

Fiscal Sponsorship Agreement

This Fiscal Sponsorship Agreement (this "**Agreement**"), dated as _____, (the "**Effective Date**") is made by and between HIS KEEPSAKE INC., a Maryland nonprofit non-stock corporation, qualified as a charity and exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code ("**HIS KEEPSAKE**") and _____(the "**Program**")'

WHEREAS, HIS KEEPSAKE has determined that sponsoring the Program as more fully described on the attached detailed Scope of Services, will further HIS KEEPSAKE's tax-exempt purpose, its mission, and activities and that providing access to and the benefits of HIS KEEPSAKE's nonprofit status to the Program is consistent with and forwards its mission, principles and work;

WHEREAS, HIS KEEPSAKE's Board of Directors (the "**Board**") has approved the establishment of a restricted fund to receive gifts, grants, contributions, donations, and other support for the Program and to make disbursements to the Program in furtherance of the Program's mission (such gifts, grant, contributions, donations and disbursements and any other income HIS KEEPSAKE receives in connection with the Program, collectively the "**Funds**"); and

WHEREAS, HIS KEEPSAKE desires to act as the fiscal sponsor of the Program by receiving assets and incurring liabilities identified for the purposes of the Program and using them to pursue those purposes, which the Board has determined will further HIS KEEPSAKE's charitable goals.

NOW, THEREFORE, in consideration of the terms and conditions and the mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Term: This agreement will remain in force for a period of three (3) years, commencing on the Effective Date unless earlier terminated in accordance with the terms of Section 13 below (the **Term**,). Upon expiration of the Term, the parties may negotiate an extension or five-year renewal.

(1) **Program. Responsibility** By agreeing to the full benefits of fiscal sponsorship, HIS KEEPSAKE shall provide the Services (as defined in Section Below) and assumes programmatic' legal and financial responsibility for all Program activities'

(2) **Restricted Fund.** Beginning on the Effective Date, HIS KEEPSAKE shall place Funds received by HIS KEEPSAKE for purposes of the Program into a restricted fund to be used for the sole

benefit of the Program's mission as that mission may be defined by the Program from time to time with the approval of HIS KEEPSAKE. Neither party shall spend or otherwise obligate HIS KEEPSAKE to pay for an amount or amounts exceeding the balance in the restricted fund, nor shall either party authorize or permit anyone to do so. HIS KEEPSAKE retains the unilateral right to spend the Funds so as to accomplish the purposes of the Program as nearly as possible within HIS KEEPSAKE's sole judgment, subject to any more specific donor-imposed restrictions on the charitable use of such assets. The parties agree that all money and the fair market value of all property in the restricted fund be reported as the income of HIS KEEPSAKE on HIS KEEPSAKE financial statements and tax returns.

(3) **Fundraising.** The Program may solicit gifts, contributions, and grants to HIS KEEPSAKE earmarked for the activities of the Program. The Program's choice of funding sources to be approached, and the text of the Program's fundraising materials, are subject to HIS KEEPSAKE's prior written approval. HIS KEEPSAKE shall be responsible for the processing and acknowledgment of all Funds received for the program, which shall be reported as the income of HIS KEEPSAKE for both tax purposes and for purposes of HIS KEEPSAKE's financial statements. HIS KEEPSAKE must co-sign all original letters of inquiry.

(4) **Grants.** The Program may solicit grants to be paid to HIS KEEPSAKE that are earmarked for the activities of the Program. The Program shall notify HIS KEEPSAKE of grants it plans to pursue and shall submit to HIS KEEPSAKE a copy of any completed grant application for review and approval by HIS KEEPSAKE prior to submission. The Program acknowledges and agrees that any grant agreements or other contracts shall be executed by HIS KEEPSAKE. As with other fundraising, HIS KEEPSAKE shall be responsible for the processing and acknowledgment of all grant Funds received for the Program, which shall be reported as the income of HIS KEEPSAKE for both tax purposes and for purposes of HIS KEEPSAKE's financial statements.

(5) **Use of Funds.** All Funds received by HIS KEEPSAKE under the terms of this Agreement (less any applicable fees as set forth in Section 10 below), shall be devoted to the purposes of the Program, within the tax-exempt purposes of HIS KEEPSAKE, as understood by and with funding sources.

(6) **Financial Accounting and Reporting.** HIS KEEPSAKE will maintain books and financial records for the Program in accordance with general accepted accounting principles. HIS KEEPSAKE will provide quarterly expenditure reports to the Program, unless an alternate report schedule is specified in writing by the parties. Program shall submit a semi-annual report to HIS KEEPSAKE on program activities.

(7) **Program Activities and Sponsorship Policies.** All community programs, public information work, fundraising events, processing and acknowledgment of cash and noncash revenue items, accounts payable and receivable, negotiation of leases and contracts, disbursement of program funds (including grants), and other activities conducted by the Program shall be the

ultimate responsibility of HIS KEEPSAKE and shall be conducted in the name of HIS KEEPSAKE beginning on the Effective Date. HIS KEEPSAKE shall also provide the following services and other activities (collectively, the "**Services**"), beginning as of the Effective Date:

a. Financial management and approval for all cash and noncash donations, grants, contracts, etc. which includes accounting, audit, tax reporting to the IRS, check writing, banking services, grant management and reporting.

b. Human Resources services (as needed) which includes payroll, benefits administration, employment policies and coverage under HIS KEEPSAKE's Workers Compensation Program for all funded staff positions. For purposes of this Section 8(b), two months' worth of salary for any such staff position must be raised on behalf of Program prior to commencement of coverage under the HIS KEEPSAKE Workers Compensation Program).

c. Contract management and approval for all independent contractors.

d. Advice and support for program capacity-building such as budget development, logic model, etc.

e. Oversight of Program activities by the Board and HIS KEEPSAKE staff.

f. Coverage under HIS KEEPSAKE's general liability insurance policies (determined by need and may require additional costs).

g. Opportunities to share in HIS KEEPSAKE network and peer learning/training activities.

(8) **Personnel.** Unless otherwise agreed, and subject to their consent, all personnel to be compensated for working on the Program shall become at-will employees of HIS KEEPSAKE on the Effective Date and shall be subject to the same personnel policies and benefits as are required by law to apply to all employees of HIS KEEPSAKE. If properly classified, others may work on the Program as independent contractors pursuant to a written service agreement.

(9) **HIS KEEPSAKE Sponsorship Policies.** The parties shall abide by the HIS KEEPSAKE Terms and Policies set forth on Exhibit B attached hereto, which HIS KEEPSAKE may amend from time to time with advance written notice to the Program.

(10) **Remuneration to HIS KEEPSAKE.** HIS KEEPSAKE shall receive (i) an administrative and sponsorship services fee of fifteen percent (15%) of all Funds and any other revenue received by the Program pursuant to the terms of this Agreement; (ii) payment of any direct costs for Program activities; and (iii) an eighteen percent (18%) to twenty-two percent (22%) fee on any government contracts (depending on the level of data processing involved). The aforementioned government contract fee shall be determined by HIS KEEPSAKE in its sole discretion on a contract by contract basis. **The fees are as follows: 18% up to \$100,000, 19%**

up to \$200,000 and 22% anything above \$200,000. The aforementioned fees will be paid to HIS KEEPSAKE at the time the Program receives revenue. In the event the Program does not receive revenue at any time throughout the Term, HIS KEEPSAKE shall charge the Program a \$100.00 fee per every two (2) years.

(11) **Intellectual Property.** HIS KEEPSAKE may obtain access to certain Intellectual Property of Program in connection with this Agreement. The parties hereby acknowledge that Program owns and retains all rights pertaining to its Intellectual Property. HIS KEEPSAKE will not share or disclose Program's Intellectual Property without the express written permission of Program for its use and release. For purposes of this Agreement, "Intellectual Property" means any and all copyrights, information or knowledge, ideas, strategies, models, research, and documents developed, presented, developed, and discussed in connection with this Agreement as it relates to items of information or knowledge, which can be incorporated in tangible objects.

(12) **Termination.** Either party may terminate this Agreement by giving thirty (30) days' written notice to the other party. Notwithstanding the foregoing, HIS KEEPSAKE may terminate this Agreement immediately upon notice to the Program (i) if the Board determines that HIS KEEPSAKE continued fiscal sponsorship of the Program may jeopardize HIS KEEPSAKE's tax-exempt status; (ii) when the Program no longer requires the services of HIS KEEPSAKE; or (iii) for the Program's breach of this Agreement. Upon termination, HIS KEEPSAKE will provide the Program with detailed revenue/expense/budget reports to determine if there are Funds held by HIS KEEPSAKE for the Program or fees owed to HIS KEEPSAKE. Payment to either party of these funds is due within thirty (30) days of the termination date, unless other terms are mutually agreed upon by the parties in writing.

(13) **Successor Sponsor.** If the objectives of the Program can still be accomplished but the Agreement was terminated by either party in accordance with the Termination provision set forth in Section 12 above, the Program may identify another nonprofit corporation that is tax-exempt under Section 501(c3) of the Internal Revenue Code, is not classified as a private foundation under Section 509(a), and that is willing and able to sponsor the Program ("**Successor**"). If a Successor is found, the balance of the Funds held by HIS KEEPSAKE for the Program, together with any other assets held or liabilities incurred by HIS KEEPSAKE in connection with the Program, shall be transferred to the Successor as soon as administratively practicable, subject to the approval of any third parties (including funding sources) that may be required. If the Program has formed a new organization qualified to be a Successor as set forth in this Section 14, such organization shall be eligible to receive all such assets and liabilities so long as such organization is exempt from federal tax under Section 501(c)(3) of the Internal Revenue Code. If no Successor is identified, HIS KEEPSAKE may allocate the Program's Funds, other assets and liabilities in any manner consistent with applicable tax and charitable trust laws and other obligations.

(14) **Communications and Brand Identity.** The Program agrees to (i) maintain the Program's integrity by fulfilling its obligations set forth in the program application, plans, contracts, budgets, foundation grants, and as specified on Exhibit A hereto; (ii) maintain regular contact with HIS KEEPSAKE and respond in a timely manner to requests for information from HIS KEEPSAKE staff; (iii) provide original receipts and all requested documentation to HIS KEEPSAKE for expenditures; (iv) identify Program as "a Program of HIS KEEPSAKE INC." on all promotional and fundraising materials; (v) allow HIS KEEPSAKE to use Program's fundraising materials to fundraise and/or advertise other HIS KEEPSAKE Programs; and (vi) notify HIS KEEPSAKE of any substantive changes in programming, affiliation or administration of the Program. HIS KEEPSAKE agrees to (i) present a report of Program activities to HIS KEEPSAKE's Board of Directors at regular meetings; (ii) provide the Program with opportunities to share in HIS KEEPSAKE's network and peer learning opportunities; (iii) list the Program in HIS KEEPSAKE promotional materials, websites, newsletters, and other forms of communication; and (iv) allow Program to utilize HIS KEEPSAKE's online fundraising tools.

(15) **Lobbying.** Program covenants, acknowledges and agrees that the Funds shall not to be used for lobbying purposes.

(16) **Legal Issues and Indemnification.** If the Program engages in any activity in connection with the Program that requires legal counsel or petitions and generates fees in connection there with (collectively, "Fees"), Program agrees to notify HIS KEEPSAKE immediately. The parties agree that, to the extent possible, the Funds should be used to cover such Fees. Where Funds are not available, HIS KEEPSAKE may cover the Fees on behalf of the Program in its sole discretion. The Program hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless HIS KEEPSAKE, its officers, directors, trustees, employees, and agents, from and against any and all claims, liabilities, losses and expenses (including reasonable attorneys' fees) directly, indirectly, wholly or partially arising from or in connection with any act or omission of the Program, its employees or agents, in applying for or accepting the Funds, in expending or applying the Funds furnished pursuant to this Agreement or in carrying out the Program, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with any act or omission of HIS KEEPSAKE its officers, directors, trustees/ employees or agents.

(17) **Acknowledgment.** The Program acknowledges and agrees that HIS KEEPSAKE will devote such time to management of the Program Funds and to general supervision of the Program as it sees fit and in its sole discretion.

(18) **Notice.** Notices provided hereunder shall be given in writing by personal delivery, by mail, registered or certified, postage prepaid and return receipt requested, or by electronic communication. Notices delivered personally shall be deemed communicated upon actual receipt; mailed notices shall be deemed communicated three (3) days after the post-marked

date of mailing to the below addresses; notices delivered by electronic communication shall be deemed communicated on the date sent.

(19) **Governing Law; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed entirely in such state, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws. If any provision of this Agreement or the application thereof is held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and that provision shall be enforced to the greatest extent permitted by law.

(20) **Entire Agreement.** This Agreement and the exhibits and schedules attached hereto constitutes the only agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement may not be modified, except in writing signed by the parties.

IN WITNESS WHEREOF the parties have executed this Fiscal Sponsorship Agreement as of the date first written above.

BY: _____

Date: _____

Printed Name and Title _____

Program or Advisory Committee Representative: _____

Printed Name and Title : _____