

## ESTABLISHING A PERMANENT ENDOWMENT FUND AND ITS GOVERNING BODY

### DESIGNATION OF FUND

This Fund shall be known as the **Boulder Spirit Foundation Endowment Fund**, hereafter referred to in this document as “the Fund.”

The Fund and its administration will conform to all applicable Montana laws and regulations, and any applicable Federal laws and regulations including the provisions of the Internal Revenue Code.

### PURPOSE OF FUND

The Fund is established and shall be operated exclusively “To invest in innovative approaches to disciple-making among youth, young adults, and their families.”.

The Fund is established to provide members and friends the opportunity to make charitable gifts to the Boulder Spirit Foundation. The fund will become a permanent endowment for financial support and a living memorial.

### ADMINISTRATION OF THE FUND

No part of the Fund (neither principal nor income) shall be used to the benefit of any member of the Boulder Spirit Foundation Board of Directors, except to pay reasonable compensation for any professional services rendered.

Notwithstanding any other provision hereof, this Fund shall be used to conduct or carry on only those activities permitted to be conducted or carried on by an organization which is tax exempt or by an organization, donations to which are deductible from taxable income, pursuant to the provisions of the Internal Revenue Code and other applicable legislation and regulations as they exist or may hereafter be amended.

The Fund shall be administered by the Boulder Spirit Foundation Board of Directors.

### THE BOULDER SPIRIT FOUNDATION BOARD OF DIRECTORS

The Boulder Spirit Foundation Board of Directors shall be appointed and approved using the Boulder Spirit Foundation bylaws and governing documents.

The Board, at its first meeting of the calendar year, shall appoint (or reappoint) a Fund Administrator acting on behalf of the Board who is responsible for handling the day to day activities associated with the Fund. The Fund Administrator shall have the responsibility of Funds, i.e. correspondence, acknowledgments, receipts, deposits, disbursements, etc.. The Fund Administrator and Foundation Treasurer shall be the administrators on all Endowment accounts.

The Board shall ensure that the annual audit or review is performed.

The Board shall act by a vote of the majority of the Board members authorized herein to vote, excepting amendments to this agreement as described under the Section “Amendment of Agreement.”

The term “majority” as used in this agreement is constituted by at least fifty percent plus one of the Board members present and voting at a duly called meeting. Any instrument required to be executed by this agreement (except amendments to this agreement described under the Section “Amendment of Permanent Endowment Fund Agreement”) shall be valid if executed in the name of the Fund by a majority of the Board. All actions of the Board shall be taken by resolution at a published meeting. The vote shall be recorded when the vote is not unanimous. A copy of any resolution or action taken by the Board, certified by any one of the Board members, may be relied upon by any person or entity dealing with this Permanent Endowment Fund Agreement.

## **INVESTMENT OF PERMANENT ENDOWMENT FUNDS**

The Fund’s investment objectives are:

1. Conservation of principal for the effective maintenance of purchasing power.
2. Regular income at a reasonable rate.
3. Investment of assets in institutions, companies, corporations, or funds approved by the Permanent Endowment and Boulder Spirit Foundation Board of Directors.

An appropriate investment strategy for all the Fund’s assets will be determined by the Board and primary custodian. The specific purpose of each fund authorized by the Board shall be stated in order to fulfill the wishes of the donor and thereby to segregate and maintain gifts for their stated purposes. Earnings from each fund shall be available for distribution by the Board in a manner consistent with the designated category.

## **CHANGES IN PRIMARY CUSTODIAN**

Any transfer of the Fund’s assets from the primary custodian or Trustee to any other agency must be approved by a majority vote of the Board.

## **LIMITATIONS ON USE OF PRINCIPAL**

The objectives of the Fund are to conserve principal corpus and make use of only the income from the Fund unless the donor specifically designates the use of principal in the Gift Agreement. Only in extreme and overwhelming circumstances bordering on the survival of the Foundation itself may principal be withdrawn; and, then, only if use of the principal to be withdrawn has not been restricted by the donor(s). Because funding ministry is the primary objective of this fund, the normal annual distribution of income prescribed elsewhere in this document is not affected by limitations on the use of principal.

Principal corpus is conserved when the spending power of the original gift is maintained. Principal shall be defined as the greater of the total dollar value of deposits and gifts, excluding realized and unrealized investment gains, and adjusted for inflation using an average inflation rate of 2.11%.

Any withdrawal of principal (as long as it does not violate the donor's intentions as described in the gift agreement) must be approved by a three fourths (3/4) vote of the members present and voting at duly called meetings of both the Boulder Spirit Foundation Board of directors.

## **DISTRIBUTABLE INCOME**

Distributable income can be described as follows:

- A. An amount determined each year by applying a percentage against a rolling three-year average of the fair market value of the fund as determined on the first business day of each calendar year. The percentage shall be 5%.
- B. In years in which there is excessive growth in the fund, the Board reserves the right to make additional distributions of income and capital gain beyond the 5% ceiling by a 2/3 approval vote of its members.
- C. Any spending that exceeds to total return of a 3-year rolling average, less 3% is considered to be invading principal.
- D. The Board may choose to accumulate unspent allowable earnings, as described in paragraph B, and spend those earnings for larger projects in subsequent years.
- E. Distributions shall begin and continue when the actual fund value reaches and maintains a minimum of \$400,000.00.
- F. The annual distribution of funds will be 15 days after the start of each calendar year.

## **GIFTS TO THE PERMANENT ENDOWMENT FUND**

A Gifts Acceptance Policy document is included as part of this Agreement.

The Board shall have sole authority to accept or reject any and all gifts to the Fund in keeping with the authority granted by bylaws and governing documents of the Boulder Spirit Foundation.

All gifts made to the Fund shall be accepted subject to the terms and limitations set forth in this document.

## **POWERS OF THE PERMANENT ENDOWMENT AND PLANNED GIVING MINISTRY COMMITTEE**

In the administration of the Fund, the Board shall have the necessary authority to carry out the purpose of the Fund. No power or authority shall be exercised by the Board in any manner or for any purposes whatsoever which may not be exercised by an organization which is tax exempt or by an organization's donations to which are deductible from a donor's taxable income to the extent allowed by the provisions of the Internal Revenue Code and other applicable legislation and regulations as they now exist or may hereafter be amended. The acquisition, ownership, sale or transfer of any real or personal property must be consistent with Boulder Spirit Foundation bylaws and governing documents.

The Board shall have the powers and duties:

- A. To receive and administer all trusts; to invest all trust funds of the Boulder Spirit Foundation in conformity with laws of the country, state, or like political unit in which the Foundation is located.
- B. To distribute funds as determined appropriate by this document and the bylaws of the Boulder Spirit Foundation.
- C. To collect, receive, and receipt for the income, profits, rents, and proceeds of the Fund.
- D. To purchase, subscribe for, retain, invest, and reinvest in securities or other property, wherever situated, and whether or not productive or of a wasting nature and without any requirement for diversification as to kind or amount. The intent is that the Fund's investments shall be made independently by the Board or their contracted manager. These may include investments in bonds, notes, or other securities of TBD. The terms "securities or other properties" as used in this document shall be deemed to include real or personal property, corporate shares, common or preferred stock, or any other interest in any corporation, association, investment trust, or investment company, bonds, notes, mortgages, debentures or other evidences of indebtedness or ownership, secured or unsecured.
- E. To sell for cash or credit, convert, redeem, exchange for other securities or other property, or otherwise dispose of any securities or other property at any time held by the Board.
- F. To hold part or all of the Fund uninvested; however, such uninvested Fund shall be deposited in an account with the TBD, Inc., or a federally insured commercial bank, savings bank, savings and loan association, or broker that is a member SIPC pursuant to specific authority of the Board.
- G. To employ suitable accountants, agents, legal counsel, and custodians, and to pay their reasonable expenses and compensations. Each separate Fund shall bear its pro rata share of such reasonable expenses.
- H. Any other provisions of this agreement notwithstanding, the Board shall not engage in any act of self dealing as defined in the Internal Revenue Code; nor retain any excess business holdings as defined in the Internal Revenue Code; nor make any investments in such manner as to incur tax liability under the Internal Revenue Code; nor make any taxable expenditures as defined in the Internal Revenue Code or corresponding provisions of any subsequent Federal tax law.

M. The Board shall determine all matters regarding management of the Fund, expenditures, and investment by a majority vote present at a duly called meeting (except amendments discussed under "Amendment of Agreement").

## **BOND AND COMPENSATION**

No Board member shall be required to furnish any bond or surety. Each Board member shall serve without compensation for their services hereunder, but all expenses of these Funds or of any Board member acting hereunder shall be paid by the Fund. Accounting, receipts, deposits, and disbursements for all Permanent Endowment Funds shall be handled by the bonded designee(s) of the Board as assigned.

## **ACCOUNTING BY PERMANENT ENDOWMENT AND PLANNED GIVING MINISTRY COMMITTEE**

The Board shall render a statement of their transactions regarding the Boulder Spirit Foundation Endowment Fund. At no time shall the amount of individual gifts nor the identity of donors to the Fund be published unless written permission to do so is obtained. The Board or any donor to the Funds may file an objection to the accounting in writing within sixty (60) days of the date of the accounting. In the absence of such objection, the Board shall be released, relieved, and discharged with respect to all matters and things set forth in such accounting as though such accounting had been settled by judicial decree of a court of competent jurisdiction.

## **LIABILITY OF THE PERMANENT ENDOWMENT AND PLANNED GIVING MINISTRY COMMITTEE**

No Board Member (hereafter referred to as "Member") shall be responsible for loss in investments made in good faith. No Member shall be liable for the acts or omissions of any other Member, or of any accountant, agent, legal counsel or custodian selected with reasonable care. Each Member shall be fully protected in acting upon any instrument, certificate, or paper believed by him to be genuine and to be signed or presented by the proper person or persons. No Member shall be under any duty to make any investigation or inquiry as to any statement obtained in such writing but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

## **AMENDMENT OF PERMANENT ENDOWMENT FUND AGREEMENT**

This agreement may be amended or modified from time to time only after recommendation by a two-thirds (2/3) vote of the Board members present at a duly called meeting. No amendment or modification shall (1) alter the intention that the Fund be operated exclusively, "to invest in innovative approaches to disciple-making among youth, young adults, and their families."; (2) alter or eliminate the stated fund purposes found under purpose of the Fund herein, or (3) alter the intent of any donor to the Fund. Every amendment or modification of this agreement shall be in writing and signed by the Board who voted to approve same.

## **SEVERABILITY**

If any provisions or application of any provisions of this Fund shall be held or deemed to be illegal, inoperative, or unenforceable, the same shall not affect any other provisions or any applications of any provisions herein contained or render the same invalid, inoperative, or unenforceable.

This Boulder Spirit Foundation Endowment Fund Agreement was adopted the \_\_\_\_ day of \_\_\_\_\_, (\_\_\_\_), in a duly authorized Boulder Spirit Foundation Board Meeting in Billings, Montana by a vote of \_\_\_\_ for, \_\_\_\_ against, and \_\_\_\_ abstained.

\_\_\_\_\_  
**(Name of Recording Secretary)**, Recording Secretary

\_\_\_\_\_  
**(Name of Board President)**, Board President