

## **CHARITABLE CONTRIBUTION AGREEMENT**

Capital One Services, LLC (“Capital One,” “we,” “us” or “our” as the context requires) is pleased to provide a financial contribution to you (“Company,” “you” or “your” as the context requires) under the terms and conditions of this Charitable Contribution Agreement (the “Agreement”), commencing as of the date this Agreement is fully executed. Capital One and Company are each referred to as a “Party,” and collectively referred to as the “Parties.”

Upon your execution of this Agreement, we will review your application and your initial contribution, grant or sponsorship proposal (the “Initial Contribution Proposal”). If your application and initial Contribution Proposal or Contribution Proposal (defined below), as applicable, is approved, we will send you a check(s) for the approved amount of your contribution, grant or sponsorship (the “Contribution”), in accordance with and subject to the terms hereof. Capital One reserves the right, in its sole discretion, to disburse the Contribution in single or multiple payments, with payment of any amount contingent on the Company timely submitting required reporting, remaining in good standing with the Internal Revenue Service and otherwise meeting the requirements of this Agreement.

The Contribution shall be used for support of your program as described in the Contribution Proposal (the “Program”), if applicable, or as otherwise set forth in this Agreement.

You may be requested to submit one or more updates or revisions to the Initial Contribution Proposal and the final version of that proposal that is accepted by Capital One shall be deemed the “Contribution Proposal.” The Contribution Proposal shall be incorporated herein by reference.

In addition to the foregoing, by executing this Agreement, the Company hereby agrees to the following:

1. Capital One is under no obligation or requirement to approve your application or your Initial Contribution Proposal, or any updates or revisions thereto, provide any requested contributions, grants or sponsorships thereunder, or provide the amount(s) requested thereunder, in whole or in part. The provision by Capital One to you of any such contributions, grants or sponsorships and the amount of such contributions, grants or sponsorships, if any, shall be at Capital One’s sole discretion. Capital One reserves the right to disburse the Contribution in single or multiple payments, with payment of any amount contingent on the Company timely submitting required reporting, remaining in good standing with the Internal Revenue Service and otherwise meeting the requirements of this Agreement.

2. The Contribution shall be used only by you and only to develop and support the Program, if applicable, or as otherwise required in accordance with the terms of this Agreement.

3. In the event that Capital One elects to extend any additional funding to the Company, apart from or in addition to the Contribution identified in the Agreement, the Contribution shall be aggregated with such additional funding (under this Program or another), if any, and the Company's recognition (and recognition level) of Capital One's financial support) and any corresponding benefits associated with such recognition or recognition levels shall be determined based on the total of such collective funding. Any additional or future financial support provided to you from Capital One, if any, shall be memorialized in a separate written agreement executed by the Parties.

4. The Company agrees to use Capital One's name and/or logo only with Capital One's prior review and written approval (and without subsequent revision, absent Capital One's further review and written approval), all in accordance with Section 5 of the attached Terms and Conditions.

5. The Company agrees to comply with the Terms and Conditions attached hereto which are incorporated herein by reference.

6. Upon Capital One's request, the Company shall promptly provide any or all of the following documentation to Capital One:

- A brief description of the Company's organizational history and mission;
- Demographics of the population served or intended to be served by the Program (if applicable);
- Detailed operating budget for management and operation of the Program (if applicable);
- A copy of the Company's audited financial statements for the calendar year prior to the year in which the Initial Contribution Proposal is submitted;
- A copy of the Company's audited financial statements for the current calendar year, if available; if audited financial statements for the current calendar year are not yet available, Company will provide unaudited financial statement for that year; once audited financial statements are available for the current calendar year, they shall all be provided;
- A current list of the Company's board of directors showing each director's title, professional affiliations and terms of office;
- A signed copy of the Company's most recent federal tax filing (e.g, Form 990, etc.);
- A copy of the Company's most recent annual operating budget; and
- A copy of the Company's determination letter from the Internal Revenue Service (the "Service") or other documentation that substantiates the organization's eligibility to receive the charitable contribution described in Section 170 of the Internal Revenue Code of 1986, as amended (the "Code").

Except as otherwise specifically provided herein, each Party shall bear its own legal, accounting and other costs, including taxes, if any, in connection with this Agreement, the Contribution and the transactions contemplated herein.

If you have any related questions, please contact Capital One's Community Affairs group at any time ([communityaffairs@capitalone.com](mailto:communityaffairs@capitalone.com)).

**By selecting "I accept" in the following question, you hereby acknowledge and accept this Agreement, including the attached Terms and Conditions, which shall become a binding obligation on the Company as of the Effective Date. You further represent and warrant that you have the authority to sign this Agreement on behalf of the Company.**

**ACKNOWLEDGED AND AGREED**

Following application question

## **TERMS AND CONDITIONS**

### **1. USE OF CONTRIBUTION**

Contributions must be expended only for charitable, scientific, literary or educational purposes approved by Capital One. Company hereby covenants that it shall use the Contribution only to support the Program, if applicable, and only for charitable, scientific, literary or educational purposes.

### **2. CONTRIBUTION FUNDING**

Capital One agrees to provide Company with the Contribution, as identified and defined elsewhere in the Agreement, in a single one-time payment or in multiple payments, at Capital One's sole discretion, to be delivered following the Effective Date; payment of the Contribution is contingent on the Company timely submitting required reporting, remaining in good standing with the Service and otherwise meeting the requirements of this Agreement. Upon receipt of such Contribution, Company shall promptly provide to Capital One an acknowledgement of the receipt of such Contribution that: (a) satisfied the substantiation requirements for charitable contributions included in the Code; and (b) is in a form acceptable to Capital One, in its sole discretion. In addition, if requested in writing by Capital One (including via e-mail), Company shall provide to Capital One or more progress reports at various intervals (the number and timing of delivery of such progress reports to be determined at Capital One's sole discretion), detailing how the Contribution is being used to support the Program, as applicable, or other purposes outlined in the Contribution Proposal. Capital One reserves the right to require additional detailed reporting from Company at the same or other intervals or otherwise, as a condition precedent to any Contribution disbursement.

### **3. REPRESENTATIONS AND WARRANTIES**

Company hereby represents, warrants and covenants to Capital One as of the Effective Date as follows: (i) Company is in financial good standing and capable of meeting its monthly operational budget requirements without reliance upon the Contribution, except in respect of delivering the Program services specified in this Agreement; (ii) Company shall perform its obligations under this Agreement (including performance of the Program services) in an efficient manner that does not misuse, misdirect or constitute misappropriation of its operating or investment funds, including the Contribution; (iii) Company shall perform the Program services in a cost-effective manner consistent with industry standards; (iv) there is no proceeding or investigation, pending or threatened, that alleges that any of the Program services or Company's manner of performing the Program services, constitute a misappropriation of any of its operating or investment funds, including the Contribution; (v) there is no proceeding or investigation, pending or threatened, that alleges that any of the Program services or Company's manner of performing the Program services constitute a misappropriation of any of its operating or investment funds, including the Contribution; (vi) Company employs effective physical security policies and procedures, including financial system access control measures to

ensure employee, contractor, temporary staff and volunteer accountability and appropriateness for use of its operating and investment funds including the Contribution, and (vii) Company employs appropriate policies and procedures to ensure all employees, contractors, temporary staff and volunteers managing the operating or investment funds, including the Contribution, have been subject to appropriate background checks.

#### **4. ORGANIZATION AND NON-PROFIT STATUS**

Company hereby represents, warrants and covenants that it: (i) is and will remain in good standing with the Service, and an organization or enterprise eligible to receive the charitable contributions described in Section 170 of the Code; (ii) is duly organized, existing and in good standing, and is duly qualified to do business and is in good standing in all states where the nature of Company's business or property requires it to be qualified to do business; and (iii) has the power, authority and legal right to own its property and carry on the business now being conducted by it and to engage in the Program contemplated by this Agreement. The Agreement has been duly executed and delivered by authorized representatives of the Company, and the execution and delivery of, and the carrying out of the transactions contemplated by this Agreement, and the performance and observance of the terms and conditions thereof, have been duly authorized by all necessary organizational action by and on behalf of Company. This Agreement constitutes the valid and legally binding obligations of Company and is fully enforceable against Company in accordance with its terms, except to the extent that such enforceability may be limited by laws generally affecting the enforcement of creditors' rights.

Company further represents and warrants that, as a tax-exempt organization eligible to receive charitable contributions in accordance with Section 170 of the Code, it has been duly formed and organized as, for example, a tax-exempt organization described in Section 501(c) of the Code or as a public school or branch of local, city, state or federal government and agrees that it will not perform any act or enter into any agreement that will adversely affects its tax-exempt status. In particular:

(a) As evidenced by the Company's articles of incorporation or comparable documents, Company is organized and operated exclusively as one of the entities or organizations described in Section 170(c) of the Code.

(b) As applicable, the Service has determined that Company is an organization described in Section 170(c) of the Code, and has provided Company a determination letter to that effect (the "Determination Letter"). Company has not received any indication or notice, written or verbal, from representatives of the Service to the effect that its status under Section 170(c) of the Code has been or will be modified, limited, revoked or superseded, or that the Service is considering modifying, limiting, revoking or superseding such exemption, and the exemption of Company is still in full force and effect as of the Effective Date hereof. Company is in compliance with the terms, conditions, and limitations of the Determination Letter. There has been no change in the purposes, character, activities and methods of operation of Company of a nature or to a

degree as would warrant any action by the Service to modify, limit, revoke or supersede the Determination Letter. In the case of a State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, the Company agrees to use the Contribution for exclusively public purposes, within the meaning of Section 170(c)(1) of the Code. Company shall immediately notify Capital One if the representations set forth in this Section 4(b) are no longer true or have otherwise been breached.

(c) No administrative or judicial proceedings or investigations are pending or threatened which in any way may adversely affect the classification of Company as an organization described in Section 170(c) of the Code.

(d) Company has not taken any action, and knows of no action that any other person has taken, which would cause Company to lose its status as an organization described in Section 170(c) of the Code.

(e) Company has not diverted a substantial part of the corpus of its assets or income for a purpose or purposes other than such purpose or purposes for which it is organized and operated as described above.

(f) No shareholder, officer, key employee or organizer or Company or member of their immediate families or any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary has acquired or received, directly or indirectly, any income or assets of Company in the form of salary, rent, loans or otherwise, since the date of formation of Company, other than (A) amounts included in the total amounts reported or included in the amounts to be reported, as the case may be, on Internal Revenue Service Form 990 or Form 990 PF for the appropriate fiscal year of Company or (B) amounts that, if not so reported or included, would not be of a nature or degree that would warrant any action by the Service to modify, limit, revoke or supersede the Determination Letter.

(g) No substantial part of the activities of Company consists of providing “commercial-type insurance,” within the meaning of Section 501(m) of the Code.

(h) Company is not a “private foundation,” as defined in Section 509 of the Code.

In the event that the Company does not meet all of the foregoing requirements, Capital One, in its sole discretion, may terminate this Agreement and not pay any Contribution, in whole or in part, to Company.

## **5. BRANDING OF PROGRAM AND USE OF CAPITAL ONE NAME AND LOGO**

Company must receive prior written approval (including e-mail approval) from Capital One for any proposed use of the Marks (defined below) of Capital One (“Capital One Marks”). All use of the Marks of the Company (“Company Marks”) by Capital One must

first be approved in writing (including e-mail approval) by Company. For purposes of this Agreement, “Mark” shall mean, as to a Party, such Party’s trademarks, trade names, logos, service marks, trade styles, trade dress, domain names and other proprietary identifying marks, whether or not registered or otherwise legally determined to be owned by such Party.

Each Party acknowledges the other Party’s (and its affiliate’s) proprietary interest in such other Party’s (and such affiliate’s) Marks. Subject to the terms and conditions hereof, during the Program, each Party (the “Licensor”) hereby grants to the other Party (the “Licensee”) a limited, royalty-free, non-exclusive and revocable license to use the Licensor’s Marks solely as is necessary to perform the Licensee’s obligations under this Agreement. Each Party recognizes and acknowledges that it acquires no right, title or interest in or to any of the Marks of the Licensor, as applicable, by virtue of this Agreement, or any use of such Marks, and hereby waives any right to or interest in such Marks, other than the specific limited rights granted hereunder.

The Licensor shall have the right to require that the Licensee’s use of its Marks be done in accordance with graphic standards and similar criteria provided by the Licensor. The Licensor shall have the right, upon reasonable notice and at all reasonable time during business hours, to inspect the Licensee’s use of Licensor’s Marks, and representative samples of the products, services and/or promotional materials Licensee offers and distributes in connection with the Licensor’s Marks. In the event that the Licensor reasonably believes that the Licensee’s use of the Licensor’s Marks or the Licensee’s manner of conducting its operations risks a disparagement or other loss of protection in the Licensor’s Marks, the Licensor shall provide notice to the Licensee of such deficient use and a method of cure. The Licensee shall use commercially reasonable efforts to cure the deficiency as expeditiously as possible.

## **6. PUBLIC ANNOUNCEMENTS/MEDIA RELATIONS**

Company agrees to refrain from making any public announcement regarding this Agreement and/or Capital One’s support hereunder without the prior review and written approval (including email approval) of Capital One. Company also agrees to participate in joint public announcement activities with Capital One from time to time, after the Effective Date. After the Effective Date, if Company wishes to issue any communications regarding this Agreement or the Contribution, the details of such communication must be identified and submitted to Capital One (including such representatives, as Capital One may direct) in writing (including e-mail) for its review and written approval (including email approval), prior to any release or dissemination. Capital One may also refer to this Agreement, the Contribution and Capital One’s support of the Program in Capital One communications, press releases and/or other public relations activities. Capital One reserves the right to require Company to submit within thirty (30) days of Capital One’s request a proposed communication plan relating to the Program and/or Contribution.

## **7. EXPERIENCE AND COMPLETION OF SERVICES**

Company represents, warrants and covenants to Capital One that:

- (a) it has the experience and ability to provide the Program as identified in this Agreement;
- (b) all Program and related and other services will be performed in a workmanlike and professional manner;
- (c) it has the right to enter into and fully perform this Agreement, and no service, equipment, materials or reports furnished hereunder will, in any way, infringe upon or violate any applicable law, rule or regulation, any contract with any third part, or any rights of any third person, including without limitation, rights of patent, trade secret, trademark or copyright;
- (d) all paid individuals it provides to support the Program and otherwise perform services in connection with this Agreement;
  - (i) are legally authorized to reside in the United States and perform the type of work for which they are provided hereunder;
  - (ii) have a valid Social Security number; and
  - (iii) are employees or contractors of Company for whom Company issues W-2s and makes all tax payments and tax withholdings.

## **8. INDEMNITY**

Unless due solely to the gross negligence or willful misconduct of Capital One, Company shall defend, indemnify and hold harmless Capital One, its subsidiaries and affiliates from all losses, including reasonable attorneys' fees and court costs incurred by, or claims made against Capital One, its officers, directors, employees, advisors, agents, subsidiaries or affiliates as a result of, arising from, relating to or in connection with Company's performance or non-performance under this Agreement, the negligence or willful misconduct of Company's officers, directors, employees, contractors, subcontractors, advisors or agents and/or Company's breach of its obligations hereunder. This indemnity shall not limit any other obligation of Company to Capital One.

## **9. VENUE, GOVERNING LAW AND WAIVER OF JURY TRIAL**

Company and Capital One each irrevocably submits to the exclusive jurisdiction of any state or federal court sitting in the City of Richmond in the Commonwealth of Virginia over any suit, action or proceeding arising out of or relating to this Agreement. Company and Capital One each irrevocably waive, to the fullest extent permitted by law, any obligation that either Party may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in any inconvenient forum.

## **10. COMPLIANCE WITH APPLICABLE LAW**

Each Party will comply with all applicable laws, rules and regulations in performing their respective obligations under this Agreement.

## **11. NO ASSIGNMENT BY COMPANY**

Neither Party shall assign or transfer this Agreement without the prior written consent of the other Party; however, Capital One may assign this Agreement to its affiliates or any person or entity pursuant to a merger, consolidation, sale of all or substantially all of the assets of Capital One or its parent, Capital One Financial Corporation or similar transaction with results in a change of control of Capital One or Capital One Financial Corporation. Except as provided above, any transfer or assignment by a Party without the prior written consent of the other Party shall be void and of no effect. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the successors and assigns of the Parties hereto.

## **12. NO PARTNERSHIP**

Nothing contained in this Agreement shall be construed in a manner to create any relationship between Company and Capital One other than the relationship of grantor and grantee. Company and Capital One shall not be considered partners or co-venturers for any purpose on account of this Agreement.

## **13. AFFIRMATION**

The advance of the Contribution and the receipt of such Contribution constitute Company's affirmation that: (a) the foregoing representations and warranties of Company are true and correct as of the date of the advance and, unless Capital One is notified in writing to the contrary prior to the disbursement of the advance requested, will be so on the date of the disbursement and; (b) the Program is being developed, proceeding and is otherwise operating in accordance with this Agreement.

## **14. TERM AND TERMINATION**

The term of this Agreement shall be as set forth in the Contribution Proposal, unless sooner terminated in accordance with the terms herein. Capital One may terminate this Agreement at its convenience upon written notice. Capital One may immediately terminate this Agreement in the event that Company materially breaches any of the provisions of this Agreement. In such event, no Contribution will be paid to Company.

## **15. ENTIRE AGREEMENT, AMENDMENT, WAIVER AND VALIDITY**

This Agreement is the complete understanding of the Parties in respect of the subject matter of this Agreement and supersedes all prior agreements relating to the same subject matter. The Parties may modify this Agreement by mutually signed written agreement.

Failure by either Party to enforce a provision of this Agreement shall not constitute a waiver of that or any other provision of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

## **16. CONFIDENTIALITY**

The Parties shall acknowledge and agree that they may receive confidential information of the other Party, including without limitation, information about or concerning the other Party's: (i) financial condition; (ii) business ventures and strategic plans; (iii) marketing strategies and operational methods and strategies; and (iv) other information that may reasonably be deemed confidential, proprietary or a trade secret. Confidential Information does not include information that: (x) has become part of the public domain, through no act or omission of the Party receiving the Confidential Information ("Receiving Party"); (y) was developed independently by the Receiving Party without reference to the Confidential Information; or (z) is or was lawfully and independently provided to Receiving Party prior to disclosure hereunder, from a third party who, to the knowledge of the Receiving Party, was not subject to an obligation of confidentiality or otherwise prohibited from transmitting such information.

The Receiving Party agrees that it, its affiliates and Advisors (defined below) will not disclose the Confidential Information of the other Party, will protect such information using customary and reasonable safeguards and will use the Confidential Information exclusively for the purpose of the Program and for no other purpose. The Receiving Party may disclose Confidential Information to its affiliates, directors, officers, employees and agents and advisors ("Advisors") solely to the extent necessary to exercise its rights or fulfill its obligations under this Agreement and/or the Program, but shall remain liable for confidentiality breaches of its Advisors. The Receiving Party acknowledges that the Confidential Information is considered proprietary and of competitive value, and in many cases, trade secrets. Accordingly, the Receiving Party agrees that the Party providing the Confidential Information shall be entitled without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance, as a remedy for any breach of the confidentiality obligations hereunder.