



DESIGNATED AGENCY FUND AGREEMENT TO ESTABLISH THE
_____ **ENDOWMENT FUND**
AT WACO FOUNDATION

THIS AGREEMENT TO ESTABLISH THE _____ (the "Fund"), as a designated component fund within WACO FOUNDATION, is made by and between the _____ ("who is establishing the fund") and Waco Foundation ("Waco Foundation").

WHEREAS, the parties to this Agreement have a common interest in serving the charitable needs of McLennan County; and

WHEREAS, _____ (who is establishing the fund) and Waco Foundation are each organizations described in Section 170(b)(1)(A) and Section 501(c)(3) of the Internal Revenue Code; and

WHEREAS, _____ (who is establishing the fund) has been established with the principal purpose to provide charitable services in McLennan County, Texas; and

WHEREAS, _____ (who is establishing the fund) wishes any property transferred to Waco Foundation, by or on behalf of _____ (who is establishing the fund), to become a component part of Waco Foundation;

NOW, THEREFORE, in consideration of the premises, and the mutual promises contained herein, _____ (who is establishing the fund) 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 name)**. _____ (who is establishing the fund) hereby irrevocably contributes the initial establishing gift to the Fund of \$_____. _____ (who is establishing the fund) 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.

3. *Purposes.* The Fund shall be used to support the purposes of _____ of the _____ (who is establishing the fund).

4. *Distributions of Income.* The net distributable income of the Fund shall be paid and distributed _____ (who is establishing the fund) at least annually, or more frequently, as Waco

Foundation may determine. Net income may be accumulated for future distribution or added to the principal if both _____(who is establishing the fund) and Waco Foundation agree.

For purposes of this Paragraph 4, income shall be defined and distributed in accordance with **Waco Foundation's spending policy**, which is currently 5% of the ending balance of the 28 trailing quarters, but is subject to change. This definition shall be interpreted consistently with the authorization for "expenditures" pursuant to the Uniform Management of Institutional Funds Act, Texas Property Code Sec. 163.001, et seq., as it may be amended from time to time. The determination of income shall be made by Waco Foundation subject to the standards described in Texas Property Code Sections 163.004 and 163.007 and historic dollar value shall be as defined in Section 163.003 of the Texas Property Code. In the event the Uniform Management of Institutional Funds Act is repealed, Waco Foundation shall either continue to apply the standard in effect on the effective date of repeal or if there is a successor statute, apply the similar standard applicable under the successor statute.

5. *Distributions of Principal.* Distributions of principal may be made to _____(who is establishing the fund) in the sole discretion of the governing board of Waco Foundation. _____(who is establishing the fund) may, from time to time, make recommendations to Waco Foundation regarding distributions of principal. Waco Foundation shall give careful and deliberate thought to such recommendations; however, such recommendations shall be solely advisory and not binding on Waco Foundation.

Further, it is the intention that the principal of the Fund not be invaded for ordinary operating costs or small shortfalls in operating revenue. It is the intention of _____ (who is establishing the fund) that the Waco Foundation Board only approve distributions of principal if _____ (who is establishing the fund) faces a situation that threatens the organization's ability to remain solvent through an unforeseen circumstance which could not be anticipated through prudent management of the Board. _____ (who is establishing the fund) understands that Waco Foundation will carefully evaluate any future requests for distribution of principal to ensure such requests are not in response to poor planning or negligence on the part of _____ (who is establishing the fund) Board of Directors.

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 and in accordance with the guidance set forth in FAS 136. 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 _____(who is establishing the fund) at least quarterly.

7. *Expenses and Fees.* The Fund shall bear its pro rata 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. *Component Part of Waco Foundation.* _____(who is establishing the fund) 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 _____(who is establishing the fund) shall have the power to retroactively amend this Agreement in order to comply with the intent of the parties.

9. *Duration and Variance of Purposes.* It is intended that the Fund should be continued as long as the need for the Fund exists and assets are held in the Fund for its purposes. If, for any reason, the Fund is terminated, Waco Foundation dissolves, ceases to exist or ceases to hold or administer the Fund or otherwise function under this Agreement, then the net assets of the Fund, after allowance for liabilities and expenses, shall be distributed to _____(who is establishing the fund), or if _____(who is establishing the fund) is not then in existence, to such organizations as the governing board of Waco Foundation may select having similar purposes as _____(who is establishing the fund). The board shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if in the sole judgment of the board (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 community or area served.

EXECUTED in duplicate originals this _____ day of _____, 2014.

_____(who is establishing the fund)

WACO FOUNDATION

_____, Executive Director

Ashley Allison, Executive Director