

**AGENCY ENDOWMENT FUND AGREEMENT
BETWEEN
COMMUNITY FOUNDATION OF THE TWIN TIERS, INC.
AND**

THIS AGREEMENT, made and executed on _____, 20__ , by and between COMMUNITY FOUNDATION FOR THE TWIN TIERS, INC. (the "Foundation"), and _____ {NAME OF NONPROFIT AGENCY} _____ located at _____ {ADDRESS} (hereinafter referred to as the "Donor") to evidence the transfer by the Donor of certain property to the Foundation in order to establish an Agency Endowment Fund.

WHEREAS, the Parties to this Agreement have a common interest in the welfare of the community and in serving charitable, scientific or educational purposes for the benefit of the community;

WHEREAS, EACH Party is a qualified charitable organization (as defined in paragraph 7); and

WHEREAS, the Foundation has been established with a principal purpose to receive and administer funds as endowments for various charitable, scientific or educational purposes and organizations in the community, various interested persons have expressed a desire to establish a fund in the Foundation in the nature of an endowment to provide current income and long-term protections for the operations of _____, and _____ wishes to have the benefits of such a fund.

NOW, THEREFORE, the Parties agree as follows:

1. **ESTABLISHMENT OF THE FUND.** A fund shall be established on the books of the Foundation and shall be known as the {NAME OF FUND} (hereinafter referred to as "the Fund"). The Foundation acknowledges receipt of the property listed in Schedule "A" attached hereto and made a part hereof as the initial property of the Fund.

2. **PROPERTY OF THE FUND.** The Fund shall include the property received with the execution of this Agreement, such additional property as may from time to time be transferred to the Foundation by (Name of Agency) for inclusion in the Fund, such additional property as may from time to time be transferred from any other source for inclusion in the Fund and accepted by the Foundation, and all undistributed income from the foregoing property. The Fund shall be the exclusive property of the Foundation, held by it in its corporate capacity, and shall not be deemed a trust fund held by it in a trustee capacity. The Foundation shall have the ultimate authority and control over all property in the Fund, and the income derived from it, in accordance with the Articles of Incorporation and Bylaws of the Foundation (as they may be amended from time to time), and the terms of this Agreement, applied in a manner not inconsistent with said Articles and Bylaws.

3. **DESIGNATION OF PURPOSE.** The Fund shall be used for support of the charitable, scientific, or educational purposes of (Name of Agency) and its affiliated agencies (if any). The

mission of the Agency to _____.

4. **DISTRIBUTIONS OF INCOME.** The Donor is the beneficiary of the Fund. In accordance with the Spending Policy set by the Board of Directors of the Foundation in effect at that time, the Foundation will annually distribute to the designated donor agency a percentage of the market value of the Fund.

5. **OTHER DISTRIBUTIONS.** Distributions in excess of the Foundation's Spending Policy may be made to the Donor Agency in any year as determined by the Board of Directors of the CFTT. The Donor Agency may request, at any time, that the Foundation disburse up to one hundred percent (100%) of the fund to the Donor Agency. Such a request, however, is not binding on the foundation and may be accepted or rejected, in whole or in part, by the Foundation in its sole and absolute discretion.

Alternative: In transferring its property to the Fund, the Donor Agency intends to create a permanent endowment. However, distributions in excess of the amount dictated by the application of the Foundation's spending policy may be made to the Donor Agency in any year as determined by the CFTT Board of Directors provided one of the following conditions is met: (a) the distribution is for the purpose of enabling the Donor Agency to acquire or renovate a capital asset; or (b) the Donor Agency is faced with unexpected financial needs that are not likely to recur, and the distribution will enable the Donor Agency to meet those needs. The Donor Agency's Board of Directors may make recommendations for such distributions from time to time to the Foundation. Such a request, however, is not binding on the Foundation and may be accepted or rejected, in whole or in part, by the Foundation in its sole and absolute discretion.

6. **ADMINISTRATION.** The Foundation hereby accepts the property transferred and affirms that it will hold such and any additional property transferred to the Fund on the terms and subject to the conditions set forth by the Agreement for Agency Endowment Funds. The guidelines and procedures for such Funds are described in the Foundation's governing instruments, including its Articles of Incorporation and Code of Business Conduct, as amended from time to time, and any resolutions and procedures from time to time in effect. The Foundation shall assess a reasonable fee to administer this Agency Endowment Fund.

The Board agrees to provide the Founding Contributor and any Donor that has contributed to the Foundation at least \$10,000 a copy of the annual examination of the finances of the Foundation as reported upon by independent certified public accountants.

7. **EXERCISE OF VARIANCE POWER.** However, in accordance with the Foundation's legal "power of variance," its Board will regularly review the activity of the recipient agency. If the Donor Agency ceases to operate in the region served by the CFTT or any restrictions or conditions on the distribution of funds imposed by this Agreement become, in effect, unnecessary, impractical, incapable of fulfillment, or inconsistent with the needs of the community, then the Foundation Board can vote to redistribute such funds to another similar use within the region served by the Foundation. Such redistribution must be consistent with the charitable intentions of the Agreement and the needs of the community served.

Prior to any decision to redistribute such funds, the Board of the Foundation shall confer with the governing Board of the Donor Agency that has heretofore received distributions from this Fund. In such consultation, the Foundation Board shall always retain final decision making authority.

If the Foundation ceases to be a qualified charitable organization or if the Foundation proposes to dissolve, the assets of the Fund shall, after payment or making provision for payment of any liabilities properly chargeable to the Fund, be distributed to an adjacent Community Foundation.

8. **ASSET MANAGEMENT.** Control over the investment or reinvestment of such property and the asset management of the Fund will be exercised exclusively by the Foundation.

9. **NOT A SEPARATE TRUST.** The assets of the Fund shall be the assets of the Foundation and not a separate trust. The Fund shall be organized and administered so that the Federal Income Tax status of the Foundation as a public charitable organization under Section 501(c)(3) of the Internal Revenue Code, as amended, will not be adversely affected. This Agreement will be interpreted in a manner consistent with the Federal Income tax provisions and regulations that govern the operation of the Foundation, and it may be amended from time to time by the Foundation's Board to conform to such provisions and regulations.

10. **ACCOUNTING.** The receipts and disbursements of this Fund shall be accounted for separately and apart from those of other gifts to the Foundation.

11. **COSTS OF THE FUND.** It is understood and agreed that the Fund shall share a fair portion of the total investment and administrative costs of the Foundation. Those costs annually 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. Any costs to the Foundation in accepting, transferring or managing property donated to the Foundation for the Fund shall also be paid from the Fund.

12 **DEFINITIONS AND CONSTRUCTION.**

(a) As used in the Agreement:

- 1) "Qualified charitable organization" means an organization described in section 501(c)(3), which is other than a private foundation under section 509(a).
- 2) References to any provision of the Internal Revenue Code shall be deemed references to the U.S. Internal Revenue Code of 1986, as the same may be amended from time to time, and the corresponding provision of any future U.S. Internal Revenue Code.

(b) It is intended that the Fund shall be a component part of the Foundation and that nothing in this agreement shall affect the status of the Foundation as an entity that is a qualified charitable organization. This Agreement shall be interpreted in a manner consistent with this intention and so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant thereto applicable to the intended status of the Foundation.

IN WITNESS WHEREOF, each Party has executed this Agreement by its DULY authorized officers effective APPOINTED as of the day and year first above written.

AUTHORIZED SIGNATURE OF AGENCY'S REPRESENTATIVES:

{ AGENCY EXECUTIVE DIRECTOR }

{ BOARD CHAIR }

Received for the Community Foundation for the Twin Tiers, Inc. by:

By _____
{ NAME & TITLE }

EXHIBIT A

Property contributed by:

{DONOR NAME}

to the:

{FUND NAME}

of the Community Foundation for the Twin Tiers

Pursuant to Establishment of Fund Agreement
Executed the {DAY} day of {Month}, 2008.

Property Description:

\$ {AMOUNT OF PROPERTY DONATED}
{DESCRIPTION OF PROPERTY DONATED}
{DATE PROPERTY RECEIVED}