



**PUTNAM COUNTY COMMUNITY FOUNDATION, INC.
PASS-THROUGH (NON-ENDOWED) FUND AGREEMENT**

THIS AGREEMENT is made and entered into on (date) by and between **THE PUTNAM COUNTY COMMUNITY FOUNDATION, INC.** (hereinafter referred to as the "Foundation") and ____, (hereinafter referred to as the "Founding Contributor").

WITNESSETH:

WHEREAS, the Founding Contributor desires to have established in the Foundation a non-permanent fund; and

WHEREAS, the Foundation is a nonprofit Indiana corporation exempt from taxation under Internal Revenue Code ("Code") section 501 (c)(3), a public charity described in section 170 (b)(1)(A)(vi) of the Code, and accordingly an appropriate institution within which to establish such a charitable endowment; and

WHEREAS, the Foundation is willing and able to create such a fund, subject to the terms and conditions hereof;

NOW THEREFORE, the parties agree as follows:

1. NAME OF FUND. There is hereby established within the Foundation, and is a part thereof, a fund designated as the ____ hereinafter referred to as ("the Fund") to receive gifts, in whatever form of money or property, and to administer the same.

2. PURPOSE. The primary purpose of the Fund shall be _____, provided that such programs and contributions are consistent with the exempt purposes and status of the Foundation.

3. GIFTS. The Founding Contributor hereby transfers, irrevocable to the Foundation, the sum of \$. Subject to the right of the Foundation to reject any particular gift, any person whether an individual, corporation, trust, estate, or organization (hereinafter referred to as "Donor") may make additional gifts to the Foundation for the purposes of the Fund by a transfer to the Foundation of property acceptable to the Foundation in whole or in part from the Fund. All gifts, bequests, and devises to this Fund shall be irrevocable once accepted by the Foundation.

4. DISTRIBUTION. The Board of the Foundation may appropriate for expenditure the principal, interest, dividends, and net appreciation in the fair market value of the assets of a non-endowed fund.

Payout appropriations allocable to the Fund, net of the fees and expenses set forth in paragraph 11, may be committed, granted, or expended only for purposes described in Section 2, pursuant to the investment and payout policies of the Foundation. If any gifts to the Foundation for the purposes of the Fund are received and accepted subject to a Founding Contributor's conditions or restrictions as to the use of the gift or income therefrom, said conditions or restrictions will be honored, subject, however, to the authority of the Foundation's Board of Directors (hereinafter the "Board") to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Foundation's Board unnecessary, incapable of fulfillment, or inconsistent with the charitable or other exempt purposes of the Foundation or needs of the community served by the

Foundation. No distribution shall be made from the Fund to any individual or entity if such distribution will in the judgment of the Foundation endanger the Foundation's Code section 501 (c) (3) status.

5. ADMINISTRATIVE PROVISIONS. Notwithstanding anything herein to the contrary, the Foundation shall hold the Fund, and all contributions to the Fund, subject to the provisions of the applicable Indiana laws and the Foundation's Articles of Incorporation and Bylaws. The Board shall direct or monitor the distribution of the Fund to ensure it is used exclusively for charitable or other exempt purposes within the meaning of Code section 170 (c)(1) or (2)(B), and shall have all powers of modification and removal specified in United States Treasury Regulations section 1.170A-9(e) (11) (v) (B).

The Founding Contributor hereby designates the _____ as its Fund Agent. The Agent will notify the Foundation in writing of changes in the Agent designation. In the event that no Agent is available, the Board shall designate an Agent or serve as the Agent itself. Upon request, the Board agrees to provide the Agent and any Donor that has contributed to the Foundation at least \$5,000, a copy of the annual examination of the finances of the Foundation as reported upon by independent certified public accountants.

In the event that involved persons and the Fund Agent are not able to agree, and seek to resolve the disagreement through litigation, the parties agree to hold harmless and indemnify the Foundation for any legal expenses incurred.

6. CONDITIONS FOR ACCEPTANCE OF FUNDS. Founding Contributor agrees and acknowledges that the establishment of the Fund herein created is made in recognition of, and subject to, the terms and conditions of the Articles of Incorporation and Bylaws of the Foundation as from time to time amended, and that the Fund shall at all times be subject to such terms and conditions, including, but not by way of limitation, provisions for:

- a. Presumption of Founding Contributors' intent;
- b. Variance from Founding Contributors' direction;
- c. Amendments.

7. CONTINUITY OF THE FUND. The Fund shall continue so long as assets are available in the Fund and the purposes of the Fund can be served by its continuation. If the Fund is terminated, the Foundation shall devote any remaining assets in the Fund exclusively for charitable or other exempt purposes that:

- a. are within the scope of the charitable or other exempt purposes of the Foundation's Articles of Incorporation; and,
- b. most nearly approximate, in the good faith opinion of the Board, the original purpose of the Fund.

8. NOT A SEPARATE TRUST. The Fund shall be a component part of the Foundation. All money and property in the Fund shall be held as general assets of the Foundation and not segregated as property of a separate trust; provided that for purposes of determining the share of the Foundation's earnings allocable to the Fund and the value of the principal of the Fund, the interest of the Fund in the general assets of the Foundation shall be a percentage determined by dividing the gift to the Fund by the then value of the total assets of the Foundation, such percentage interest being subject to adjustment at the time of each addition to or reduction of the assets of the Foundation.

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

10. INVESTMENT OF FUNDS. The Community Foundation is not required to maintain the historic gift value of non-endowed funds. The Foundation shall have all powers necessary or in its sole discretion desirable to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest, and reinvest the Fund and the power to commingle the assets of the Fund with those of other funds for investment purposes.

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 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.

IN WITNESS WHEREOF, the Founding Contributor has executed this Agreement and the Foundation has caused this Agreement to be approved by its Board and to be executed by a duly authorized officer, all as of the day and year first above written.

FOR THE FOUNDING CONTRIBUTOR:

Founding Contributor

Date

FOR THE PUTNAM COUNTY COMMUNITY FOUNDATION:

Sue Murray, President

M. Elaine Peck, Executive Director