



**COMMUNITY FOUNDATION**  
OF LOUISVILLE

# **The Kentucky Military Institute Fund**

## **DESIGNATED PASS THROUGH FUND AGREEMENT**

This Agreement is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by **Kentucky Military Institute Alumni Association** (hereinafter "Creator") with The Community Foundation of Louisville, Inc. (hereinafter the "Foundation"), of Louisville, Kentucky.

### **I. Purpose**

The Foundation agrees to establish a Designated Pass Through Fund to be known as the **Kentucky Military Institute Fund** (hereinafter "Fund"), which is to be a fund of the Foundation to initiate, promote, organize, sponsor, contribute to and generally further religious, charitable, scientific and educational activities, undertakings and institutions as contained in this Agreement. Moreover, the Foundation agrees the Fund will support the effort to produce an educational and historical documentary of the Kentucky Military Institute.

### **II. Fund Assets**

Creator hereby irrevocably transfers all right, title and interest in and to the assets donated to the Foundation to establish this Fund. Creator reserves no rights to such Fund other than as described in this Agreement to either the initial assets of the Fund, the income and appreciation of the Fund, or any subsequent donations to the Fund. The Foundation and Creator acknowledge the assets will be donated by individuals and organizations which support the production of the educational and historical documentary.

### **III. Management Terms and Conditions**

Creator understands and acknowledges that the Fund will be administered by the Foundation subject to its Articles of Incorporation and Bylaws and on the following terms and conditions:

- A. The Fund will be administered by the Foundation as a Designated Pass Through Fund and nothing contained in this Agreement shall be construed as imposing any material restriction or condition that prevents the Foundation from freely and effectively employing the income derived from the Fund's current assets in furtherance of the Foundation's charitable purposes and the purposes stated for this Fund.
- B. The Fund is intended to be and shall be administered as a component part of the Foundation under Treasury Regulation Section 1.170A-9(e) (11), and is specifically subject to the powers of the Directors as the governing body of a community foundation as required therein and as set forth in the Articles of Incorporation and Bylaws of the Foundation. Such powers include the power to unilaterally modify any restriction or condition of the Fund in the event such restriction or condition becomes in effect, unnecessary, obsolete, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served, with any modification being as consistent as reasonably possible with the charitable intent of the Donor.
- C. Grants will not be made for dues to an organization or to satisfy a legally enforceable financial obligation which has been made by the Creator, or any other individual or corporation. The Board of Directors must retain final responsibility for all distributions.
- D. The Foundation's grants committee shall make approximately four grants from the Fund. Timing of grant distributions is within the discretion of the Foundation's grants committee; however, it is likely to coincide with the production schedule of the historical and educational documentary, described in section I. Purpose. Grants shall be distributed to Kentucky Educational Television Foundation, Inc. (hereinafter "KET") the qualified charitable organization herein designated by the Creator. If, at any time, KET ceases to exist, as an I.R.S. approved public charity, the amount in the Fund shall be transferred to the Gulf Coast Community Foundation, of Venice, Florida, for the benefit of the Kentucky Military Institute Foundation.
- E. Unless otherwise instructed in writing by Creator, all grants made from the Fund will be made in the name of the Fund.
- F. The Board of Directors of the Foundation shall have full authority to invest the assets of the Fund in keeping with the Foundation's Articles and Bylaws and its fiduciary responsibility. Assets will be invested in the Foundation's Money Market Portfolio. The Creator understands that all earnings of the Fund will be retained by the Foundation.
- G. The Foundation shall keep accurate financial and other records related to the administration of the Fund. In addition, the Fund may be included in the Annual Report of the Foundation in keeping with the reporting on other similar funds within the Foundation.

H. The Foundation shall assess an initial fee to the Fund. At the time this agreement was signed, this fee is: \$1000 for the first 200 receipted gifts to the Fund and \$2.00 per receipted gift thereafter. The Foundation's fee will be collected, in four installments of \$250, each installment being collected at the time the four grant distributions (described in paragraph D above). The Foundation reserves the right to change this fee as long as such change is made across the board for all such funds within the Foundation.

#### **IV. Gifts to the Fund**

Creator and any other person or organization may at any time add additional assets to the Fund, provided such assets are acceptable to the Foundation. Any additional gift of assets shall be subject to all of the terms and conditions herein.

#### **V. Termination**

The agreement herein shall terminate on November 1, 2013 regardless of production completion of the documentary. The parties may mutually agree to extend the date of termination. Agreement to extend the expiration date of the Agreement herein shall be done in writing.

On November 1, 2013, if the Creator's fundraising efforts have not been met and the production of the documentary is not completed, all assets in the Fund, less any fee owed to CFL pursuant to paragraph H above, shall be granted to KET. If assets in the Fund, on September 1, 2013 exceed documentary production costs and fees, all remaining assets (after payment of all costs and fees) shall be granted to the Gulf Coast Community Foundation, of Venice, Florida, for the benefit of the Kentucky Military institute Foundation.

#### **VI. Acceptance**

By execution of this Agreement, the Foundation and Creator signify their acceptance of the terms and conditions as set forth herein.

Kentucky Military Institute Alumni Association

Community Foundation of Louisville, Inc.

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L. Roger Cole, Representative

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Susan A. Barry, President and CEO

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William C. Vermillion, Representative

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Kenneth F. Harper, Representative