



## AGENCY FUND AGREEMENT FOR CHARITABLE ORGANIZATION

Thank you for choosing the Cobb Community Foundation where we are committed to helping you fulfill your mission.

### SECTION ONE: Charitable Organization Information (IRS 501(c)(3) Determination Letter must be provided)

<input type="text"/>				<input type="text"/>	
Charitable Organization Name				Federal EIN	
<b>Primary Contact for Organization</b> (NOTE: all correspondence will be sent to Primary Contact unless otherwise specified)					
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Salutation	First Name	Middle Name/Initial	Last Name	Suffix	Nickname
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Address			City	State	ZIP
<input type="text"/>		<input type="text"/>		<input type="text"/>	
Position		Business Phone		Mobile Phone	
<input type="text"/>					
Email Address					

### SECTION TWO: Fund Name

Please choose a name for your fund.

Fund Name

The Foundation ☐ **may** ☐ **may not** include the name of the Fund in publicly available fund listings.

### SECTION THREE: Transfers to the Fund

All property transferred to the Fund by the Charitable Organization constitutes a "reciprocal transaction" as specified in Financial Accounting Standard 136 which provides that the Foundation recognizes the Fund as a liability and the Charitable Organization, as the sole beneficiary of the Fund, recognizes a beneficial interest in the Fund as an asset. Please indicate below the property you intend to initially assign, convey, transfer and deliver to the Foundation to establish your fund.

#### Estimated Value of Initial Gift to Establish Fund:

☐ Check for  (please make payable to the Cobb Community Foundation, Inc. identifying your fund in the memo line)

☐ Other:

Please be advised that all contributions are subject to the Foundation's most recently adopted Gift Acceptance Policy. All contributions, both initial and subsequent, must be acceptable to the Foundation, and the Foundation may elect in its sole discretion whether to accept or refuse any asset and specifically may elect not to accept any contribution of less than \$250.

Unless a third-party donor explicitly acknowledges the Foundation's variance power, contributions to the Fund by third parties will be treated for accounting purposes in the same manner as assets contributed by the Charitable Organization.

#### Please select one of the two options:

- ☐ Allow third party contributions to Agency Fund via Foundation website
- ☐ Do not allow third party contributions to Agency Fund via Foundation website

## SECTION FOUR: Distributions

Distributions from all funds, including Agency Funds, are subject to the Foundation's variance power, described in Section Seven and further explained in Addendum A. This variance power gives the Foundation the power to modify any restriction or condition on the distributions from a fund for any specified charitable purpose or to any specified charitable organization if, in the sole judgment of the Foundation, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served. For purposes of this Agreement, restrictions and conditions on distributions are those that apply to either principal and/or income entirely or in part.

Please select either **Non-Endowed** or **Endowed**:

☐ **Non-Endowed** - The fund is intended to be used for current funding needs with no restrictions on the amount of distributions. Distributions shall only be made by a grant request with the following available optional condition.

**Check below only if applicable.**

☐ No distributions shall be made unless the fund balance exceeds \$  .

☐ **Endowed** - Distributions shall be made in accordance with the Foundation's applicable spending policy with the intent to ensure a permanent endowment, with the following available optional conditions.

**Check below only if applicable.**

☐ No distributions shall be made unless the fund balance exceeds \$  .

☐ Additional distributions may be made by a grant request for the purpose to either acquire or renovate a capital asset, meet urgent unexpected financial needs that are unlikely to recur, or for other specific purpose as follows:

Grants requested for these purposes are ☐ **Subject to** ☐ **Not subject to** any minimum fund balance.

## SECTION FIVE: Fund Investments

Please select one of the following Foundation investment options:

☐ **% Cash Investment Pool\*** - Seeks little to no risk of principal loss through a combination of money market investments and other highly liquid interest bearing securities with short-term maturities.

☐ **% Conservative Growth Investment Pool\*** - Primarily seek preservation of assets with significant majority of assets in interest bearing securities of various maturities, remainder in equities.

☐ **% Moderate Growth Investment Pool\*** - Seek a blend of growth vs capital preservation of assets as well as balanced risk with assets split between equities and interest bearing securities of various maturities.

☐ **% Aggressive Growth Investment Pool\*** - Primarily seek increased growth in value with significant majority of assets in equities, remainder in interest bearing securities of various maturities.

\*Total must equal 100%.

**For funds valued in excess of \$250,000:**

☐ An external investment manager of your choice:

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Name	Firm	Email	Telephone

External investment managers must be approved by the Foundation and must execute an agreement between the manager and the Foundation to serve in this capacity.

Please note that requests to change the investment option of your fund must be made to the Foundation in writing. For detailed information about the composition of these portfolios, please contact us directly.

## SECTION SIX: Agency Fund Representatives

The Agency Fund representatives shall be the individuals currently serving as  ,  
 and

of the Charitable Organization. The Charitable Organization's capability to make grant requests as well as investment recommendations as provided by elections in Section Four, Distributions, requires approval by **(please select one of the two options below)**:

☐ One Agency Fund representative. ☐ Two Agency Fund representatives.

**SECTION SIX CONTINUED: Agency Fund Representatives****Agency Representative 1**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Salutation	First Name	Middle Name/Initial	Last Name	Suffix	Nickname
<input type="text"/>					
Position with Charitable Organization					
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Home Address			City	State	ZIP
<input type="text"/>			<input type="text"/>		
Business			Position		
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Business Address			City	State	ZIP
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Home Phone	Mobile Phone		Business Phone	Preferred Email Address	
Send Statements:	<input type="checkbox"/> Via Email	<input type="checkbox"/> To Home	<input type="checkbox"/> To Business	<input type="checkbox"/> Do Not Send Statements	
Send Mailings:	<input type="checkbox"/> Via Email	<input type="checkbox"/> To Home	<input type="checkbox"/> To Business	<input type="checkbox"/> Do Not Send Mailings	

**Agency Representative 2**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Salutation	First Name	Middle Name/Initial	Last Name	Suffix	Nickname
<input type="text"/>					
Position with Charitable Organization					
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Home Address			City	State	ZIP
<input type="text"/>			<input type="text"/>		
Business			Position		
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Business Address			City	State	ZIP
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Home Phone	Mobile Phone		Business Phone	Preferred Email Address	
Send Statements:	<input type="checkbox"/> Via Email	<input type="checkbox"/> To Home	<input type="checkbox"/> To Business	<input type="checkbox"/> Do Not Send Statements	
Send Mailings:	<input type="checkbox"/> Via Email	<input type="checkbox"/> To Home	<input type="checkbox"/> To Business	<input type="checkbox"/> Do Not Send Mailings	

**Agency Representative 3**

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Salutation	First Name	Middle Name/Initial	Last Name	Suffix	Nickname
<input type="text"/>					
Position with Charitable Organization					
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Home Address			City	State	ZIP
<input type="text"/>			<input type="text"/>		
Business			Position		
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
Business Address			City	State	ZIP
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Home Phone	Mobile Phone		Business Phone	Preferred Email Address	
Send Statements:	<input type="checkbox"/> Via Email	<input type="checkbox"/> To Home	<input type="checkbox"/> To Business	<input type="checkbox"/> Do Not Send Statements	
Send Mailings:	<input type="checkbox"/> Via Email	<input type="checkbox"/> To Home	<input type="checkbox"/> To Business	<input type="checkbox"/> Do Not Send Mailings	

## SECTION SEVEN: Acknowledgments and Signatures

### POLICIES AND PROCEDURES

The undersigned have received and reviewed the Procedures for Establishing and Operating Agency Funds and agree to its terms and conditions described therein. The undersigned understands that all property transferred to the Fund by the charitable organization constitutes a “reciprocal transaction” as specified in Financial Accounting Standard 136 which provides that such property is recognized as a liability of the Foundation and as an asset of the Charitable Organization. The undersigned hereby certify that all information presented in connection with this application is accurate, and the undersigned will promptly notify the Foundation in writing of any changes.

### FEES AND EXPENSES

The Foundation charges an Administrative Fee as outlined its published fee schedule. This fee may be changed from time to time with 60 days advance notice to the fund representatives. In addition to these administrative fees, an investment management fee will be assessed on your fund to pay the investment managers and for related services. Investment management fees vary depending upon your fund’s investment option (the Foundation’s investment pools or an individually managed account). All fees and expenses will be charged directly to your fund.

### INVESTMENTS

The undersigned acknowledge and agree that IRS regulations enable fund representative to designate investment preferences, 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 the Foundation. The undersigned acknowledge that investments are subject to market and interest rate fluctuation risks, and that any gain or loss generated by the investments described in this agreement will be credited or charged to the fund.

### VARIANCE POWER

Distributions from all funds are subject to the Foundation’s variance power which gives the Foundation the power to modify any restriction or condition on the distributions from a fund for any specified charitable purpose or to any specified charitable organization if, in the sole judgment of the Foundation, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served. For purposes of this Agreement, restrictions and conditions on distributions are those that apply to either principal and/or income entirely or in part.

### FOR CHARITABLE ORGANIZATION

<div></div>		
Signature		
<div></div>	<div></div>	<div></div>
Printed Name	Title	Date
<div></div>		
Signature		
<div></div>	<div></div>	<div></div>
Printed Name	Title	Date
<div></div>		
Signature		
<div></div>	<div></div>	<div></div>
Printed Name	Title	Date

### FOR COBB COMMUNITY FOUNDATION, INC. (Executive Director or Officer of the Board):

<div></div>		
Signature		
<div></div>	<div></div>	<div></div>
Printed Name	Title	Date

## ADDENDUM A: Procedures for Establishing and Operating Agency Funds

### Incorporation of Governing Instruments of Foundation

The Cobb Community Foundation, Inc. (the "Foundation") is a Section 501(c)(3) public charity. The Foundation's governing instruments include its articles of incorporation and bylaws as amended from time to time, as well as any resolutions and procedures adopted from time to time. All the provisions of such governing instruments and procedures are incorporated in this Agreement and by this reference made part hereof.

### Nature & Terms of Agency Funds

Agency Funds established at the Foundation are component funds of the Foundation and shall be subject to the governing instruments of the Foundation, including the articles of incorporation and bylaws, as amended from time to time. Each fund will be recorded on the books and records of the Foundation as identifiable and separate. The Charitable Organization, a 501(c)(3) organization, has the sole beneficial interest in the fund created herein and is, therefore, also referred to herein as "Beneficiary Organization". All property transferred to the Fund by the Charitable Organization constitutes a "reciprocal transaction" as specified in Financial Accounting Standard 136 which provides that such property is recognized as a liability of the Foundation and as an asset of the Charitable Organization. The Charitable Organization and the Foundation comprise "the Parties".

The accounting for contributions to and distributions from Agency Funds is as follows.

- Contributions to Agency Funds from the founding nonprofit 501(c)(3) are a "reciprocal transaction" and are recorded
  - by the Agency as reduction of investment Assets with a corresponding offsetting increase in Assets and
  - by CCF as an increase in Assets with a corresponding offsetting increase in liabilities to the Agency.
- Contributions to Agency Funds from third-parties are generally recorded
  - by the Agency as revenue and
  - by CCF as an increase in Assets with a corresponding offsetting increase in liabilities to the Agency.
- Grants from the Agency Fund to the Agency are recorded
  - by CCF as a decrease in Assets with a corresponding offsetting decrease in liabilities to the Agency and
  - by the Agency as an increase in investment Assets with a corresponding offsetting decrease in Assets.

Note: if the Donor explicitly grants variance power to CCF the accounting is as follows.

- Contributions from any party are recorded as an expense to the Donor and as revenue to CCF.
- Grants are recorded an expense to CCF and as revenue to the recipient organization.

### Variance Power

Consistent with the requirements of Treasury Regulations Section 1.170A-9(f)(1)(v)(B)(1), the Board has the authority of "variance power" to modify or remove any restriction or condition imposed on any component fund or any other of the assets of the Corporation if, in the Board's sole judgement, without the necessity of approval by any other party, such restriction becomes, in effect, unnecessary, incapable of fulfillment, inconsistent with the charitable needs of the community or area served, impossible, illegal, impractical or wasteful.

The Foundation shall have the authority and control of all property in the fund, and the income earned for the charitable purposes of the Foundation. There may not be imposed a restriction that prevents the Foundation from effectively employing the contributed assets, or the income generated, to further the charitable purpose of the Foundation.

Notwithstanding anything herein to the contrary, the use of variance power by the Foundation requires approval in advance by a 70% super majority of the persons then elected and serving as Directors at a regular or special meeting of the Board, duly called and held.

### Investment of Assets

The Foundation will hold, manage, invest and reinvest all assets contributed to funds established at the Foundation consistent with the Foundation's Investment Policy, which may be modified at any time by the Foundation, with choices available to the fund representatives that may be provided for in the policy. Although the assets may be commingled with other assets of the Foundation in investment pools, the fund's separate identity and value will be maintained. The Foundation does not guarantee that the fund will earn any particular or minimum rate of return with respect to the investment of assets. Investments are not insured, are subject to risk and may lose value. All income and capital gains or losses of the investment pool(s) in which the assets are invested shall be allocated to the fund on a periodic and pro rata basis, based upon the ratio that the value of assets related to the fund invested in the investment pool bears to the aggregate value of all assets invested in said pool(s).

### Distributions

Subject to the Foundation's variance power, distributions from this Fund may only be made to the Beneficiary Organization. Fund representatives may request distributions verbally, in writing, via email or through our donor portal. Verbal requests must be confirmed either in writing or via email. The Foundation encourages distributions of at least \$250 from any fund to make most effective use of the Foundation's resources.

Distributions from all funds are subject to the Foundation's variance power and must be ratified by the Foundation's board of directors. Subject to the Foundation's variance power, the Foundation will make distributions from the fund up to the total fund balance. Distributions from endowment funds shall be made annually. For all other funds, distributions from the fund shall be made upon requests made consistent with the provisions herein.

### Reports

The Foundation shall provide reports regarding each fund's value and contributions to and distributions from the fund.

### **Inactive Funds**

If the value of the Fund drops below the then applicable established minimum account and there is no activity by asset transfer into an Agency Fund for 36 consecutive months, the Foundation will attempt to contact the Fund representatives to ascertain the Charitable Organization's intentions to bring the Fund above the minimum required account balance. If the representatives do not respond after three attempts by the Foundation to contact them, the Foundation may, in its sole discretion, distribute the entire fund balance to the Beneficiary Organization.

### **Dissolution of the Foundation**

In the event of the dissolution of the Foundation, or in the event the Foundation ceases to be a 501(c)(3) organization, the Assets remaining in the Fund, after payment or making provision for payment of any fees, expenses or other liabilities properly chargeable to the Fund, shall be distributed to the Beneficiary Organization.

### **Dissolution of the Beneficiary Organization**

In the event of the dissolution of the Beneficiary Organization, or in the event the Beneficiary Organization ceases to be a 501(c)(3) organization, the Foundation shall maintain the Fund as Fund Advisor; provided, however, the purposes of the Fund shall be modified to provide financial support to one or more such other 501(c)(3) organizations located in Cobb County, Georgia that serve charitable purposes similar to those of the Beneficiary Organization as the Foundation's Board of Directors shall determine.

### **Merger or Change in Structure of the Beneficiary Organization**

If the Beneficiary Organization merges with another organization, the entity resulting from such a merger shall succeed to the rights, powers and privileges of the Organization under this Agreement, but only if such resulting entity is a 501(c)(3) organization. If the resulting entity is not a 501(c)(3) organization, the Foundation shall proceed as if the Beneficiary Organization was dissolved.

### **Conflict of Terms**

If an inconsistency arises between these terms and conditions, and any terms and conditions appearing elsewhere in connection with any fund, these terms and conditions as interpreted by the Foundation shall govern. The Foundation reserves the right to take any actions at any time which, in its sole discretion, it deems reasonably necessary or desirable for the proper administration of any fund in the Foundation.

### **Miscellaneous**

- a. The fund asset shall be administered and this Agreement and the validity thereof shall be governed by and construed in accordance with the laws of the State of Georgia, without regard for the conflicts of laws principle thereof, and the applicable provisions of the Internal Revenue Code, as the same may be amended from time to time.
- b. The captions of this Agreement are included for convenience only and shall in no way define or limit any of the provisions hereof or otherwise affect their construction or effect.
- c. Except as otherwise provided herein, no party may assign any of its rights or delegate any of its duties under this Agreement. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors.
- d. If in any jurisdiction any provision of this Agreement or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of the restriction, prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction or its application to other parties or circumstances.
- e. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were upon the same instrument.
- f. For the purpose of ensuring that the fund is a component part of the Foundation for federal tax purposes, the Foundation alone shall have the power to modify the terms of this Agreement.
- g. This Agreement, together with the exhibits and other documents referred to herein, contains the entire agreement of the Donors and the Foundation concerning the subject matter hereof and supersedes all prior and contemporaneous negotiations, correspondence, understanding, letters of intent, and agreements, whether verbal or written, between the parties regarding the subject matter hereof.