

FUND
Field-of-Interest Fund Agreement

AN AGREEMENT, dated this [redacted] day of [redacted] 2019, by and between [redacted] (the "Donor"), with a mailing address of [redacted], and The Community Foundation of Herkimer & Oneida Counties, Inc. (the "Foundation"), a New York not-for-profit corporation (EIN 16-6016932) located at 2608 Genesee Street, Utica, New York 13502, for the creation of a **field-of-interest fund**.

1. Fund Name

The Donation shall be designated on the books of the Foundation and in its publications as the "[redacted] Fund" (the "Fund").

2. Management of the Fund

The assets of the Fund shall be held, invested, and managed by the Foundation. The Foundation has full right and power to commingle and co-invest the assets of the Fund with other investment assets of the Foundation and to delegate investment management of the assets of the Fund. The Donation and any other contributions to the Fund, and all income generated therefrom, as well as all gains and losses, realized and unrealized, shall be credited to the Fund. Additions to the Fund shall be accepted from a variety of sources, including fundraisers and direct gifts, shall be subject to the same restrictions as are placed on the Donation, and shall be valued as at the time of receipt. The value of the Fund shall be separately determined and set forth at least annually by the Foundation, and such determination shall be conclusive. The Fund shall be subject to an on-going administrative fee as established from time to time by the Foundation Board, currently 1.5% annually of the Fund balance.

The Fund shall be an expenditure fund, a non-endowed, temporary fund for which no minimum fund level must be maintained, and no spending policy applies. It is intended that the Fund will continue as long as the need for it exists and as long as assets continue to be held in the Fund for the charitable purposes described in this Agreement.

3. Use Restrictions

The Fund shall be used exclusively for the charitable purposes of [redacted]
[redacted]
[redacted].

4. Fund Advisory Committee

The Fund shall be advised by a committee (the "Advisory Committee"). The guidelines for the makeup of the Advisory Committee are included in Attachment A.

The Advisory Committee may make non-binding recommendations as to the timing, manner, and frequency of distributions from the Fund; however, nothing herein shall be construed so as to reserve to the Advisory Committee the legal right to do so. The Foundation Board, by law, must have final authority to determine the use and distributions of all of the Foundation's charitable assets. All grant recommendations must be approved by a majority of the Advisory Committee.

5. Future Legacy

The Advisory Committee may designate any or all of the Fund for expenditure at any time.

In the event the Advisory Committee does not make a grant recommendation for a period of four (4) years and grant dollars are available to spend, the Foundation shall provide written notice requesting that the Advisory Committee make a grant recommendation. If the Foundation does not receive a response from the Advisory Committee within forty-five (45) calendar days from the date of the written notice, the Foundation shall have the right to make distributions from the Fund in accordance with the use restrictions under Par. 3; provided that the Committee may begin making grant recommendations again at any time thereafter.

In the event the Advisory Committee chooses to end its right to advise the Fund by providing the Foundation with written notice of such election, the Foundation shall administer grantmaking from the Fund in accordance with the same purpose as identified under Par. 3.

6. Conditions and Variance Power

The Donor agrees and acknowledges that the Donation is made in recognition of, and the Fund is at all times subject to, the terms and conditions of the Certificate of Incorporation and the By-laws of the Foundation as from time to time may be amended. The Foundation Board has the power to modify any restriction or condition on the distribution of grants from the Fund for any specified charitable purpose or to any specified organization if, in the sole judgement of the Foundation Board, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served. Consistent with its status as a community foundation, the Foundation Board may modify such restrictions or conditions without obtaining the approval of the Justice of the State Supreme Court or giving notice to the Attorney General.

7. Governing Law

This Agreement shall be governed by and its terms and conditions construed in accordance with the laws of the State of New York, without regard to conflict of law principles.

8. Entire Agreement

This Agreement constitutes the entire agreement between the parties regarding the Donation, and supersedes all oral and written agreements entered into before or at the same time as this Agreement.

(Remainder of page intentionally left blank; signature page to follow)

IN WITNESS WHEREOF, the Donor and the Foundation have executed this Agreement as of the date first set forth above.

Donor

By: _____ Date: _____

Name: _____

The Community Foundation of Herkimer & Oneida Counties, Inc.

By: _____ Date: _____

Name: _____

Title: President & CEO

Attachment:

A) Fund Advisory Committee (as of DATE)

DRAFT

