

# Middletown Community Foundation

## AGENCY FUND AGREEMENT

This **AGENCY FUND AGREEMENT** (“Agreement”) is made this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between Middletown Community Foundation, an Ohio nonprofit corporation and community foundation (“Foundation”), and \_\_\_\_\_ (“Donor”), an Ohio nonprofit corporation, to create an Agency Fund (“Fund”) of the Foundation.

### 1. Introduction

- (a) The Foundation is a publicly supported community foundation exempt from federal income taxation pursuant to sections 501(c) (3) and 170 (b)(1) (A) (vi) of the Internal Revenue Code.
- (b) The Foundation believes that the establishment of Agency Funds as component parts of the Foundation will assist the Foundation in carrying out its charitable purposes through encouraging additional gifts, bequests and transfers of monies and properties to the Foundation.
- (c) The Donor, in order to support the charitable purposes of the Foundation, desires to establish an Agency Fund, to be owned by the Foundation and to be subject to the terms and conditions set forth in this Agreement
- (d) This agreement is subject to the variance power of the Board of Trustees of Middletown Community Foundation which shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations, or, in their sole judgment (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 Greater Middletown area.

### 2. Name of Fund

The name of the Fund created hereby is:

\_\_\_\_\_ **Fund**

### 3. Contributions to the Fund

Upon signing this Agreement, any person or organization may make contributions to the Fund, which is created for the purposes and uses and upon the terms and conditions set forth in this Agreement. The Middletown Community Foundation has exclusive legal control over any contributed assets.

### 4. Incorporation of Governing Instruments of the Foundation.

The Fund shall be administered in strict compliance with the governing instruments of the Foundation including the Articles of Incorporation and Code of Regulations, all as amended from time to time, and any resolutions and procedures from time to time in effect. All the provisions of such governing instruments of the Foundation and such resolutions and procedures are incorporated in this Agreement and by this reference made a part hereof.

It is intended that the Fund shall be a component part of the Foundation and not a separate trust, and that 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, as amended, and as an organization which is not a private foundation within the meaning of Section 509 (a) of the Code. This agreement shall be interpreted to conform to the

requirements of the foregoing provisions of the federal tax laws and any regulations issued pursuant thereto. 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 purposes of this Fund. References herein to provisions of the Internal Revenue Code of 1986, as amended, shall be deemed references to the corresponding provisions of any future Internal Revenue Code.

**5. Use of the Fund**

The Fund is designated for the support of \_\_\_\_\_.  
At the request of an authorized representative of \_\_\_\_\_, a  
distribution shall be made to \_\_\_\_\_ restricted for this purpose from  
the Fund contingent upon approval by the Middletown Community Foundation Board of  
Trustees.

**6. Disposition of Fund**

Should the \_\_\_\_\_ cease to exist or offer a program within the  
restricted purpose of this fund, the Foundation shall direct the distributions of the Fund to  
\_\_\_\_\_.

**7. Fees**

Middletown Community Foundation shall charge reasonable and normal administrative fees as determined by the Board of Trustees in exchange for providing the above-  
enumerated services. At the time of this agreement, the annual administrative fee is 100  
basis points with a minimum annual fee of \$100 assessed on a monthly basis as one-  
twelfth of 1 percent of the Fund's average market value in the previous 12 months. The  
Fund shall also be assessed any fees or expenses charged to the Foundation by an  
investment manager, bank or other custodian of the Fund.

IN WITNESS WHEREOF, Middletown Community Foundation and the Donor have executed  
this Agreement as of the day and year first written.

Middletown Community Foundation

By: \_\_\_\_\_  
T. Duane Gordon, Executive Director

Donor

By: \_\_\_\_\_  
\_\_\_\_\_ (Name)