundation’s Board of Directors shall be responsible for investment decisions made by such manager.

4. Spendable income. A minimum balance of $10,000 shall be maintained in the Fund as a permanent endowment. The Fund’s available spendable income shall equal its full market value less $10,000.

5. Advisors. The individual(s) named below will serve as Advisor(s) to the Fund. Each Advisor shall have the full, equal and independent privilege to recommend grant distributions. All grant recommendations are solely advisory and subject to the Foundation’s approval.
The Advisor(s) shall be:  Advisor 1: NAME OF ADVISOR  
Advisor 2: NAME OF ADVISOR

6. Succession. At such time as the initial Advisor(s) die(s), resign(s), or is (are) otherwise unable to act in this capacity, this Fund shall become a traditional endowment fund. Available spendable income from the Fund shall be determined annually in accordance with the Foundation’s Spending Policy and distributed according to the recommendations of named Successor Advisors or the recommendations stated in Exhibit A. If Exhibit A is absent or incomplete, the Fund’s spendable income will be distributed through the Foundation’s grantmaking program.

7. Modification. The Donor(s) reserve the privilege to recommend or rescind the naming of additional or alternate Advisor(s) and/or Successor Advisor(s) to the Fund, to amend the charitable purposes or organizations listed in Exhibit A during his/her/their lifetime(s) and/or to recommend a change to the Fund’s investment portfolio from among the portfolios offered by the Foundation.

8. Grants. No distributions may be made until the Fund’s balance equals or exceeds $10,000. The Foundation shall make distributions from this Fund to qualified charities for their charitable purposes, but the Foundation shall have no responsibility to confirm that such distribution is so expended.

9. Fees. Funds are subject to administrative and investment fees. The Donor(s) acknowledge(s) the Administrative Fee Schedule attached as Exhibit B and accept(s) the terms of the Fee Schedule. The Foundation reserves the right to change its Administrative Fee Schedule at any time.

10. Variance Power. The Fund is subject to the Foundation’s “variance power,” as set forth in the By-Laws of the Foundation, as they may be amended from time to time, including the power reserved by the Foundation’s Board of Directors to modify or institute court action to modify any restriction or condition on the use and distribution of funds for any specified charitable purpose or to specified organizations if, in the sole judgment of the Board of Directors (without the approval of any trustee, custodian, guardian or agent), such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the region served by the Foundation.

11. Entire Agreement; Governing Law. This Agreement, with all exhibits attached hereto and referenced herein (each of which is incorporated in this Agreement by this reference), constitutes the entire understanding of the parties with respect to the subject matter of this Agreement and shall be governed by the laws of the State of North Carolina. This Agreement supersedes all other negotiations, agreements and understandings, whether oral or written, between the parties related to the subject matter hereof.

Accepted this _______ day of _____________________________, ________________.

THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA, INC.

By: _____________________________  NAME OF DONOR

______________________________
Elizabeth Brazas, President
NAME OF FUND

Charitable Recommendations

At such time as the Donor(s) and/or Advisor(s) and/or Successor Advisor(s) is (are) not able or do(es) not wish to act in an advisory capacity to the Fund, the following instructions shall determine the use of the Fund.

If it can be reasonably expected that the Fund will receive no additional contributions and the Fund’s balance is less than the minimum amount required to maintain a named fund ($10,000 as of the date of this Agreement), the Fund will be closed and the Fund’s balance shall be added to the Fund for Western North Carolina OR an existing field of interest fund.

If it can be reasonably expected that the Fund will receive no additional contributions and the Fund’s balance is greater than $10,000 but less than the minimum amount required for a designated fund ($100,000 as of the date of this Agreement), the Fund shall support the following:

____% Broad charitable needs in Western North Carolina
____% Basic needs and human services
____% Animal welfare
____% Arts and culture
____% Environmental protection and scenic beauty
____% College scholarships for deserving students
____% Educational opportunity in public schools
____% Quality health care
____% Civic and economic vitality
____% Unmet needs of women and girls

If the Fund’s balance is equal to or greater than the amount required for a designated fund ($100,000 as of the date of this Agreement), the Fund shall support the following charitable purposes:

____% Broad charitable needs in Western North Carolina
____% Basic needs and human services
____% Animal welfare
____% Arts and culture
____% Environmental protection and scenic beauty
____% College scholarships for deserving students
____% Educational opportunity in public schools
____% Quality health care
____% Civic and economic vitality

(continued)
_____%  Unmet needs of women and girls

And/or these named charitable organizations:

_____ %  1. ORGANIZATION NAME, CITY, STATE AND EIN
_____ %  2.
_____ %  3.
_____ %  4.

If a designated charity is no longer qualified to receive distributions from the Fund, please indicate your preference by initialing below:

_____ The Foundation should reallocate the Fund’s spendable income among the other named organizations, in proportion with the allocations stated above.

_____ The Foundation should reallocate the Fund’s spendable income to another organization with a similar mission or program.

_____ The Foundation should reallocate the Fund’s spendable income to grantmaking in the field of interest most closely matching the mission or program of the originally named organization.

_____ The Foundation should reallocate the Fund’s spendable income to grantmaking through the unrestricted purposes of the Fund for Western North Carolina.

_________________________________   ________________________________
NAME OF DONOR   NAME OF DONOR

Date: ________________________________
EXHIBIT B

THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA
SCHEDULE OF ADMINISTRATIVE FEES

Minimum initial gift to establish a fund
Donor-Advised Fund, Designated, Field of Interest and Unrestricted Fund - $10,000
Nonprofit Fund - $25,000
Named Scholarship Fund - $25,000
Scholarship Fund with customized selection criteria - $100,000
Charitable Gift Annuity - $10,000
Charitable Remainder Unitrust or Charitable Remainder Annuity Trust - $250,000*

* The Foundation will act as trustee if the entire trust remainder establishes a permanent endowment OR if at least 25% of the remainder interest benefits an unrestricted, field-of-interest or affiliate fund.

Administrative Fees

<table>
<thead>
<tr>
<th>Donor Advised, Field of Interest and Unrestricted Funds</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>First $500,000</td>
<td>1.2%</td>
</tr>
<tr>
<td>Next $500,000</td>
<td>1.0%</td>
</tr>
<tr>
<td>Next $2,000,000</td>
<td>0.75%</td>
</tr>
<tr>
<td>Amount over $3,000,000</td>
<td>0.60%</td>
</tr>
</tbody>
</table>

Designated and Nonprofit Funds

<table>
<thead>
<tr>
<th>Nonprofit and Designated Funds</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>First $1,000,000</td>
<td>0.75%</td>
</tr>
<tr>
<td>Next $1,000,000</td>
<td>0.60%</td>
</tr>
<tr>
<td>Amount over $2,000,000</td>
<td>0.45%</td>
</tr>
</tbody>
</table>

Scholarship Funds
1.2% to 3% of fund’s market value annually, according to services provided.

Affiliate Funds
1.5% of fund’s market value annually

Unitrusts, Annuity Trusts, Lead Trusts and Charitable Gift Annuities
1% of principal market value annually, plus tax reporting and/or other direct costs.

There are no fees to establish a fund. Fees are calculated and withdrawn quarterly based on fund’s market value at the end of the quarter. Invested funds are pooled for investment management purposes and investment returns allocated to the fund. Direct costs for investment management and the administrative fee are charged directly to the fund. Fees are charged quarterly; the minimum annual fee is $250.

Detailed information about the Foundation’s Investment Committee, investment managers, and investment performance is available on request.

Fees for non-endowed funds or fiscal sponsorship are determined at the fund’s creation and stated in the fund agreement. Fees for special services, including but not limited to legal fees, asset liquidation expenses and customized grantmaking are charged to the fund. This fee schedule is subject to modification and may be increased or decreased at the Foundation’s sole discretion.
EXHIBIT C

THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA
DONOR ADVISED FUND TERMS AND CONDITIONS

Legal status of funds. Donor funds established at The Community Foundation of Western North Carolina, Inc. (the “Foundation”), a Section 501(c)(3) public charity, are component funds of the Foundation as defined in Section 1.170A-9(f)(11)(V)(B), (C), (D) of the Income Tax Regulations, and nothing in this Agreement shall affect the status of the Foundation as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation within the meaning of Section 509(a) of the Code. The Fund shall meet the requirements of a donor advised fund under Section 4966 of the Code. Ownership of the Fund is vested in the Foundation, and the Foundation has ultimate authority and control of all property and income in the Fund for the charitable purposes of the Foundation. Endowment funds (or any endowed portion of a fund) are subject to the provisions of the Uniform Prudent Management of Institutional Funds Act (UPMIFA) as now in effect or as may be hereafter amended in the State of North Carolina.

Acceptance of contributions. A fund may be established by the donation or transfer of money or property (“contribution”) to and acceptance by the Foundation, by any person or persons (“donor(s)”), whether by contribution, gift, bequest, or devise or by transfer from a charitable or other organization to further the purposes of the Foundation set forth in its Articles of Incorporation. Foundation employees, as authorized by the Foundation’s Board of Directors, may accept, on behalf of the Foundation, a contribution to establish or add to a fund. A donor may not impose any material restriction or condition that prevents the Foundation from freely and effectively employing contributed assets, or income derived from assets, for the charitable purposes of the Foundation. The Foundation’s Board of Directors may establish minimum amounts for the establishment, addition to, balance of or disbursement from funds.

Donor initiated fundraising. All efforts to solicit gifts or to conduct fundraising events on behalf of component funds must be conducted in compliance with the Foundation’s Donor Initiated Fundraising Policy. “Solicit” refers to any time people are asked, verbally, in writing, or by electronic means, to contribute to a fund. The term “fundraising events” includes but is not limited to receptions, dinners and parties; sports or entertainment events; auctions and/or other similar activities. The Foundation reserves the right to refuse any assets that have been raised in violation of this policy.

Investment of assets. Investments are subject to market and interest rate fluctuation risks. Gains and losses generated by the investment of the Fund are credited or charged to the fund.

The Foundation may offer donors the opportunity to recommend an investment option from among investment programs established by the Foundation and under the Foundation’s control. Upon approval of the Foundation’s Board of Directors, assets may be managed by an independent trustee, custodian, investment advisor or other fiduciary (an “outside investment manager”) apart from the pooled assets of the Foundation, provided that all such assets are managed in accordance with the Foundation’s Investment Policy. Minimum fund values are required for investment by an outside investment manager. The Foundation reserves the right to replace any outside investment manager in its sole discretion.

Advisors and successor advisors. Donors shall name an Advisor(s) to the Fund in their fund agreement. Wherever the context requires, the term “Advisor” shall include all Advisors and/or Successor Advisors named in the fund agreement or in writing by the Donor(s). The advisory role shall terminate upon:

a) the death of all Advisors named in the fund agreement; or
b) written notice to the Foundation from the Donor(s) rescinding advisory rights; or

c) written notice to the Foundation that an Advisor is no longer capable of or no longer wishes to act in this capacity.

Requests to appoint additional Advisors and/or Successor Advisors must be submitted in writing to the Foundation by the Donor(s) establishing the Fund.
Advisory privileges are personal to the Donor(s), Advisor(s) or Successor Advisor(s) as named in the fund agreement or written notice to the Foundation and are not automatically assigned, delegated or assumed by a person acting under a power of attorney, other document executed by the Advisor or legal representative of the Advisor.

Donor advised funds established by organizations or groups may be advised by an appointed committee with a process for selecting new members. Successor Advisors must be named in writing by an officer of the organization.

**Spending from funds.** The amount available from any fund for distribution is determined according to the Foundation’s Spending Policy and the spending rule applicable to the type of fund established and the terms of the Fund agreement. In determining spendable income, the Foundation will consider the long and short-term needs of the communities served by the Foundation, the expected and reasonable total return on the investments of funds held by the Foundation, reasonable costs of investing and administering the fund, the desirability of maintaining the future purchasing power of the Foundation’s funds, and any other factors it deems relevant.

Donor(s) or Advisors may recommend that spendable income be added to and become a part of the fund’s principal rather than being distributed.

Distributions exceeding $250,000 from a single fund will be made as liquidity permits, but no longer than 90 days from request approval.

**Grant recommendations.** Grant recommendations are considered only if submitted by a designated Advisor. Foundation staff investigates prospective grant recipients to ensure recipient organizations are organized and operated for charitable purposes within the meaning of Section 501(c)(3) of the Code and that the grant’s purpose is consistent with the Foundation’s charitable purposes. The extent of staff investigation will depend on the nature of the grantee, the size of the grant and any other consideration determined necessary or appropriate by the Foundation. All grant recommendations are solely advisory and subject to approval by the Foundation’s Board of Directors, the Distributions Committee of the Foundation’s Board of Directors or its designee.

**Limitations on grants from funds.** Among other things, donor advised funds are prohibited from (1) making distributions to individuals, private non-operating foundations, certain supporting organizations or to any organization for a non-charitable purpose; (2) maintaining excess business holdings as described under Section 4943(e) of the Code; (3) engaging in excess benefit transactions as described under Section 4958 of the Code or (4) providing prohibited benefits as described under Section 4967 of the Code. The Foundation may set and alter minimum amounts for grant distributions; these amounts are noted in the current donor advised fund handbook.

**Inactive funds.** When a fund’s balance has been below the Foundation’s minimum fund size for eight or more trailing quarters and/or the fund has neither received a contribution nor distributed a grant during that period, the Advisor will be contacted. If the Advisor does not respond or cannot be located, grants from the fund will be made according to the recommendations stated in the fund agreement’s Exhibit A.

**Variance power.** All funds established at the Foundation are subject to the Foundation’s “variance power,” as set forth in the By-Laws of the Foundation, as they may be amended from time to time, including the power reserved by the Foundation’s Board of Directors to modify or institute court action to modify any restriction or condition on the use and distribution of funds for any specified charitable purpose or to specified organizations if, in the sole judgment of the Board of Directors (without the approval of any trustee, custodian, guardian or agent), such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the region served by the Foundation.

**Conflict of terms.** In the event of an inconsistency between these Terms and Conditions and any terms and conditions appearing elsewhere in connection with any component fund, these Terms and Conditions as interpreted by the
Foundation shall govern, and the Foundation reserves the right to take any actions at any time which, in its sole discretion, it deems necessary or desirable for the proper administration of any fund or the Foundation.