

**THE ERIE COMMUNITY FOUNDATION**  
**TERMS OF AGREEMENT**

Name of Fund: \_\_\_\_\_

Description of Donated Property:

**Fund Type:**

- Donor Advised
- Donor Designated
- Field of Interest
- Pass- Through
- Scholarship
- Agency
- Community Impact
- Special Projects

**Endowment Selection:**

- Endowed
- Non-Endowed

**Fund Investment Management:**

- Pooled
- Socially Responsible/ESG
- Individually Managed

Delivery has been made to The Erie Community Foundation (the “Foundation”) by the undersigned donor(s) (collectively “Donor”) of the property described above. Delivery of said property constitutes an irrevocable gift to the Foundation upon acceptance by its Board of Trustees (the “Board”) in accordance with the terms and conditions below. Additional contributions to the Fund may be made by the Donor and others upon acceptance by the Foundation. All grants from the Fund will be in accordance with the Foundation’s Articles of Incorporation, bylaws and normal policies and procedures.

**Purpose.** The Fund is established to primarily benefit the community of Erie, Pennsylvania through grants made in accordance with the “Income and Principal Distributions” section below. As a service to donors, grants can also be awarded to deserving and qualified nonprofit entities throughout the United States.

**Ownership.** The Fund shall be the property of the Foundation held by it as a component fund in its corporate capacity and shall not be deemed to constitute a trust fund held by the Foundation in a trustee capacity.

**Spending Policy.** Grants shall be made by the Board in accordance with the spending policy (the “Spending Policy”) established by the Board from time to time. The Spending Policy of the Foundation is designed

to ensure that the value of its portfolio is maintained over time after taking inflation into account. The spending rate from each Fund is established each December 31<sup>st</sup> by the Board in consultation with the Foundation's Investment Committee. The current target spending rate is 4% of a 20-quarter rolling average of market value, adjusted to reflect material net cash flows. This rate is subject to change from time to time at the discretion of the Board.

### Income and Principal Distributions

**Donor Advised Fund Only:** Recommendations for grants from the Fund to deserving and qualified non-profit organizations may be made in accordance with the attached "Schedule of Advisors." It is understood that these recommendations are advisory in nature and are subject to the Spending Policy.

**Donor Designated Fund Only:** Grants from the Fund in accordance with the Spending Policy shall be used exclusively to support the organization(s) listed in the attached "Donor Designation Schedule."

If the nonprofits listed in the attached "Donor Designation Schedule" become for-profit, cease to exist, or otherwise alter their charitable mission so that it would be inconsistent with the needs of the community, absent other instructions the Foundation's Board of Trustees may alter the terms of this Agreement to ensure it remains consistent with the donor's intent.

**Field of Interest Fund Only:** Grants from the Fund in accordance with the Spending Policy shall be used exclusively to support qualified and deserving non-profit organizations whose activities and mission address the need of \_\_\_\_\_ in our community, as determined by the Board from time to time.

**Scholarship Fund Only:** Grants from the Fund in accordance with the Spending Policy shall be used exclusively to support a scholarship program as described in the attached "Scholarship Profile."

**Agency Fund Only:** Grants from the Fund in accordance with the Spending Policy shall be used exclusively to support \_\_\_\_\_ (the "Agency"). Grants in excess of the Foundation's Spending Policy may be made to the Agency in any year provided the distribution enables the Agency to satisfy either or both of the following purposes to the satisfaction of the Board: (a) to acquire or renovate a capital asset, or (b) to meet unexpected or non-recurring financial needs. Recommendations for such grants may be made from time to time to the Foundation by the Agency upon the approval of its Board of Directors.

**Community Impact Fund Only:** Grants from the Fund in accordance with the Spending Policy shall be used to support the most critical needs of the community through the Foundation's competitive grant-making process and other strategic initiatives established by the Board from time to time.

### Fees

**Community Investment Fee:** A Community Investment fee is charged to the Fund at the following annual rates: (i) Scholarship Funds - 1%, (ii) Community Impact Funds - 1%, (iii) Field of Interest Funds - 1%, (iv) Designated Funds - .75% or 1%, (v) Donor Advised Funds - .75% (vi) Special Projects Funds - .75%, (vii) Agency Funds - .6% up to \$4.9M; .5% \$5M to \$9M; .4% \$10M to \$20M; .25% \$20M+; and (viii) Pass-Through Funds – negotiated. Fees are assessed in quarterly installments based on the average market value of a Fund for that quarter.

**Investment Management Fee:**

*Pooled & Socially Responsible/ESG Funds:* The Fund will be charged a prorated share of investment and financial management fees paid by the Foundation.

*Individually Managed:* The Fund is charged an annual investment fee determined by the Financial Advisor managing the Fund’s portfolio. The fee and its effect on the overall Fund performance is reviewed periodically by The Foundation as described in the “Financial Advisor Program: Advisor Review Guidelines” (v. 2014) document.

**Modification of Fees:** The Foundation may modify community investment fees from time to time as determined by its Board in order to defray operating costs of the Foundation.

Accounting and Record-Keeping. The Foundation will provide all appropriate accounting and related financial management services associated with the Fund. An accounting of the Fund is available to the Donor at all times upon reasonable notice.

Internal Revenue Code. Nothing in this Agreement shall affect the status of the Foundation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”) and as an organization which is not a private foundation within the meaning of Section 509(a) of the Code. The Foundation is authorized to amend this Agreement to conform to the provisions of any applicable law or government regulation in order to carry out the foregoing intention. The Foundation shall have the power to modify any restriction or condition on the distributions of funds for any specified charitable purpose or specified organizations if, in the sole judgment of the Board, such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served. This power is further set forth in Tax Regulations 1.170A-9(e) (11) (V) (B), (C) and (D). References herein to provisions of the Code shall be deemed to be references to the corresponding provisions of any future Internal Revenue Law.

The Donors’ signatures below indicate acceptance of the above terms and conditions.

By:

\_\_\_\_\_

*Donor*

\_\_\_\_\_

*Date*

\_\_\_\_\_

*Donor*

\_\_\_\_\_

*Date*

THE ERIE COMMUNITY FOUNDATION

By: \_\_\_\_\_  
*Karen Bilowith, President*

\_\_\_\_\_

*Date*

**THE ERIE COMMUNITY FOUNDATION**  
**Schedule of Advisors for Donor Advised Funds**

The initial Advisor(s) who may make recommendations for grants from the Fund shall be:

- The Donor
- The following person(s) who will act by majority vote:

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\* If the initial Advisor(s) is/are unwilling or unable to serve, the secondary Advisor(s) shall be:

- None
- The secondary Advisor(s) shall be the Donor's living children, who will act by majority vote.
- The secondary Advisor(s) shall be the following person(s) who will act by majority vote:

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\* If the initial Fund ceases to have Advisor(s) pursuant to the preceding instruction, the Fund shall be converted to:

- A Community Impact Fund to support the most critical needs of the Erie community as determined by the Board from time to time.
- A Field of Interest Fund for meeting the needs of \_\_\_\_\_ in the Erie community.
- A Donor Designated Fund for the benefit of the following charities (please indicate % to be allocated to each nonprofit):

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Other Considerations:

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\* These options are available only during periods in which the Fund has a fair market value in excess of \$250,000.

**IF THE DONOR IS NOT ACTING AS THE ADVISOR, NOT LESS THAN SEVENTY-FIVE PERCENT (75%) OF THE RECOMMENDATIONS BEING MADE BY THE ADVISOR(S) MUST BENEFIT QUALIFIED NON-PROFIT ORGANIZATIONS BASED IN ERIE COUNTY, PENNSYLVANIA.**

**THE ERIE COMMUNITY FOUNDATION**

**Donor Designation Schedule**

Grants from the Fund in accordance with the Foundation’s Spending Policy shall be allocated to the charities listed below on the following basis:

	<u>Name of Charity</u>	<u>Percentage</u>
1.		%
2.		%
3.		%
4.		%
5.		%

The Donor may modify the percentage interest of a charity by written amendment accepted by the Foundation.

## THE ERIE COMMUNITY FOUNDATION

### Scholarship Profile

**Name of Scholarship:**

**Scholarship Description:**

**Description Notes:**

1. **Amount of Scholarship:**
2. **Number of Scholarships to be Awarded Annually:**
3. **Type of Post-Secondary Education Covered:**
4. **Anticipated University Attendance:**
5. **Student Expenses Eligible for Coverage:**
6. **Scholarship Renewability:**
7. **Applicant Enrollment:**
8. **Academic Requirements:**
9. **Selection Criteria:**
  - a. Participation in high school activities
  - b. Participation in community activities
  - c. Financial need
  - d. One original essay
  - e. Letters of recommendation
10. **Recipient's Intended Field of Study:**
11. **Alternate Candidate if Primary Unwilling/Unable**
12. **Selection Committee:**

**Other Donor Considerations:**



## **DONOR ADVISED FUND ACTIVITY POLICY**

The Erie Community Foundation (“ECF”) encourages fund founders, fund advisers, and successor advisers to maintain an active role in their fund(s). In order to carry out its mandate of distributing charitable dollars to the community, the Foundation periodically reviews grantmaking activity and fund balances on all funds. As such, this Fund Activity Policy (the “Policy”) has been adopted at the recommendation of the Community Foundations National Standards Board, a supporting organization of the Council on Foundations, with respect to donor advised funds (“DAFs”).

This Policy is built on a simple premise – that a contribution to a DAF is an irrevocable charitable contribution that is legally owned by ECF and may only be used for charitable purposes which do not confer any impermissible private benefit on the donor or any other person. The donor (or donor advisor) has the privilege to *recommend* qualifying grants from the DAF, but not the legal right to direct DAF distributions since all recommendations must be approved by the Board of Trustees of The Foundation.

A Fund that is granting regularly or about which the fund advisor and Foundation staff have been in communication is deemed “Active”. A fund may be deemed “Inactive” if any of the following occur:

1. There has been no grantmaking activity from the fund for a period of three years and the fund advisor(s) and/or successor advisor(s) has/have not responded to Foundation contact attempts.
2. The fund is below the required minimum fund balance (\$10,000) and the fund advisors and/or successor advisors have not responded to Foundation contact attempts for a period of three years.
3. The fund advisors or successor advisors cannot be located due to lack of contact information and/or reasonable attempts to locate the fund advisers or successor advisers were unsuccessful for a period of three years.

If a Fund is deemed “Inactive”, the following applies:

The Foundation’s Board of Trustees may exercise its discretion to convert the fund to its final purpose as documented in the Fund Letter of Agreement. Absent these instructions, distributions may be processed from the DAF without donor advisor recommendation and will be used in support of ECF’s competitive unrestricted grant programs. Distributions will be made in accordance with The Erie Community Foundation’s annual distribution policy regardless of whether the fund is an endowed or non-endowed fund.

This Policy does not apply to a DAF for which a long-term accumulation or distribution plan has been approved by The Erie Community Foundation.

Initial \_\_\_\_\_



## **SCHOLARSHIP DONOR SELECTION COMMITTEE POLICY**

The Erie Community Foundation (“ECF”) encourages donors, fund advisers, and successor advisers to maintain an active role in their fund(s). **Of special note:** The Pension Protection Act of 2006 includes provisions directing the appropriate and allowable administration of various donor funds, including scholarship funds. In compliance with these provisions, special consideration is taken when creating a selection committee for a scholarship fund.

As such, effective September 11, 2023, this Scholarship Donor Selection Committee Policy (the “Selection Committee Policy”) has been adopted at the recommendation of the Community Foundations National Standards Board, a supporting organization of the Council on Foundations, with respect to Scholarship Endowments.

- a. Scholarship fund donors and family members may participate in but may not comprise the majority of scholarship selection committee. The provision also bars the board of a professional or alumni group, church, or tother public charity that has established a scholarship fund from serving as the entire selection committee. The donor or board member’s advice may be given solely as a member of the committee.
- b. There must be a minimum of three individuals on each selection committee.
- c. Each selection committee must have written procedures for choosing recipients on an objective and nondiscriminatory basis that are approved by the Erie Community Foundation’s Board of Trustees.

Initial \_\_\_\_\_