



Fund Number: \_\_\_\_\_  
(for office use only)

## Donor Advised Fund Agreement

**Welcome to Foundation For The Carolinas.**  
**We look forward to making your giving easy, flexible and effective.**

Please complete this Gift Fund Agreement (this "Agreement") to establish a donor advised fund ("Gift Fund") with an irrevocable gift to Foundation For The Carolinas (the "Foundation" or "FFTC"). Opening Donor advised funds allow the Opening Donor (or Fund Advisors selected by the Opening Donor) to recommend grants from the Gift Fund to IRS-approved public charities and to recommend investments for the Gift Fund. Additional information about donor advised funds, this Agreement and charitable giving is contained in the Foundation's *Charitable Giving Guide* available online at [www.ffc.org](http://www.ffc.org).

### Name

Please choose a name for the Gift Fund below.

Name: \_\_\_\_\_ Fund

Unless you indicate below that you wish for all grants from the Gift Fund to be made anonymously, each grant from the Gift Fund will include the name of the Gift Fund, and the name and address of the Fund Advisor(s) recommending the grant so that the nonprofit may send an acknowledgement. *Unless otherwise indicated, we will use your preferred name/salutation and preferred mailing address.* If you do not select an option below, you may still request a grant be made anonymously at the time of the grant recommendation.

- ☐ All grants from the Gift Fund will be anonymous (no Gift Fund name or Fund Advisor name or address will be shared).\*
- ☐ Do not display the Gift Fund's name with each grant.\*
- ☐ Do not display the Fund Advisor's name and address with each grant.\*
- ☐ I would be interested in being contacted to share my philanthropic story which would allow FFTC to use my name and/or Gift Fund name in their publications, website, and other marketing materials. The details of the Gift Fund will remain confidential.

*\*A Fund Advisor may contact the Foundation to request a non-anonymous grant from the Gift Fund.*

### Interests

*Unless otherwise provided below, the charitable purpose of the Gift Fund shall be for the broad charitable purposes of the Opening Donor(s). Please provide any additional details that would help the Foundation better understand the purpose of the Gift Fund and your specific interests for grantmaking.*

- ☐ Health & Human Services
- ☐ Education & Youth Development
- ☐ Arts & Culture
- ☐ Other
- ☐ Environmental Sustainability
- ☐ Animal Welfare
- ☐ Evolving Needs & Opportunities

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**Opening Donor(s)**

Please provide the following information for the opening donor(s) (as applicable, "Donor" or "Opening Donor"). Opening Donor 2 is optional and is limited to the spouse/partner of Opening Donor.

**Opening Donor:**

☐ Individual    ☐ Trust/Estate    ☐ Other \_\_\_\_\_

☐ Mr.    ☐ Mrs.    ☐ Ms.    ☐ Mx.    ☐ Dr.    ☐ Other: \_\_\_\_\_    ☐ Prefer no honorifics

\_\_\_\_\_  
First Name    Middle Initial    Last Name    Preferred Name    Date of Birth (MM/DD/YYYY)

\_\_\_\_\_  
Name of Trust/Estate (if applicable)

**Opening Donor: Contact Information**

Mailing Address:

\_\_\_\_\_  
Street    City    State    Zip Code

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

**Additional Address:** \_\_\_\_\_  
Street    City    State    Zip Code

**Choose a level of authority for Opening Donor:**

☐ Full Access Advisor: Access monthly statements (online), advise on investment strategies, view fund information & recommend grant distributions

☐ Distributions Access: Access monthly statements (online), view fund information & recommend grant distributions (with the same authority as the Advisor)

☐ Fund Viewer: Access monthly statements (online), view fund information & history only

☐ No Access. Opening Donor shall have no access to information about the Gift Fund.

**Opening Donor 2 (if any)**

☐ Individual    ☐ Trust/Estate    ☐ Other \_\_\_\_\_

☐ Mr.    ☐ Mrs.    ☐ Ms.    ☐ Mx.    ☐ Dr.    ☐ Other: \_\_\_\_\_    ☐ Prefer no honorifics

\_\_\_\_\_  
First Name    Middle Initial    Last Name    Preferred Name    Date of Birth (MM/DD/YYYY)

**Opening Donor 2: Contact Information**

Mailing Address:

\_\_\_\_\_  
Street    City    State    Zip Code

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

**Additional Address:** \_\_\_\_\_  
Street    City    State    Zip Code

## Choose a level of authority for Opening Donor 2:

- ☐ Full Access Advisor: Access monthly statements (online), advise on investment strategies, view fund information & recommend grant distributions
- ☐ Distributions Access: Access monthly statements (online), view fund information & recommend grant distributions (with the same authority as the Advisor)
- ☐ Fund Viewer: Access monthly statements (online), view fund information & history only
- ☐ No Access. Opening Donor shall have no access to information about the Gift Fund.

*In all cases, applicable law requires that the final grantmaking and investment authority for the Gift Fund are vested with the Foundation. Recommendations are subject to the policies and discretion of the Foundation to ensure compliance with applicable laws.*

### Fund Advisor(s)

Please designate fund advisors to the Gift Fund ("Fund Advisor(s)").

Please note that at least one person must be listed as a Fund Advisor with full access to the Gift Fund. If the Opening Donor(s) was named as a Fund Advisor in the previous section, you may skip this section unless you would like to name additional Fund Advisors.

Each Fund Advisor has full access to the Gift Fund and may (a) access monthly statements (online), advise on investment strategies, view fund information & recommend grant distributions and (b) create a succession plan, including the selection of Fund Advisors and Successor Advisors to the Gift Fund. If there are more than two Fund Advisors, please list additional Fund Advisors and their contact information in an attachment to this Agreement. If multiple Fund Advisors are appointed, each shall have the right to act unilaterally with respect to the Gift Fund.

### Fund Advisor (if different than Opening Donor):

☐ Mr. ☐ Mrs. ☐ Ms. ☐ Mx. ☐ Dr. ☐ Other: \_\_\_\_\_ ☐ Prefer no honorifics

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_ Preferred Name \_\_\_\_\_ Date of Birth (MM/DD/YYYY) \_\_\_\_\_

Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

Additional Address: \_\_\_\_\_  
Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

### Fund Advisor 2 (if any):

☐ Mr. ☐ Mrs. ☐ Ms. ☐ Mx. ☐ Dr. ☐ Other: \_\_\_\_\_ ☐ Prefer no honorifics

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_ Preferred Name \_\_\_\_\_ Date of Birth (MM/DD/YYYY) \_\_\_\_\_

Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

Additional Address: \_\_\_\_\_  
Street \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Successor  
Advisor(s)**

The Opening Donor(s) or any Fund Advisor may designate a successor advisor for the Gift Fund to serve after the death or incapacity of the initial Fund Advisor(s) and may change this designation at any time by completing the Advisor Information Form available at [www.ffc.org](http://www.ffc.org).

**Authorized  
Parties**

Please designate authorized parties to recommend grants from the Gift Fund and/or provide online access to the Gift Fund ("Authorized Party(ies)").

In addition to the Fund Advisor(s) named in the previous sections, other individuals can be authorized to make recommendations of grants from the Gift Fund or access information on the Gift Fund through the Foundation's online portal. To authorize the proper level of authority, please provide the requested information of the individual to be authorized below and select the level of authority. If more than two individuals are to be authorized, please list additional Authorized Parties, their contact information and the level of authority in an attachment to this Agreement.

**Authorized Party (optional):**

☐ Mr. ☐ Mrs. ☐ Ms. ☐ Mx. ☐ Dr. ☐ Other: \_\_\_\_\_ ☐ Prefer no honorifics

\_\_\_\_\_  
First Name Middle Initial Last Name Preferred Name Date of Birth (MM/DD/YYYY)

\_\_\_\_\_  
Street City State Zip Code

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

Additional Address: \_\_\_\_\_  
Street City State Zip Code

**Choose one level of authority for Authorized Party:**

☐ Distributions Access: Access monthly statements (online), view fund information & recommend grant distributions (with the same authority as the Advisor)

☐ Fund Viewer: Access monthly statements (online), view fund information & history only

**Authorized Party 2 (optional):**

☐ Mr. ☐ Mrs. ☐ Ms. ☐ Mx. ☐ Dr. ☐ Other: \_\_\_\_\_ ☐ Prefer no honorifics

\_\_\_\_\_  
First Name Middle Initial Last Name Preferred Name Date of Birth (MM/DD/YYYY)

\_\_\_\_\_  
Street City State Zip Code

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

Additional Address: \_\_\_\_\_  
Street City State Zip Code

**Choose one level of authority for Authorized Party 2:**

☐ Distributions Access: Access monthly statements (online), view fund information & recommend grant distributions (with the same authority as the Advisor)

☐ Fund Viewer: Access monthly statements (online), view fund information & history only

**Professional  
Advisor(s)**

Please provide contact information for any legal, financial, tax or estate planning professional advisors that have been involved with the planning and establishment of the Gift Fund.

**Professional Advisor (if applicable):**

☐ Attorney ☐ Accountant ☐ Financial/Investment Advisor ☐ Insurance Advisor

☐ Mr. ☐ Mrs. ☐ Ms. ☐ Mx. ☐ Dr. ☐ Other: \_\_\_\_\_ ☐ Prefer no honorifics

\_\_\_\_\_  
First Name Middle Initial Last Name Preferred Name

Firm Name: \_\_\_\_\_

\_\_\_\_\_  
Street City State Zip Code

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

☐ Fund Viewer: Access monthly statements (online), view fund information & history only

**Professional Advisor 2 (if applicable):**

☐ Attorney ☐ Accountant ☐ Financial/Investment Advisor ☐ Insurance Advisor

☐ Mr. ☐ Mrs. ☐ Ms. ☐ Mx. ☐ Dr. ☐ Other: \_\_\_\_\_ ☐ Prefer no honorifics

\_\_\_\_\_  
First Name Middle Initial Last Name Preferred Name

Firm Name: \_\_\_\_\_

\_\_\_\_\_  
Street City State Zip Code

Primary Phone: \_\_\_\_\_ Primary Email: \_\_\_\_\_

☐ Fund Viewer: Access monthly statements (online), view fund information & history only

If there are other professional advisors who you are working with in connection with the Gift Fund, please provide their contact information.

**Referral**

If different from your Professional Advisor, who referred you to Foundation For The Carolinas?

Referral Source: \_\_\_\_\_

\_\_\_\_\_  
Street City State Zip Code

Primary Email: \_\_\_\_\_ Primary Phone: \_\_\_\_\_

## Opening Contribution

Please indicate the amount and nature of the opening contribution to the Gift Fund.

The minimum opening contribution is \$10,000 for non-endowed Gift Funds and \$50,000 for endowed Gift Funds. Additional gifts can be made at any time. Please include the fund name with your gift instructions for all contributions.

- ☐ Check, ACH or wire for \$ \_\_\_\_\_
- ☐ Marketable securities: \_\_\_\_\_ shares of \_\_\_\_\_ from \_\_\_\_\_
- ☐ Mutual funds: \_\_\_\_\_ shares of \_\_\_\_\_ from \_\_\_\_\_
- ☐ Transfer \$ \_\_\_\_\_ from FFTC Fund Name and Fund Number \_\_\_\_\_
- ☐ Other: \_\_\_\_\_
- ☐ Proceeds from gift of closely held stock, partnership, LLC interest, etc. – Accepted gifts of closely held business interests via Community Investments Foundation, a subsidiary of FFTC. Please contact FFTC staff to discuss a potential gift of closely held business interests and to request the appropriate documents.
- ☐ Proceeds from gift of real estate – Accepted gifts of real property via Community Real Property Holdings, Inc., a subsidiary of FFTC. Please contact FFTC staff to discuss a potential gift of real property and to request the appropriate documents.

Estimated value of total opening contribution(s): \_\_\_\_\_

## Type of Fund

Please choose whether the Gift Fund will be a permanent endowed Gift Fund with the Foundation or a non-endowed Gift Fund.

### ☐ **Endowed** \_\_\_\_\_ (please initial)

An endowed Gift Fund is a **permanent**, legacy Fund. Its assets are held irrevocably by the Foundation and are managed to accomplish the identified charitable purposes. Endowed Gift Funds are designed to be preserved in perpetuity, so only the annual spendable income is available for grantmaking. Choose this option to establish a permanent endowment by providing continuing support for the charitable purposes of the Gift Fund. *The decision to endow is irrevocable and the Opening Donor hereby confirms they have reviewed the policies of the Foundation related to endowed funds set forth in the Charitable Giving Guide.*

### ☐ **Non-Endowed**

A non-endowed Gift Fund is a gift fund in which the assets are fully available for distribution at any time. Choose this option to maintain maximum flexibility in terms of grant amounts.

*Space intentionally left blank.*

**Spendable Amount**

The following pertains to endowed Gift Funds only. Please read if you are establishing an endowed Gift Fund.

**A. Determination of Annual Spendable Amount.**

Under applicable law, with respect to endowed Gift Funds, the Foundation's Board of Directors establishes the annual spendable income rate that is used to calculate the amount available for distribution from the Gift Fund each year (the "Spendable Amount"). The Spendable Amount is determined by multiplying the annual spendable income rate by the average daily value of the Gift Fund for the prior three calendar years or since Gift Fund inception (for Gift Funds less than three years old). For the current annual spendable income rate, visit [www.ffc.org/financials](http://www.ffc.org/financials).

**B. If Value of Fund Falls Below Historic Dollar Value.**

Historic dollar value ("HDV") means the value of the Gift Fund at the time of the original contribution(s) to the Gift Fund plus the dollar value of any subsequent contributions to the Gift Fund (not including any investment earnings or losses). If the value equals or exceeds 66% of HDV, the Spendable Amount currently is calculated as previously described. If the value falls below 66% of HDV, the Spendable Amount may be limited in accordance with the Foundation's applicable policies (as provided in the *Charitable Giving Guide*).

Under applicable law and the Foundation's spendable policy as outlined above, the Spendable Amount may be available for distribution even if the value of the Gift Fund falls below HDV. However, spending from a Gift Fund which has a value below HDV (e.g., in the case of a new Gift Fund or a down market cycle) may result in a longer time period to rebuild the value. The Foundation allows Opening Donors the choice to preserve principal when the value falls below HDV rather than follow the Foundation's spendable policy.

Unless initialed below, the Opening Donor requests that the Foundation make available the Spendable Amount (in accordance with the Foundation's spendable policy) even if the value of the Gift Fund Falls below HDV.

\_\_\_\_\_ Preserve Principal. The Opening Donor requests that the Foundation not allow distributions of any Spendable Amount if the value of the Gift Fund Falls below HDV.

**Affiliation**

If you wish to associate the Gift Fund with one of our affiliates, please select the option below (only choose one).

- |  |   |
|--|---|
| <input type="checkbox"/> Cabarrus County Community Foundation  | <input type="checkbox"/> Charlotte Mecklenburg Community Foundation |
| <input type="checkbox"/> Cleveland County Community Foundation | <input type="checkbox"/> Iredell County Community Foundation        |
| <input type="checkbox"/> Lexington Area Community Foundation   | <input type="checkbox"/> Lincoln County Community Foundation        |
| <input type="checkbox"/> The Cole Foundation (Richmond County) | <input type="checkbox"/> Salisbury-Rowan Community Foundation       |
| <input type="checkbox"/> Stanly County Community Foundation    | <input type="checkbox"/> Union County Community Foundation          |
| <input type="checkbox"/> Cherokee County Community Foundation  | <input type="checkbox"/> Lancaster County Community Foundation      |
| <input type="checkbox"/> York County Community Foundation      | <input type="checkbox"/> Foundation For Black Philanthropy          |
|  | <input type="checkbox"/> No Affiliation                             |

**Investments**

The Foundation is pleased to offer a variety of investment pools for Gift Funds. All investment pools are reviewed by the Foundation's Investment Committee.

**A. Investment Provisions**

FFTC offers fundholders diverse investment options for philanthropic impact. These investment options span the risk-return spectrum from conservative allocations to more growth-oriented investment pools.

Any type of Gift Fund (endowed or non-endowed) can recommend any investment pool option, though endowed funds are typically invested with a long-term position (such as Passive Long-Term Growth, ESG Long-Term Growth, Active Long-Term Growth or Diversified Long-Term Growth). The Fund Advisor(s) may also make recommendations to change the investment pool selection at any time.

If you do not recommend an investment pool, the Foundation will place Non-Endowed Funds into the Liquid Reserves Pool and Endowed Funds into the Diversified Long-Term Growth Pool.

## B. Investment Pool Selection.

Please recommend the investment pool below that best fits your investment objective, anticipated grantmaking, timeline, and future contributions for the Gift Fund. For additional information on FFTC's investment pools, including investment fees, please visit [www.ffc.org/pools](http://www.ffc.org/pools).

Investment Pool	Investment Horizon
<input type="checkbox"/> Liquid Reserves	Less than 2 years
<input type="checkbox"/> Low Duration Fixed Income	Less than 2 years
<input type="checkbox"/> Income & Growth	2 – 10 years
<input type="checkbox"/> Passive Long-Term Growth	More than 10 years
<input type="checkbox"/> ESG Long-Term Growth	More than 10 years
<input type="checkbox"/> Active Long-Term Growth	More than 10 years
<input type="checkbox"/> Diversified Long-Term Growth*	More than 10 years

*\*Restrictions on withdrawals apply depending upon the fund balance. Generally: Less than \$1M – available within 90 days; \$1M - \$5M – 80% available within 90 days, remainder within 1 year; greater than \$5M, please contact relationship manager.*

### Investment Alliance Program

For funds great than \$250,000, you may recommend a specific investment manager from outside of FFTC's standard investment pools to manage the fund portfolio (*FFTC's Investment Committee must approve the recommended manager*):

☐ \_\_\_\_\_

### Philanthropic Support Fees

For a schedule of philanthropic support fees to be assessed to the Gift Fund by FFTC, please visit: [FFTC Personal Philanthropic Support Fee Schedule](#).

### Custom Services

Custom philanthropic services are specifically designed services including board or committee management, consultation, grant program facilitation, and more. Please contact FFTC staff for more information.

### Addenda

Please indicate additional addenda attached to this Agreement, if any.

☐ Additional addenda are attached and listed below:

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<b>Notes</b>	Use this section to provide any information not addressed elsewhere in this Agreement or to complete any sections of the Agreement where space was otherwise too limited.
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<b>Notes</b>	Use this section to provide any information not addressed elsewhere in this Agreement or to complete any sections of the Agreement where space was otherwise too limited.
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This image shows a full page of blank, lined paper. It features approximately 30 evenly spaced horizontal black lines across the entire width of the page, typical of notebook or legal stationery. There are no margins, text, or other markings present.

## Additional Provisions

The Donor's signature on the Agreement acknowledges that the Donor has read, understands and agrees to the provisions below.

**Protection of Tax-Exempt Status.** The Donor agrees to comply with any written direction by the Foundation to cease recommending grants or conducting activities that may jeopardize the Foundation's tax status or otherwise subject the Foundation or the Gift Fund to excise taxes that are applicable to donor-advised funds as defined in the Internal Revenue Code (the "Code"). The Donor agrees to comply with all applicable laws and regulations in connection with the Gift Fund.

**Charitable Giving Guide** The Donor has reviewed the *Charitable Giving Guide* and agrees to the terms and conditions contained therein, as such document may be amended from time to time (and such document is hereby incorporated by reference).

**Accuracy of Information** The Donor hereby certifies that all information presented in connection with this Agreement is accurate to the best knowledge of the Donor and will promptly notify the Foundation in writing of any changes. The Donor agrees to notify the Foundation of any errors in any reports, statements or documents within 60 days.

**Use of Funds** The Foundation will make grants from the Gift Fund to carry out the charitable purposes of the Gift Fund in accordance with the Code. Requests for charitable grants from the Gift Fund should be made at least ten days prior to the date when payment is to be made. The Code generally does not allow the Foundation to make reimbursements to individuals for expenditures or to make grants for non-charitable purposes or to non-charitable entities. No such reimbursements or grants will be made from the Gift Fund.

**Endowed Gift Funds** The Donor understands and acknowledges that any endowed Gift Fund created under this Agreement (with the Foundation or any of its affiliates or supporting organizations) is a permanent Gift Fund and that only the annual Spendable Amount will be available for grant (as further addressed in the section entitled "Spendable Amount").

**Irrevocable Gifts** The Donor understands that any contribution to a Gift Fund, once accepted by the Foundation, represents an irrevocable gift to the Foundation and is not refundable.

**Succession Plans** In the event that the Donor shall not have worked with FFTC staff to document a succession plan for the Gift Fund, then following the death or incapacity of the Gift Fund's last surviving Fund Advisor, the succession plan policy and procedure contained in the *Charitable Giving Guide* shall apply and the Foundation shall have no liability to any party for carrying out such policy and procedure.

**Fees** The Foundation shall be entitled to receive as compensation for its ongoing services in administering, investing, and distributing the assets held in the Gift Fund: (i) philanthropic support fees set forth in the Foundation's applicable published philanthropic support fee schedule in effect at such time, and (ii) investment fees applicable to the Gift Fund's investment option as set forth in the Foundation's investment materials in effect at such time. Notwithstanding the foregoing, the Foundation may, at the request of the Donor, agree to provide additional services. In this case, the Foundation and Donor shall execute a separate written agreement documenting the agreed upon administrative and investment fees.

**Notice** All communications required hereunder shall be in writing and shall be deemed to have been validly served, given or delivered (i) three (3) business days after deposit of same in the United States mail, designated as registered or certified mail, return receipt requested, bearing adequate postage, or (ii) on the date of delivery to such party if delivered by hand or by overnight or other similar courier and addressed to the party to be notified at the address for such party as provided in this Agreement, or to such other address as each party may designate for itself by like notice. In addition, notice via email shall be deemed to be effective if: (a) it is confirmed as received through a personal or automated response by the other party; or (b) an original (hard copy) follows it in a timely manner using the process above.

**Ownership** Tools, equipment, intellectual property, codes, procedures, databases, formulas, and software used by the Foundation to provide service to the Gift Fund shall remain the property of the Foundation and/or its licensors, and no right, title, license or interest in any of them is conveyed, transferred or licensed to the Donor or the Gift Fund by this Agreement.

**Acknowledgment of Charitable Donations on Behalf of the Gift Fund** The Foundation agrees that it will acknowledge to donors all contributions to the Gift Fund in accordance with the guidelines established by the Internal Revenue Service.

**Grantmaking** In all cases, applicable law requires that the final grantmaking and investment authority for the Gift Fund are vested with the Foundation. Recommendations are subject to the policies and discretion of the Foundation to ensure compliance with applicable laws.

**Investments** The Donor acknowledges and agrees that they have been advised by the Foundation that current IRS regulations or rulings permit Advisor(s) to recommend investment preferences for the Gift Fund, but require the Foundation to retain final discretion regarding such investments. The Donor understands that investments will be administered in accordance with the policies of the Foundation. The Donor acknowledges that the investments in the Gift Fund are subject to market and interest rate fluctuations. The Foundation reports total investment returns net of all investment expenses.

**Confidentiality** The Foundation agrees not to use any confidential information provided in connection with this Agreement for purposes other than those for which it was provided, without receiving prior consent.

**Indemnity** In consideration of the Foundation's creating a Gift Fund at the request of the Donor and for other good and valuable consideration, the Donor hereby agrees to indemnify and hold harmless the Foundation against any liability, cost, or expense (including reasonable attorney fees) which the Foundation may incur by reason of (a) negligence or breach of this Agreement by Donor, Fund Advisor or any persons authorized by Donor or Fund Advisor in connection with the Gift Fund, or (b) the Foundation acting upon instructions or recommendations given to the Foundation by the Donor, Fund Advisor, or by any other persons authorized to make recommendations with regard to the Gift Fund.

**LIMITATION OF LIABILITY.** THE FOUNDATION WILL NOT BE LIABLE TO THE DONOR OR FUND ADVISOR (OR ANY PERSONS AUTHORIZED BY DONOR OR FUND ADVISOR IN CONNECTION WITH THIS GIFT FUND) UNDER THIS AGREEMENT FOR ANY INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOSS OF INCOME OR PROFITS, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF, OR HAD REASON TO KNOW OF, THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, THE FOUNDATION'S TOTAL LIABILITY FOR DAMAGES UNDER THIS AGREEMENT WILL NOT EXCEED THE FEES PAID BY DONOR TO THE FOUNDATION UNDER THIS AGREEMENT DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY.

**Severability** The provisions of this Agreement are severable, and the invalidity or unenforceability of any one or more of such provisions shall not affect the validity or enforceability of the remainder of this Agreement which shall remain in full force and effect. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

**Variance Power** It is understood that the Gift Fund to be established pursuant to this agreement will be subject to the provisions of the articles and bylaws of the Foundation, as may be amended from time to time, including the power reserved by the Board of Directors 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.

**Entire Agreement; Amendment of Agreement** Subject to the provisions of the paragraph herein entitled "Variance Power," this Agreement and any addendums attached hereto shall constitute the entire agreement of the parties and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. Subject to the provisions of the paragraph herein entitled "Variance Power," this Agreement, including any exhibits or attachments hereto, may not be amended or modified, except in a writing signed by all parties to this Agreement.

**Governing Law** This Agreement is made subject to and shall be construed under the laws of the State of North Carolina, without giving effect to its conflict of laws principles. Each party hereto submits to the exclusive jurisdiction in the state and federal courts having jurisdiction in Mecklenburg County, North Carolina, and irrevocably waives any defenses to such venue including any defense based upon the principles of forum non-conveniens.

*Signature Page To Follow*

## Signatures

By signing below, the Opening Donor(s) and/or Fund Advisor, if applicable, hereby acknowledge that they have read, understand and hereby agree to the provisions of this Agreement and that the information provided herein is accurate to the best of their knowledge.

### Opening Donor

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SIGNATURE

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NAME (please print)

---

DATE

**Fund Advisor** (sign if different from  
Opening Donor)

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SIGNATURE

---

NAME (please print)

---

DATE

### Opening Donor 2 (if applicable)

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SIGNATURE

---

NAME (please print)

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DATE

### Foundation For The Carolinas

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SIGNATURE

---

NAME (please print)

---

TITLE

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DATE