



*Helping Passionate Donors Leave Permanent Legacies*

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## DESIGNATED/AGENCY FUND AGREEMENT

### Welcome to the Community Foundation!

Thank you for choosing the Athens Area Community Foundation. We are committed to helping donors and charitable organizations sustainably meet the needs of the community. Having a Designated or an Agency Fund at AACF provides a nonprofit with professional, independent investment management, professional accounting, partnership/exposure in the broader community, as well as planned gift expertise and a wider range of giving options for donors. Donors and Nonprofits use these types of Funds to support the operating expenses, programs and other needs of a specific agency.

#### **Designated Funds –**

Designated funds are earmarked for one or more charitable organizations, and all grants made from such funds will be made to (or for the use of) the designated recipient organization. When establishing a designated fund, donors specify one or more organizations to receive a regular distribution from the fund in perpetuity. Such funds can be established by an outright gift during the donor's lifetime or through a planned gift such as a bequest, charitable gift annuity, remainder trust, etc. A donor may establish a Designated Fund for the benefit of XYZ Charity and name the executive director of the charity as the fund's advisor. The executive director would have the customary advisory privileges associated with the Fund. If the recipient organization ceases to exist or changes its status or mission as a charitable organization, the Foundation's Board of Directors may exercise its variance power, selecting an alternate use for the fund compatible with its original charitable purpose.

#### **Agency Funds –**

Agency Funds are variations of the Designated Fund, only it is the nonprofit organization that establishes the fund (instead of an individual) as a means of providing a perpetual income stream for their own operations and programs. Nonprofit organizations can benefit from the Foundation's investment strategies to create endowments or quasi-endowments. Such funds are typically established with an agency placing all or part of its endowment (as distinct from its operating reserve) with the Foundation. Agency funds are invested as part of the Foundation's investment pool, but are tracked as distinct funds. The Foundation annually distributes a portion the fund back to the agency according to a pre-determined spending formula. Agency funds give participating nonprofit organizations the opportunity to partner with the Foundation for endowment management, taking advantage of our investment pool's economy of scale and professional, endowment-oriented investment management approach.

### **SECTION 1: Fund Name**

Please choose a name for your fund. The Foundation will use this Fund name in Foundation materials which may encourage donors to contribute to this Fund.

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Fund Name

### **SECTION 2: Agency Information**

Please provide contact information of the Agency for which this Fund is established.

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Organization Name

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Executive Director Name

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E-mail

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Mailing Address

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City

State

Zip

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Phone

Cell Phone

Fax

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EIN #

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Website

### SECTION 3: Agency Mission and Fund Purpose

The mission of the Agency is:

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The purpose of this Fund is to:

Provide general support for the Agency.

Provide support for the following programs or projects of the Agency

Current operating expenses

Operating shortfall

Capital expansion

Capital Improvements

Building maintenance

Other: \_\_\_\_\_

### SECTION 4: Contributions

Indicate the amount of the initial contribution and how it is being paid. Additional gifts can be made at any time. If making a contribution of multiple securities or assets, please attach pages as needed.

Initial gift to establish a fund: \$ \_\_\_\_\_

Cash

Check

Marketable Securities

Mutual Fund Shares

Closely held stock, Partnership, LLC interest

Real Estate

IRA/Retirement Plan/Life Insurance (Attach copy of Beneficiary Designation Form)

Bequest or other deferred gift

Other \_\_\_\_\_

## SECTION 5: Donor Information

Please list information for donor establishing the fund.

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Full Name

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Mailing Address  Home  Business

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City State Zip

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Home Phone Cell Phone Business Phone

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E-mail Date of Birth

I would prefer being contacted via: (check all that apply)

E-mail  Home Phone  Cell Phone  Business Phone  Mail

## SECTION 6: Fund Type

### Endowed

An Endowed Fund is a permanent, legacy Fund. Its assets are irrevocably held by the Foundation and are managed to accomplish the designated charitable purposes. Endowed Funds are designed to preserve the gift in perpetuity, so spending from a fund should not exceed the expected long-term real total net return.

Determination of amount available to grant from Endowed Funds is based upon the spending policy of the Foundation as established by the Board of Directors from time to time. The current spending policy as established by the Board of Directors is that five percent (5%) of the Fund's value as of July 31 each year shall be the available in the following year. (For example, the payout for the fiscal year beginning August 1, 2006 would be 5% of the market value at July 31, 2006). Any income dividends, interest and capital appreciation, and both realized and unrealized gains, in excess of the administrative fee and approved spending appropriation will be reinvested for growth and to preserve the purchasing power of the distributions against inflation. The reinvested income will be identified as a Spending Reserve.

### Quasi-endowed

A Quasi-endowed Fund is treated like an endowment fund for investment purposes, though all of the income and principal of the Fund are available for distribution. The Agency is required to have a Spending Policy to determine who can access what and when (See Appendix A- Sample Agency Fund Spending Policy).

**How will you inform donors about what type of Fund you've created?**

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## SECTION 7: Authority to Access Designated/Agency Fund

Procedures for accessing agency funds should be outlined in the agency's Fund Resolution (See Appendix A- Sample Agency Fund Resolution).

All requests for distributions from the Agency Fund shall be requested by:

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(e.g. the Director and the President of the Board of the agency)

## SECTION 8: Distributions

Please choose a distribution method to the Agency for the Fund.

- Automatically distribute the spendable amount to the Agency
- Quarterly
  - Annually
  - Other: \_\_\_\_\_
- Distribute spendable amount upon written request of Agency
- Distribute amount requested by Agency (may only be any amount up to balance of the Fund if the Fund is a Quasi-endowment)
- Special Provisions (e.g. No distributions may be made until the corpus of the Endowment Fund balance reaches \$VALUE or If the Fund is Quasi-Endowed, a request in excess of the determined spending amount that will invade the fund's corpus must be approved by a majority vote of the full board of directors of the agency)
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## SECTION 9: Investment Allocation

- 95% Invested and 5% cash (Default)
- 100% Invested
- 100% Cash
- Other: \_\_\_\_\_

## SECTION 10: Acknowledgement & Signatures

### Guidelines for Designated and Agency Funds

The undersigned have received and reviewed the *Guidelines for Designated and Agency Funds* and agree to the terms thereof. The undersigned hereby certify that all information presented in connection with this application is accurate to the best knowledge of the undersigned and will promptly notify the Foundation in writing of any changes

### Investments

The Foundation shall invest the assets held in this endowment in accordance with the current Foundation's Asset Allocation Schedule as periodically adopted by the Foundation's Board of Directors. As of the date of this agreement, the asset mix for the long-term portion of the Fund is 65% equity, 35% fixed income. The Governing Board of the Agency may recommend adjustments to this asset mix that may more closely facilitate the long or short term goals for use of the Fund. The undersigned acknowledge and agree that IRS regulations enable donors to designate investment preferences when the Fund is established but require the Foundation to retain final discretion regarding those preferences. The undersigned understand that investments will be administered in accordance with the policies of Foundation. The undersigned acknowledge that investments are subject to market and interest rate fluctuation risks, and that any gain or loss generated by the above investments will be credited or charged to the Fund. The total investment return of each mutual fund is net of its operating expenses.

### Service Charges

It is agreed that such expenses as are normally charged by the Foundation for other donor advised funds, such as, but not limited to, investment advisor fees and administrative fees shall be deducted in arriving at net income. Such fees shall always be in accordance with, and shall not exceed, those normally charged by the Foundation for other designated and donor directed funds. Current Foundation administration fees are listed in the Foundation Fee Schedule:

#### Designated/Agency Funds – Endowed

- 1% - Funds up to \$1 million (fee no less than \$500)
- .90% - Funds above \$1 million

#### Designated/Agency Funds – Quasi-Endowed

- 1.5% - Any size Fund (fee no less than \$500)

No less often than annually the Foundation shall submit a written report to the Organization showing the Fund's investment performance, fees charged, net income, and grants made.

**Indemnity**

In consideration of the Foundation's creation of a Fund at the request of the individual(s) or entity named and for good and valuable consideration, such individual or entity hereby agrees to indemnify and hold harmless the Foundation against any liability, cost or expense which the Foundation may incur by reason of their respective acting upon instructions or recommendations given to the Foundation by any of the authorized persons named.

**Variance Power**

It is understood that the Fund to be established pursuant to this agreement will be subject to the provisions of the Articles of Incorporation and Bylaws of the Foundation, including the power reserved by the Board of Governors to modify any condition or restriction on the distribution of funds if in its sole judgment (without the approval of any trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the area served by the Foundation.

Donor(s) listed in Section 5 must sign below.

The undersigned have received and reviewed the *Guidelines for Designated and Agency Funds* and agree to its terms and conditions described therein. The undersigned understand that any contribution represents an irrevocable gift to the Foundation and is not refundable. All persons and organizations making contributions to this Fund shall be bound by the terms of this agreement. The undersigned hereby certify that all information presented in connection with this agreement is accurate, and the undersigned will promptly notify the Foundation in writing of any changes. It is understood that as and when the *Guidelines for Designated and Agency Funds* change from time to time, they are automatically deemed to be amendments to this fund agreement.

**Donor 1**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Donor 2**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**The Athens Area Community Foundation**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Appendix A**  
**XXXXX Agency Fund**  
**Establishment, Investment, and Spending Guidelines**

The XXXXX, Inc. establishes an Agency Fund with the Athens Area Community Foundation with the following guidelines:

Name. The name of the Agency Fund is **XXXXX** (hereinafter referred to as the Agency Fund).

Purpose. The Agency Fund is managed by the Athens Area Community Foundation, accessing planned gift expertise, expanding agency capacity to accept complex gifts, increasing exposure to philanthropic community, accessing professional, independent investment management and generating annual income for XXXX, Inc. to finance, sustain, expand and initiate its designated programs.

Spending Objectives. Distributions from the Agency Fund shall be as follows:  
As a Quasi-endowed Fund, this Fund is treated like an endowment fund for investment purposes, though the XXXXX Board of Directors may, at its discretion, distribute or draw down all of the income and principal of the Fund at any time. For investment purposes, the amount available for payout each fiscal year will be based on 5% of the market value of all endowment accounts at July 31 of the preceding fiscal year. (For example, the payout for the fiscal year beginning August 1, 2006 would be 5% of the market value at July 31, 2006). Any income dividends, interest and capital appreciation, and both realized and unrealized gains, in excess of the administrative fee and approved spending appropriation will be reinvested for growth and to preserve the purchasing power of the distributions against inflation. The reinvested income will be identified as a Spending Reserve.

Procedures for Accessing Agency Funds. All requests for distributions from the Agency Fund shall be requested by the President of the Board of The XXXXX Inc. upon approval by the Executive Committee. Distributions in excess of the determined spending amount that will invade the fund's corpus must be approved by a majority vote of the full board of directors of XXXXX, Inc.

Monitoring XXXXX, Inc. Board will monitor the performance of the endowment accounts on a quarterly basis and report the status to the entire board at least once annually. Issues to be addressed will include asset performance, calculation of payout, and administrative fees.

Changes. These guidelines may be changed at any time by a majority vote of the full board of directors of XXXXX, Inc..

These Guidelines were hereby submitted to the Executive Committee of XXXXX Inc., and was approved this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title