

**DECLARATION OF IRREVOCABLE ENDOWMENT FUND  
OF THE BLOOMER AREA AQUATIC AND RECREATION CENTER, INC.**

This Agreement is hereby established between the Bloomer Area Aquatic and Recreation Center, Inc. (the Center) and the Finance Committee for the Board of Directors of the Center (the Committee). The Committee hereby declares and agrees that it will hold and manage all property received and any additions to it, in an endowment fund (the Endowment Fund), as follows:

**I. NAME OF ENDOWMENT FUND**

The Endowment Fund shall be known as the "BLOOMER AREA AQUATIC AND RECREATION CENTER ENDOWMENT FUND."

**II. PURPOSE OF ENDOWMENT FUND**

**A. General.** The purpose of the Endowment Fund is to provide a source of funding for the Bloomer Area Aquatic and Recreation Center, Inc. to carry out its purposes to the extent that such purposes constitute charitable or educational purposes within the meaning of these terms as used in Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future tax laws of the United States), but only as they also constitute charitable purposes under the laws of the State of Wisconsin. The Endowment Fund shall operate in perpetuity.

**B. Specific Restrictions.** Only the income earned from the invested principal of the Endowment fund will be disbursed, except that the Board of Directors of the Bloomer Area Aquatic and Recreation Center may, upon recommendation by the Committee, decide when and if any Endowment Fund principal shall be used. Such a decision shall require a vote of three-quarters (3/4) of the Board of Directors of the Bloomer Area Aquatic and Recreation Center.

**III. PROPERTY OF THE ENDOWMENT FUND**

**A. Payments/Distributions.** Reference in this Agreement to the Endowment Fund shall be deemed a reference to either principal or income of the Endowment Fund. All property received and accepted by the Committee shall be administered under this Agreement and shall be held in the Endowment Fund. The Committee shall make payments or distributions from the Endowment Fund only for operating the Center, as a "charitable organization," within the meaning of that term as defined in Paragraph C below. No payments from the Endowment Fund shall inure or be payable to or for the benefit of any private shareholder or individual, and no substantial part of the activities of the Endowment Fund shall be for the carrying on of propaganda or otherwise attempting to influence legislation. No part of the activities of the Endowment

Fund shall be for the participation in or intervention in (including the publishing or distributing of statements) of any political campaign on behalf of any candidate for public office.

**B. Indefinite Life.** The Endowment Fund shall continue forever unless all of the Endowment Fund has been distributed or depleted or when the Committee in its sole discretion determine that it is not economically prudent to administer the Endowment Fund. On such termination, the Endowment Fund as then constituted shall be distributed pursuant to Article VIII below.

**C. Charitable Organization Defined.** In this Agreement and in any amendments to it, references to "charitable organizations" or "charitable organization" mean corporations, trusts, funds, foundations or community chests created or organized in the United States or in any of its possessions, whether under the laws of the United States, any state or territory, the District of Columbia or any possession of the United States organized and operated exclusively for charitable purposes, no part of the net earnings of which inures or is payable to or for the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which do not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office. It is intended that the organization described in this Paragraph C is entitled to exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as now in force or afterwards amended.

**D. Charitable Purpose Defined.** In this Agreement and in any amendments to it, the term "charitable purposes" shall be limited to and shall include only religious, charitable, scientific, literary, or educational purposes within the meaning of those terms as used in Section 501(c)(3) of the Internal Revenue Code of 1986 but only such purposes as also constitute public charitable purposes under the laws of the State of Wisconsin.

**E. Not A Separate Trust.** All money and property in the Endowment Fund shall be held as general assets of the Center. The receipts and disbursements of the Endowment Fund shall, however, be accounted for separately and apart from other gifts to the Center.

#### **IV. PROPERTY RECEIVED**

**A. Initial Contribution.** The Center hereby contributes to the Endowment Fund the property described in Exhibit A, attached hereto and incorporated herein by reference.

**B. Subsequent Contributions.** The Committee may receive and accept cash or cash equivalents by way of gift, bequest, or devise, from any person, firm, trust, or

corporation, to be held, administered, and disposed of in accordance with and pursuant to the provisions of this Agreement; but no gift, bequest or devise of any such property shall be received and accepted if it is conditioned or limited in such manner as to require the disposition of the income or its principal to any person or organization other than a "charitable organization" or for other than "charitable purposes" within the meaning of such terms as defined in Article Third of this Agreement, or as shall, in the opinion of the Committee, jeopardizes the Federal income tax exemption of the Center pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as now in force or afterwards amended.

## V. APPOINTMENT OF COMMITTEE MEMBERS

**A. Committee Member Defined.** Reference in this Agreement to the term "Committee Member" shall be deemed a reference to the individual or institution serving as a Committee Member, whether acting as a single member or original, alternate, or successor Committee Member. The number of Committee Members shall be at all times not less than three, and whenever for any reason the number is reduced to less than three, there shall be, and at any other time there may be, appointed one or more additional Committee Members. Any Committee Member under this Agreement may resign, by submitting a written instrument, signed and acknowledged by the Committee or the Center.

**B. Appointments.** Appointments shall be made by a majority vote of the then existing directors of the Board of Directors of Bloomer Area Aquatic and Recreation Center, Inc. Appointments shall be acknowledged by written instrument signed by a majority of the Board of Directors. No person shall be appointed to serve as a Committee Member unless he or she is also a Director of Bloomer Area Aquatic and Recreation Center, Inc. Any succeeding or additional Committee Member shall, upon acceptance of the office by written instrument signed and acknowledged, have the same powers, rights and duties, and the same title to the Endowment Fund jointly with the surviving or remaining Committee Member or Committee Members as if originally appointed.

**C. Initial Appointments.** Unless specifically elected by a majority of the Board of Directors, the members of the Finance Committee shall serve as Committee Members of the Endowment Fund. Committee Members' terms shall run concurrently with their terms on the Center's Finance Committee.

**D. Application to Court.** This Endowment Fund shall not fail for want of a Committee Member, and if all the Committee Members named herein are deceased or unable to serve or refuse to serve as a Committee Member for any reason whatsoever and the resigning Committee Member or the Center declines or fails to name a successor Committee Member, then a court of competent jurisdiction may name a Committee Member in accordance with then existing laws of the state of Wisconsin.

**E. No Bond Required.** Neither the Committee nor any of the Committee Members shall be required to furnish any bond or surety. None of them shall be responsible

or liable for the acts or omissions of any other of the Committee Members or of any predecessor or of a custodian, agent, depository, or counsel selected with reasonable care.

**F. Authority to Act.** The one or more Committee Members, whether original or successor, for the time being in office, shall have full authority to act even though one or more vacancies may exist. A Committee Member may, by appropriate written instrument, delegate all or any part of his powers to another or others of the Committee for such periods and subject to such conditions as such delegating Committee Member may determine.

**G. Expenses.** Subject to the approval of the Board of Directors, Committee Members serving under this Agreement are authorized to reimburse themselves for the reasonable expenses incurred in the administration of the Endowment Fund, but in no event shall any Committee Member receive any compensation.

## **VI. COMMITTEE'S DISCRETIONARY POWERS**

In extension and not in limitation of the common law, statutory powers and other powers granted in this Agreement, the Committee shall have the following discretionary powers:

**A. Management of the Endowment Fund.** To invest and reinvest the principal and income of the Endowment Fund in such a manner as it deems proper, and from time to time to change investments as it deems advisable; to invest in or retain any stocks, shares, bonds, notes, or obligations (including without limitation any interests in or obligations of any corporation, Center, business trust, investment trust or investment company). No principal or income, however, shall be loaned, directly or indirectly, to any Committee Member or to anyone else, corporate or otherwise, who has at any time made a contribution to the Endowment Fund, nor to anyone except on the basis of an adequate interest charge and with adequate security. The Board of Directors of the Bloomer Area Aquatic and Recreation Center, Inc. shall be advised by the Committee, at least quarterly, on the investment of the Endowment Fund.

**B. Sale of the Endowment Fund.** To sell, lease, or exchange any personal, mixed, or real property, at public auction or by private contract, for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relating to the Endowment Fund, as the Committee considers advisable.

**C. Voting Rights.** To vote, to give proxies, to participate in the reorganization, merger or consolidation of any concern, or in the sale, lease, disposition or distribution of its assets; to join with other security holders in acting through a committee, depository, or otherwise, and in this connection to delegate authority to such committee or

depository and to deposit securities with them or transfer securities to them; to pay assessments levied on securities or to exercise subscription rights in respect of securities.

**D. Professional Services.** To employ a bank or trust company as custodian of any funds or securities and to delegate to it such powers as the Committee deems appropriate; to hold the Endowment Fund without indication of fiduciary capacity but only in the name of a registered nominee, provided the Endowment Fund is at all times properly identified; to keep any or all of the Endowment Fund or funds in any place or places in the United States of America; to employ clerks, accountants, attorneys, investment counsel, investment agents, and any special services, and to pay the reasonable compensation and expenses of all such services.

## **VII. FIDUCIARY RESPONSIBILITIES.**

The Committee's powers are exercisable solely in a fiduciary capacity consistent with and in furtherance of the charitable purposes of this Endowment Fund as specified in Article Third and that of the Center and not otherwise.

## **VIII. DISSOLUTION**

Upon the dissolution of the Endowment Fund, the Committee shall distribute the Endowment Fund to the Center. If the Center is no longer in existence or functioning as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future Federal government, the Committee shall distribute the Designate Account for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future Federal government, or to a state or local government, for a public purpose.

## **IX. SELF-DEALING PROHIBITED**

Any other provisions of this instrument notwithstanding, neither the Committee nor any Committee Member shall engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent Federal tax laws; nor retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent Federal tax laws; nor make any investments in such manner as to incur tax liability under Section 4944 of the Internal Revenue Code of 1986 or corresponding provisions of any subsequent Federal tax laws; nor make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent Federal Tax laws.

## **X. AMENDMENTS**

This Agreement may be amended at any time or times by written instrument or instruments signed and sealed by a super majority of the Center's Board of Directors

consisting of at least three-quarters (3/4) of all directors, provided that no amendment shall modify the integrity of the Endowment Fund provisions as they now exist or conduct the affairs of this Endowment Fund in any manner or for any purpose contrary to the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 as now in force or afterwards amended. An amendment of the provisions of this Article Eleven (or any amendment to it) shall be valid only if and to the extent that such amendment further restricts the Board of Directors' amending power. All instruments amending this Agreement shall be noted upon or kept attached to the executed original of this Agreement held by the Committee.

**XI. COPIES**

Any person may rely on a copy, certified by a notary public, of the executed original of this Agreement held by the Committee, and of any of the notations on it and writings attached to it, as fully as such person might rely on the original documents themselves. Any such person may rely fully on any statements of fact certified by anyone who appears from such original documents or from such certified copy to be a Committee Member under this Agreement. No one dealing with the Committee need inquire concerning the validity of anything the Committee purport to do. No one dealing with the Committee need see to the application of anything paid or transferred to or upon the order of the Committee.

**XII. CHOICE OF LAW**

This Agreement is to be governed in all respects by the laws of the State of Wisconsin.

**XIII. EFFECTIVE DATE** This agreement is effective as of this the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**BLOOMER AREA AQUATIC AND RECREATION CENTER, INC.**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: President

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: Secretary

**DECLARATION OF IRREVOCABLE ENDOWMENT FUND  
OF THE BLOOMER AREA AQUATIC AND RECREATION CENTER, INC.**

**EXHIBIT A**

\$ \_\_\_\_\_ cash contribution

The Center hereby contributes the sum of \$ \_\_\_\_\_ to the Endowment Fund.