

CENTAL NEW YORK COMMUNITY FOUNDATION  
NONPROFIT AGENCY ENDOWMENT FUND  
INSTRUMENT OF GIFT

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, in the year 2010, between \_\_\_\_\_, a New York not-for-profit corporation having its principal office in [City and State] (the “Agency”), and the Central New York Community Foundation, (the “Foundation”), a New York not-for-profit corporation having its principal office in the City of Syracuse and State of New York, to create a philanthropic and charitable fund.

1. **Creation of Fund.** The fund hereby created shall be known as the \_\_\_\_\_ Fund (the “Fund”). All money and property transferred to the Fund shall be an irrevocable gift to the Foundation.

2. **Management of Fund.** The Foundation shall hold, manage, invest and reinvest the Fund, shall collect the income and shall make distributions from the Fund exclusively for general charitable uses and purposes, in accordance with the provisions specified in the Articles of Incorporation of the Foundation. The Articles of Incorporation have been adopted by the Board of Directors of the Foundation, and their provisions, as they may be amended from time to time, are hereby incorporated by reference and conclusively assented to and adopted. The phrase “charitable uses and purposes” shall be defined as all of those activities, uses and purposes described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”).

3. **Distributions from the Fund.** The Agency is the beneficiary of the Fund. Distributions from the Fund shall be in accordance with the spending policy established by the Board of Directors of the Foundation. Distributions shall be made at least annually, or more frequently, as the parties may from time to time agree.

4. **Other Distributions.** Distributions in excess of the Foundation’s spending policy may be made to the Agency in any year as determined by the Board of Directors of the Foundation. The Agency may request, at any time, that the Foundation disburse up to one hundred percent (100%) of the Fund to the Agency. Such request, however, is not binding on the foundation and may be accepted or rejected, in whole or in part, by the Foundation in its sole and absolute discretion.

4. [Alternative Quasi 1] **Other Distributions.** In transferring its property to the Fund, the Agency intends to create a permanent endowment. However, distributions in excess of the amount dictated by the application of the Foundation's spending policy may be made to the Agency in any year as determined by the Board of Directors of the Foundation provided one of the following conditions is met: (a) the distribution is for the purpose of enabling the Agency to acquire or renovate a capital asset; or (b) the Agency is faced with unexpected financial needs that are not likely to recur, and the distribution will enable the Agency to meet those needs. The Agency may request that the Foundation disburse up to one hundred percent (100%) of the Fund to the Agency for the purposes described above. Such request, however, is not binding on the Foundation and may be accepted or rejected, in whole or in part, by the Foundation in its sole and absolute discretion.

4. [Alternative Strict Endowment 2] **No Other Distributions.** In transferring its property to the Fund, the Agency intends to create a permanent endowment. No distributions in excess of the amount dictated by the application of the Foundation's spending policy may be made to the Agency in any year.

5. **Fund Investment and Expenses.** The assets of the Fund will be invested collectively with other funds of the Foundation but accounted for separately and in the name of the Fund. The market value of the Fund is not guaranteed by the Foundation and may fluctuate depending upon investment results. The Foundation shall charge fees to the Fund in accordance with the Fee Schedule adopted from time to time by the Foundation's Board of Directors. The Fee Schedule in effect as of the date of this Agreement is attached as Attachment A.

6. **Component Part and Not a Donor Advised Fund.** It is intended that the Fund shall be a component part of the Foundation as defined in Section 1.170A-9(f)(11) of the Income Tax Regulations and that nothing in this Agreement shall affect the status of the Foundation as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation within the meaning of Section 509(a) of the Code. The Fund shall meet the requirements of a single entity designated fund under Section 4966(d)(2)(B)(i) of the Code and shall not be a donor advised fund under Section 4966(d) of the Code. This Agreement shall be interpreted in a manner consistent with the foregoing intention and to conform to the

requirements of the foregoing provisions of the Federal tax laws and any regulations issued thereunder.

7. **Status of Foundation.** All transfers of property under this Agreement are subject to the condition that the Foundation, as of the date of transfer, is classified in good standing by the Internal Revenue Service as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation as defined in Section 509(a) of the Code.

8. **New York Law.** The Fund created by this Agreement shall be administered in and under the laws of the State of New York, and this Agreement and the validity thereof shall be governed by and construed in accordance with the laws of the State of New York.

9. **Variance Power.** The Fund is protected from obsolescence. If, in the sole judgment of the Board of Directors of the Foundation, the purposes for which the Fund was created ever become unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by the Foundation, the Foundation's Board of Directors shall modify any restriction or condition on the use or distribution of the income and principal of the Fund.

IN WITNESS WHEREOF, the Agency and the Foundation have executed this Agreement as of the date first above written.

AGENCY:

By \_\_\_\_\_

CENTRAL NEW YORK COMMUNITY  
FOUNDATION:

By \_\_\_\_\_

Peter A. Dunn  
President and CEO

**APPENDIX A**  
**CENTRAL NEW YORK COMMUNITY FOUNDATION**  
**FEE SCHEDULE**

The Central New York Community Foundation derives revenues to pay for its operations and grants from three sources: donations (outright and transfers from donor-advised funds), investment return, and fees charged to constituent funds. The investment return credited to each fund is reported net of all investment management fees and costs.

**ENDOWMENT FUNDS HELD FOR OTHER AGENCIES:**

.75% on the first \$1,000,000  
.50% on all over \$1,000,000