



**DONOR ADVISED FUND AGREEMENT TO ESTABLISH THE**  
\_\_\_\_\_ **FUND**  
**AT WACO FOUNDATION**

This Agreement to establish the \_\_\_\_\_ **FUND** (the "Fund") as a donor advised component fund within WACO FOUNDATION ("Waco Foundation") is made by and between [Donor Name] and [Donor Name] ("Donor") and Waco Foundation.

WHEREAS, the parties to this Agreement have a common interest in serving the charitable needs of McLennan County and other charitable organizations designated as a 501(c)(3) organization under the Internal Revenue Code; and

WHEREAS, Donor wishes any property transferred to Waco Foundation, by or on behalf of Donor, to become a component part of Waco Foundation;

NOW, THEREFORE, in consideration of the premises, and the mutual promises contained herein, Donor and Waco Foundation agree as follows:

1. *Establishment of Fund.* A fund shall be established on the books of Waco Foundation, which shall be known as the \_\_\_\_\_ **FUND**. Donor hereby irrevocably contributes the initial establishing gift to the Fund of \$\_\_\_\_\_. Donor or any other person may make additional irrevocable contributions to the Fund acceptable by Waco Foundation.

2. *Property of the Fund.* The Fund shall be the property of Waco Foundation, held by it in its Trust capacity and administered in accordance with Waco Foundation's Trust Agreement, Bylaws and governing documents, as they may be amended from time to time. Waco Foundation shall have the ultimate authority and exclusive legal control over all of the property in the Fund and the income derived therefrom for the charitable purpose of Waco Foundation.

3. *Purposes.* The Fund shall be used only for the charitable purposes of Waco Foundation as set forth in its governing documents or as may be hereafter amended.

4. *Distributions of Principal and Income.* Distributions from the Fund of the income or principal shall be made at such times, in such amounts, in such ways and for such purposes as Waco Foundation may determine.

5. *Donor Recommendations.* Donor may from time to time make recommendations with respect to distributions, which recommendations shall be solely

precatory and advisory in nature, and Waco Foundation shall not be bound, by such recommendations.

6. *Management of Fund.* Waco Foundation shall manage and invest the Fund in accordance with its procedures and policies in effect, from time to time. The Fund may be either commingled with other Waco Foundation assets, or segregated and administered as a separate account; provided, however that if the assets of the Fund are commingled with other Waco Foundation assets, Waco Foundation shall maintain at all times separate records and books of account so as to identify the assets and interests of the Fund. A report of such assets and interest will be provided to Donor at least quarterly.

7. *Expenses and Fees.* The Fund shall bear its prorata share of all expenses and fees, which may be determined by Waco Foundation to be allocable or chargeable to the Fund. Such expenses and fees shall be charged to the income or principal of the Fund as determined by Waco Foundation.

8. *No Benefit to Donor.* In accordance with Internal Revenue Code (IRC) Section 4967, neither the Donor nor any other related person may receive directly or indirectly a more than incidental benefit or privilege as a result of a distribution from the Fund. Additionally, no distributions shall be made from the fund that would be considered "taxable distributions" as defined in IRC Section 4966.

9. *No Enforceable Obligation.* It is understood that no distribution from the Fund will be used to satisfy or discharge a legally enforceable pledge or obligation of the Donor or any person or entity.

10. *Component Part of Foundation.* Donor recognizes and agrees that the Fund shall be a component fund of Waco Foundation and subject to the governing documents of Waco Foundation, and the policies and procedures of its governing body. It is intended that the Fund be a component fund of Waco Foundation and nothing in this Agreement shall affect the status of Waco Foundation as an organization described in Sections 501(c)(3) and 170(b)(1)(A)(vi) of the Internal Revenue Code, and not as a private foundation described in Section 509(a) of the Code. This Agreement shall be interpreted in a manner consistent with the foregoing intention so as to conform to any applicable requirements of the Internal Revenue Code and the regulations promulgated thereunder. Waco Foundation and Donor shall have the power to retroactively amend this Agreement in order to comply with the intent of the parties.

11. *Foundation Property.* Donor recognizes that the Fund is a component part of Waco Foundation and as such, shall be under the control of Waco Foundation as to its administration, investment and distribution and although Donor has the right to make recommendations, such recommendations shall be precatory and advisory, and Waco Foundation shall not be bound by such recommendations.

12. *Duration and Variance of Purposes.* Donor shall have the privilege of making recommendations regarding grants from the Fund for a period not to exceed twenty (20) years. At the end of twenty (20) years or upon the death of the Donor, any remaining assets of the Fund shall be transferred to the unrestricted fund of Waco Foundation unless the

privilege of making grant recommendations has been extended for an additional term at the request of Donor and approved by Waco Foundation.

13. *Limited Power to Amend.* Waco Foundation is authorized to amend this Agreement to conform with the provisions of any applicable law or government regulation in order to carry out the purposes of the Fund and to continue its exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

EXECUTED in duplicate originals this \_\_\_ day of \_\_\_\_\_, 2014.

**DONOR**

**WACO FOUNDATION**

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**DONOR NAME**  
**Title**

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**ASHLEY ALLISON**  
**Executive Director**