# ENDOWMENT AGREEMENT BETWEEN The SAMPLE COUNCIL AND \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“DONORS”)

**THIS AGREEMENT** (the “Agreement”) is made and entered into as of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between The SAMPLE Council (“The Council”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Donors”).

**Recitals**

**WHEREAS**, Donors desire to establish an endowment with The Council; and

**WHEREAS**, The Council is nonprofit corporation exempt from federal income taxes under Internal Revenue Code (“Code”) section 501(c)(3), a public charity described in Code section 170(b)(1)(A)(vi), and accordingly an appropriate institution within which to establish such an endowment; and

**WHEREAS**, The Council is willing and able to hold and administer such an endowment, subject to the terms and conditions hereof.

**General Provisions**

**NOW THEREFORE**, the parties agree as follows:

**1. GIFT AND FUND DESIGNATION.** Donors hereby transfer irrevocably to The Council the property (cash, publicly traded securities, or other assets) described in Attachment A to establish an endowment fund to be known as the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Fund (the “Fund”). Subject to the right of The Council to reject any particular gift, from time to time The Council may accept additional irrevocable gifts of property from Donors or from any other source to be added to the Fund, all subject to the provisions hereof. All gifts, bequests, and devises to this Fund shall be irrevocable once accepted by The Council..

**2. PURPOSE.** The Council agrees to invest the principal of the Fund in perpetuity and to use earnings, per Council Spending Policy, to be used to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ . Such use shall be consistent with the mission and purposes of The Council.

**3. DISTRIBUTIONS.** The ordinary income and capital appreciation (realized and unrealized), net of the fees and expenses set forth in this Agreement, may be committed, granted, or expended pursuant to the Spending Policy of The Council, as such policy may be amended from time to time by The Council, solely for purposes described in this Agreement. The Council’s Spending Policy, as applied to endowments such as the Fund, shall be designed to take into account total return concepts of investment and spending, with the goal of preserving the real spending power of endowments over time while balancing the need for consistent spending to support the charitable and similar exempt purposes of such endowments.

If any gift to The Council for the Fund is accepted subject to conditions or restrictions as to the use of the gift or income therefrom, such conditions or restrictions will be honored, subject, however, to the authority of the Executive Board to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Executive Board unnecessary, incapable of fulfillment, or inconsistent with the charitable or other exempt purposes of The Council or the needs of the community served by The Council. No distribution shall be made from the Fund that may in the judgment of The Council jeopardize or be inconsistent with The Council’s Code section 501(c)(3) status or result in the imposition of any excise tax, penalty, or other tax, fine, or assessment under the Code.

**4. ADMINISTRATIVE PROVISIONS.** Notwithstanding anything herein to the contrary, The Council shall hold and administer the Fund, and all contributions and assets allocable to the Fund, subject to the provisions of applicable law. The Executive Board shall oversee distributions from the Fund and shall have all powers of modification and removal specified in United States Treasury Regulation section 1.170A-9(e)(11)(v)(B).

The Board agrees to provide Donors upon request a copy of any annual examination of the finances of The Council as reported by independent certified public accountants.

This Agreement and all related proceedings shall be governed by and interpreted under the laws of the State of Indiana. Any action with respect to this Agreement shall be brought in or venued to a court of competent jurisdiction in Indiana.

**5. CONDITIONS FOR ACCEPTANCE OF GIFTS.** Donors agree and acknowledge that the establishment of the Fund is made in recognition of, and subject at all times to, applicable law and the terms and conditions of the Articles of Incorporation of the Boy Scouts of America, as amended from time to time, including, but not by way of limitation, provisions for:

a. Presumption of Donors’ intent;

b. Variance from Donors’ direction; and

c. Amendments.

6**. NOT A SEPARATE TRUST.** The Fund shall be a component part of The Council.. All money and property in the Fund shall be held as general assets of The Council and not segregated as trust property of a separate trust.

**8**. **ACCOUNTING.** The receipts and disbursements of the Fund shall be accounted for separately and apart from those of other gifts to The Council.

**9. INVESTMENT OF FUND ASSETS.** The Council shall have all powers necessary, or in its judgment desirable, to carry out the purposes of the Fund including, but not limited to, the power to retain, invest, and reinvest the assets of the Fund and the power to commingle the assets of the Fund for investment purposes with those of other funds of The Council.

**10**. **COSTS OF THE FUND.** It is understood and agreed that the Fund may share a fair portion of the total investment and administrative costs and expenses of The Council. Those costs and expenses charged against the Fund shall be determined in accordance with the then current fee schedule identified by The Council as applicable to funds of this type, as such schedule may be amended by The Council from time to time. Any costs and expenses incurred by The Council in accepting, transferring, or managing property donated to The Council for the Fund, including without limitation The Council’s costs and expenses (including reasonable attorneys’ fees) of any claim or proceeding with respect to the Fund in which The Council is prevailing party, also shall be paid from the Fund.

**Execution**

**IN WITNESS WHEREOF**, Donors and The Council, by a duly authorized officer, have executed this Agreement as of the day and year first above written.

DONORS:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Donor

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Donor

THE SAMPLE COUNCI.:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTACHMENT A**

LIST OF INITIAL DONATIONS TO FUND

Cash: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Publicly Traded Securities:

Other: