

SAMPLE AGREEMENT

ENDOWED FUND AGREEMENT BETWEEN JOHN RANDOLPH FOUNDATION, INC. AND NAME OF FOUNDING CONTRIBUTOR

This Agreement is made and entered into on DATE by and between John Randolph Foundation, Inc., a Virginia not-for-profit charitable corporation (hereinafter referred to as “JRF” or “Foundation”) and NAME (hereinafter referred to as the “Founding Contributor”).

1. **NAME OF THE FUND.** There is hereby established within JRF a fund designated as the **NAME OF THE FUND** (hereinafter referred to as the “Fund”). The Fund shall be a component part and the exclusive property of the Foundation, subject to the control of the Foundation with respect to all gifts to and distributions from the fund.

2. **PURPOSE.** The purpose of the Fund shall be to **DESCRIBE PURPOSE OF FUND.**

3. **ESTABLISHMENT.** An Endowment is a permanent fund established to carry out the purpose stated by the Founding Contributor. A contribution totaling \$ AMOUNT has been received to establish the Endowed Fund and shall be designated as Principal. The Principal is invested, and a portion of the investment earnings and returns, less fees and expenses, is distributed annually with any excess directed back into the Fund. There will be no distribution which requires an expenditure of the Principal.

4. **INVESTMENT.** The Foundation shall manage the investment and earnings of the Fund under the direction of the JRF Investment Advisory Committee and the Board of Trustees (hereinafter referred to as the “Board”). While the Fund is a component part of the Foundation, the assets may be commingled for investment purposes and invested in units of any common investment of the Foundation. The Foundation reserves the right to convert any contributed property to securities or other assets of a common fund. Investment income shall include interest and dividend income, realized appreciation, and unrealized appreciation, less investment management fees. It is understood and agreed that the Fund shall share a pro-rata portion of the investment management fees or other investment related fees charged to the Foundation by its investment advisors, managers, custodians and others. Costs annually charged against the Fund shall be determined in accordance with the then current fee schedule identifiable by the Foundation as applicable to Funds of this type.

A statement indicating investment results will be produced and mailed to the designated representative of the Fund at least annually. JRF investment of the Fund entails risk and uncertainty, there is no guarantee of a positive return. While JRF endeavors to make well-informed investment decisions, a negative return which could reduce the balance or value of the Fund below the Principal value is a possibility.

5. **DISTRIBUTION.** The Foundation shall make the initial and subsequent distributions solely from net investment earnings and returns consistent with the purpose of the Fund and the

policy guidelines established by the Foundation. There will be no distribution in years where there is a negative investment return for the prior calendar year.

Distribution amounts may be determined by March 31 of each year based on the net assets of the Fund, as well as investment earnings and returns, as of December 31 of the prior calendar year with a targeted distribution by June 30 of each year. The percentage shall be commensurate with the Foundation's spending policy in existence at the time of the distribution.

The first distribution will not take place until the Fund has been established and funded for one full calendar year.

6. **DONOR ADVISED.** JRF retains sole and absolute discretion over all aspects of the Fund. The Founding Contributor or designated representative may elect to advise the Fund with regard to amendment to the Agreement, the amount and number of annual grant awards or the selection of grant recipients, subject to the provisions of applicable law and Internal Revenue Code Regulations. JRF is under no requirement to act on such advice, and the Founding Contributor or designated representative shall not exercise control, or the appearance of control, over any deliberation or action of JRF with regard to the Fund. The designation of a representative by the Founding Contributor must be made in writing to the Foundation. A designated representative shall have the right to designate a successor to himself or herself as designated representative by delivering to the Foundation a letter in which the successor is named. The lack of contact by the Founding Contributor or designated representative with the Foundation for a period of five years will result in the rescission of the original election to provide advice to the Fund.

7. **VARIANCE.** The Board has the authority to vary the terms of the Fund if continued adherence to any condition or restriction is in the judgment of the Board unnecessary, incapable of fulfillment or inconsistent with the charitable or other exempt purposes of the Foundation or Fund. In this regard, it is understood that the Foundation is explicitly granted unilateral variance power, which is the power to redirect the use of the Fund to another beneficiary and to override the original intent of the Fund without approval of any interested party. No distribution shall be made from the Fund to any individual or entity if such distribution will in the judgment of the Foundation endanger the Foundation's Code Section 501(c)(3) status.

8. **ADMINISTRATIVE PROVISIONS.** The parameters described in this agreement are irrevocable. Nevertheless, solely to insure that the Fund is a qualified component of the Foundation for federal tax purposes, the Foundation, acting alone, shall have the power to modify the terms of this policy to the extent not inconsistent with endowed fund tax laws. Notwithstanding anything herein to the contrary, the Foundation shall hold and manage the Fund, and all contributions to the Fund, subject to the provisions of the applicable Virginia law and the Foundation's Articles of Incorporation and Bylaws. The Board shall monitor the distribution of the Fund to ensure it is used exclusively for charitable or other exempt purposes (within the meaning of Code section 170(c)(1) or (2)B), and shall have all powers or modification and removal specified in United States Treasury Regulations Section 1.170A-9(e)(11)(v)(B).

9. **ADMINISTRATIVE FEES.** The Foundation assesses an annual fee to manage and administer the Fund. The fee is based on the total net assets of the Fund as of December 31 of each year. The fee for each fund shall be established by the Board annually.

10. LEGAL. Legal fees and expenses incurred in establishing, managing, or administering the Fund including inquiries, challenges or litigation to the Fund or its terms shall be an expense of the Fund and will be deducted from the annual distribution.

11. CONDITIONS FOR ACCEPTANCE OF FUNDS: The establishment of the Fund is made in recognition of, and subject to, the terms and conditions of the Articles of Incorporation, Bylaws of the Foundation and this document as from time to time amended, and that the Fund shall at all times be subject to such terms and conditions, including, but not by way of limitation, provisions for amendments by the Foundation acting in its sole discretion.

12. CONTINUITY. The Fund shall continue so long as assets are available in the Fund and the purposes of the Fund can be served by its continuation. If the Fund is terminated, the Foundation shall devote any remaining assets in the Fund exclusively for charitable or other exempt purposes that:

- a) Are within the scope of the charitable or other exempt purposes of the Foundation's Articles of Incorporation; and,
- b) Most nearly approximate, solely in the good faith opinion of the Board, the original purpose of the Fund as envisioned by the Founding Contributor.

13. NOT A SEPARATE TRUST. The Fund shall be a component part of the Foundation's investments. All money and property in the Fund shall be held as general assets of the Foundation and not segregated as trust property of a separate trust; provided that for purposes of determining the share of the Foundation's earnings allocable to the Fund and the value of the principal of the Fund, the interest of the Fund in the general assets of the Foundation shall be a percentage determined by dividing the total Fund, by the then value of the total investment assets of the Foundation, such percentage interest being subject to adjustment at the time of each addition to or reduction of the assets of the Foundation. The receipts and disbursements of this Fund, however, shall be accounted for separately and apart from those of other gifts to the Foundation.

IN WITNESS WHEREOF, the Founding Contributor and the Foundation have executed the Agreement on the date specified below.

FOUNDING CONTRIBUTOR

Date: _____

By: _____

JOHN RANDOLPH FOUNDATION, INC.

Date: _____

By: _____