

# Sample Document: Agency Agreement

- This sample document is provided as a general guideline to assist CCCC member charities.
- This information does not constitute legal or other professional advice.
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- Where the intent is to use this sample, it should be provided to legal counsel along with appropriate instructions to meet the specific needs and circumstances of the charity.

## Agency Agreement

*The precedent set out below is general in nature and is provided as a guide to assist charities. In making this precedent available, CCCC is not providing legal advice and does not warrant that this precedent will create the legal relationship which the charity may intend. Appropriate modifications to this precedent are required to suit the facts applicable to each situation. Where the intent is to use this precedent to create a legal relationship, it should be provided to legal counsel along with appropriate instructions to meet the specific needs and circumstances of the charity.*

This Agreement, made as of the day of , [year].

B E T W E E N:

CHARITY: A non-profit corporation incorporated under the laws of \_\_\_\_\_ with its head office in \_\_\_\_\_.  
(hereinafter referred to as "CHARITY")

AGENT: of \_\_\_\_\_ in \_\_\_\_\_. (hereinafter referred to as "AGENT").

WHEREAS CHARITY is a charitable organization and a registered charity within the meaning of such terms in the Income Tax Act(Canada);

AND WHEREAS the charitable objects of the Charity are set out in its Letters Patent and the AGENT acknowledges it is aware of such charitable objects and the requirement that CHARITY operate within such stated purposes;

AND WHEREAS, in fulfilment of its objects, CHARITY wishes to carry on certain projects in \_\_\_\_\_, as set out herein, and wishes to engage AGENT as its agent in order to carry out the said projects;

AND WHEREAS AGENT has the knowledge, skill and ability to act for CHARITY in the capacity of an agent for the purpose of enabling CHARITY to accomplish the goals and directives as set out in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the terms and conditions set out herein, the parties hereto agree as follows:

1. CHARITY hereby engages AGENT as its agent to carry out those tasks and duties specifically set out herein, and AGENT agrees to act as such agent strictly in accordance with the terms hereof.
2. (a) On behalf of CHARITY, AGENT shall \_\_\_\_\_  
(b) The parties may agree in writing between them to extend this arrangement to another project or projects to be carried on in \_\_\_\_\_ in which case the provisions of this Agreement shall apply mutatis mutandis.
3. All funds made available by CHARITY to AGENT for the said purposes shall be held and kept invested by AGENT in an account with a bank in \_\_\_\_\_ in which only funds received from CHARITY are deposited. AGENT shall operate the said bank account as Trustee for CHARITY and only in accordance with the terms hereof. The account shall be called: "AGENT in trust for CHARITY." All funds received by AGENT from CHARITY shall be segregated from those of AGENT.
4. AGENT shall apply and/or disburse all funds and other resources entrusted to it by CHARITY solely for the purposes as set out in this Agreement.
5. Title to any real and/or personal property to be used for the purpose of the project and/or activities of CHARITY shall be held in the name of CHARITY. If such title and ownership cannot be held by CHARITY and it determines that AGENT is to acquire such property for CHARITY, AGENT shall hold title in trust for CHARITY.
6. CHARITY shall at no time be obligated to provide any funds for any of the purposes set out herein other than amounts required to reimburse AGENT for costs incurred on behalf of CHARITY that were authorized to be incurred. Any advances so made shall be dependent on

the receipt by CHARITY of progress reports and financial reports that are satisfactory to CHARITY.

7. AGENT shall maintain full and complete financial books and records with respect to all funds received from or on behalf of CHARITY disbursed on its behalf and retain original receipts, vouchers, invoices, and other support documentation with respect to all such receipts and disbursements. Such books and records shall be separate from the books and records of AGENT and clearly reflect that the role of CHARITY in any activity is separately identifiable as the charitable activity of CHARITY.
8. The fiscal year for the projects described herein shall be \_\_\_\_\_ and a budget for each fiscal year shall be fixed on or before the beginning of each such fiscal year by the board of directors of CHARITY. The budget shall set out CHARITY's plan for each fiscal year for spending on both capital costs and on operating costs, and shall indicate how such funds are to be spent. AGENT may make comments and recommendations regarding the budget for any upcoming year, but CHARITY shall have the sole and final responsibility for establishing such budget. Money received by AGENT from CHARITY in accordance with this Agreement shall be carefully disbursed in any fiscal year only in strict accordance with the budget for that year.
9. AGENT shall prepare quarterly financial statements showing receipt and disbursement of any funds received from CHARITY under the control of AGENT and shall provide a comparison of budgeted expenditures for capital and operating costs with actual expenditures for these items. AGENT shall prepare annual financial statements in accordance with generally accepted accounting principles, and such financial statements shall be audited annually by duly licenced public accountants in accordance with generally accepted auditing standards. The said statements shall be provided to CHARITY immediately upon their completion.
10. AGENT shall provide regular written reports as and when required by CHARITY but in any event, not less than quarterly, as to the activities carried on by AGENT on behalf of CHARITY.
11. In conducting the activities on behalf of CHARITY pursuant to the provisions hereof, AGENT shall also:
  - (a) keep a detailed description of the tasks, activities and programs by AGENT pursuant to the instructions of CHARITY;
  - (b) keep copies of any letters and other directives authorizing AGENT to spend any money entrusted to AGENT in carrying out the tasks and activities authorized by CHARITY;
  - (c) maintain all books, records and support materials for same at its head office and make same available to CHARITY upon request;
  - (d) provide regular invoices to CHARITY for the services provided in accordance with the terms of this Agreement, including copies of invoices or receipts for disbursements incurred by AGENT on behalf of CHARITY; and
  - (e) permit CHARITY to inspect all information and financial books and records of AGENT with respect to the activities undertaken by AGENT for CHARITY pursuant to the terms of this Agreement and to provide to CHARITY copies of any support documentation as it may request to enable CHARITY to meet its obligations to maintain adequate books and records at its Canadian address.
12. AGENT agrees that it will at all times carry out its duties and obligations herein so as to strictly comply with the charitable nature of the objects of CHARITY and to act as an agent strictly in accordance with the terms of this Agreement.
13. CHARITY shall have the unfettered right at any time to inspect any books, records, or accounts kept by AGENT which relate to its duties and obligations hereunder, and also to inspect any physical assets whose acquisition was financed by CHARITY. For this purpose, AGENT hereby grants to CHARITY permission to enter at reasonable times any premises occupied, controlled, or owned by AGENT. AGENT shall maintain all books, records and support materials for the activities undertaken on behalf of CHARITY pursuant to the terms of this Agreement at its head office and make them available to CHARITY upon request.
14. AGENT shall not have the authority to do any act on behalf of CHARITY or to bind CHARITY except as specifically authorized by the terms hereof.
15. Any construction, work, or operations of any kind whatsoever performed by AGENT pursuant to this Agreement shall be performed only in strict compliance with all governing laws, statutes, regulations, or ordinances. In the event the AGENT determines the projects and/or activities of the CHARITY that are undertaken by the AGENT pursuant to the terms and provisions of the Agreement may breach or are in breach of the laws and regulations which govern the jurisdiction in which such projects and/or activities are undertaken, the AGENT shall forthwith notify CHARITY accordingly. Upon such notification, CHARITY and AGENT shall review the compliance issues and consider the potential consequences to CHARITY of the breach or potential breach. Following such assessment, CHARITY shall provide such directives to AGENT as CHARITY determines appropriate. Upon the receipt of such directives, AGENT shall have the right, if it is unwilling to follow the directive(s), to terminate this Agreement whereupon the provisions of Section 17 shall apply.
16. AGENT represents and warrants to CHARITY that it does not support, has never supported and will not in the future support, directly or indirectly, any terrorist activities or terrorist groups. AGENT further represents and warrants that it will not apply any of the resources of CHARITY to the direct or indirect support of terrorism or any activities which are political in nature.
17. Upon termination of this Agreement, AGENT shall render to CHARITY a complete accounting of all property and assets held by AGENT on behalf of CHARITY. AGENT shall forthwith return to CHARITY all property and assets held by it on behalf of CHARITY which have not been expended or applied in accordance with the approved guidelines and intentions of CHARITY as stated in this Agreement or in any other written instructions made by CHARITY to AGENT.
18. This Agreement may be terminated by either party by written notice to the other party. Such termination shall be effective at a time which is mutually acceptable to each of the parties. In the event the parties are unable to mutually agree on a termination date, the

Agreement shall terminate upon the first fiscal year end following the date of the notice to terminate whereupon the provisions of Article 17 shall apply.

19. CHARITY and AGENT hereto acknowledge the relationship between them pursuant to this Agreement is that of principal and agent and they are governed by the terms and provisions of this Agreement and expressly disclaim any intention to create a partnership or other separate entity.

20. This Agreement shall be governed in accordance with the laws of \_\_\_\_\_.

21. This Agreement shall be binding on and enure to the benefit of the parties and their respective successors and permitted assigns. No party may assign its rights hereunder except with the written approval of the other party.

22. Time shall be deemed to be of the essence with respect to all time limits mentioned in this Agreement.

23. This Agreement may not be modified or amended except with the written consent of all the parties hereto.

24. The parties hereto agree that they will, from time to time at the reasonable request of any of them, execute and deliver such instruments, conveyances, and assignments and take such further action as may be required pursuant to the terms hereof to accomplish the intent of this Agreement.

25. This Agreement constitutes the entire Agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions whether oral or written of the parties and there are no warranties, representations, or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

26. Except as otherwise herein set forth, any notice contemplated or required to be given hereunder shall be in writing and either delivered personally, sent by prepaid mail, or reproduced electronically addressed as follows:

In the case of CHARITY: [address for notice]

In the case of AGENT: [address for notice]

Notice shall be deemed to be received, in the case of prepaid mail, four days after mailing, in the case of personal delivery, immediately upon delivery and in the case of electronic reproduction, on the next business day after it has been sent.

27. If any covenant or obligation set forth in this Agreement or the application of it to any party or the particular circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such obligation to the parties or circumstances other than those to which it is held invalid or unenforceable shall not be effected thereby and each such obligation shall be separately valid and enforceable to the fullest extent permitted by law.

28. Articles 4, 5, 7, 13, 14, 17 and 28 shall survive the termination of this Agreement.

29. This Agreement may be executed by the parties hereto in separate counterparts each of which when so executed and delivered shall be original but all such counterparts shall together constitute one and the same instrument.

30. The signature of the parties hereto as evidenced by a facsimile document transmission or transmission by other electronic means shall be deemed to be original signatures and the Agreement containing such signatures shall be binding upon the parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_ [year].

SIGNED, SEALED AND DELIVERED

in the presence of

) CHARITY

) Per: \_\_\_\_\_

) I have authority to bind the organization

)

) AGENT

) Per: \_\_\_\_\_

) I have authority to bind the organization

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