



## Memorial Fund Contract Agreement

THIS CONTRACT AGREEMENT is hereby entered into on the \_\_\_\_ day of \_\_\_\_\_ of the year 2010, by and between CHARITYSMITH National Society of Memorial Funds, a California corporation ("CHARITYSMITH"), and \_\_\_\_\_, a Fund Administrator for the \_\_\_\_\_ Memorial Fund ("Client").

**1. Contract Documents:** This Contract consists of the following documents:

- (1) This Contract
- (2) CHARITYSMITH Commission and Statement of Work (Attachment A)
- (3) IRS Federal Tax Exempt Letter (Attachment B)

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements.

**2. Precedence Among Contract Documents:** In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

**3. CHARITYSMITH Duties:** CHARITYSMITH shall provide the services for the creation and administration of the Client's memorial fund as described in Attachment A, CHARITYSMITH Commission and Statement of Work.

**4. Establishment of the Memorial Fund:** Client is establishing a memorial fund as a division of CHARITYSMITH: National Society of Memorial Funds and agrees to abide by all CHARITYSMITH rules and regulations.

**5. Memorial Fund Compliance:** The fund must work in conjunction with CHARITYSMITH Nonprofit Foundation's stated purpose as indicated by the commission from the State of California and the Internal Revenue Service Code under section 501(c)3. CHARITYSMITH's commission is "the creation, administration, and distribution of memorial funds" (see Attachment A).

- a. Client agrees that moneys deposited to the memorial fund are to be used in accordance with federal tax law specifically relating to section 501(c)3 of the tax code.
- b. Client agrees that moneys donated to the above stated memorial fund are to be used in strict accordance with the CHARITYSMITH mission as stated by the IRS. As such, all donations to the memorial fund are dedicated to the purpose of commemorating the deceased by supporting charitable causes, students, artists, and athletes with the financial means to achieve their stated goals.
- c. All memorial fund Scholarships are subject to approval by CHARITYSMITH's scholarship approval committee.
- d. Client agrees that he/she will not, nor a family member will receive benefits from CHARITYSMITH or from the above stated memorial fund.
- e. Client agrees to receive and document all cash donations with a credible witness, above the age of 18 years of age, who will sign the appropriate Documentation of Cash Donation Form as available at [www.charitysmith.org/manageyourfund](http://www.charitysmith.org/manageyourfund).



- f. Client agrees to maintain updated contact information with CHARITYSMITH and will advise CHARITYSMITH of altered contact information within 7 days of any change in email address, telephone number, and/or mailing address for a minimum of one fund administrator.
- g. Client agrees to maintain a minimum of \$100 in the memorial fund account at all times.

**6. Memorial Fund Administration:**

- a. Client agrees to submit website edit requests by email directed to: [webmaster@charitysmith.org](mailto:webmaster@charitysmith.org).
- b. Client agrees to provide CHARITYSMITH with the initial pictures and text for the webpage within 30 days of the creation of the Fund. Thereafter, the Client agrees to submit requests for website edits via a single email on a monthly basis. Client understands the allocation of 30 minutes of website updates per month, to be completed in a single session. Client further understands that additional edits each month will be charged at a rate of \$50 USD per hour.
- c. Client agrees to request the distribution of memorial fund award checks by printing and completing the online form available at [www.charitysmith.org/manageyourfund](http://www.charitysmith.org/manageyourfund). This form should be submitted following the instructions on the top of the form for approval and processing. Pending approval of the scholarship, the check will be issued within 14 days. Scholarship approval will not be unreasonably withheld.
- d. Client agrees to release CHARITYSMITH of liability for donations that are not received due to mail failure, failure of online donation systems, bank error, or other conceivable failures.
- e. Client agrees that CHARITYSMITH is responsible for donations from the time of deposit as defined by deposit of mailed check, processing of credit card donation, or deposit of donation via online contribution.

**7. Client Fees:** The Client shall pay CHARITYSMITH in the manner and in the amounts specified in the Contract Documents.

- a. Client agrees to pay a fund establishment fee of \$500 USD. This one time fee is to be paid at the time of fund establishment. This fee is in exchange for services provided as documented in Attachment A.
- b. Client agrees that the fund establishment fee of \$500 USD is nonrefundable.
- c. Client agrees that the fund establishment fee of \$500 will be paid within 3 months of starting the memorial fund.
- d. The Client will pay CHARITYSMITH an annual administrative fee of \$240.00 USD for a continuation of services. This fee will be due annually and will be charged in the month the memorial fund was established. The first administrative fee will be due 12 months after the start of the fund. Failure to pay this fee within 60 days of the due date will result in termination of this contract.

**8. Voluntary Termination of Contract:** This contract is entered into voluntarily by both parties, CHARITYSMITH and Client, and may be terminated at anytime by written signed notification by either party. Upon termination of the contract, the remaining funds may be distributed by the Fund Administrator to an award recipient following the standard procedure. As an alternative, the funds may be transferred to a 501(c)3 nonprofit foundation with goals and objectives consistent with those described for the stated fund.

**9. Termination of Contract by Failure of Communication and/or Account Renewal Default:** In the event that a fund is not renewed within 60 days of the renewal date, and/or CHARITYSMITH is unable to make written contact with the Fund Administrator on three separate attempts, termination of this contract will occur. At this time, the fund will remain inactive for one year from the date of intended renewal. Following the period of one year, if the Fund Administrators have not made



contact with CHARITYSMITH to arrange other options, the account will be considered in Account Renewal Default and remaining funds will be transferred to existing memorial funds within CHARITYSMITH as the Board of Trustees deems appropriate.

10. **Contract Signers:** All notices permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Signer. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Signer are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Signer by giving timely written notice to the other Party.

**For CHARITYSMITH:**

CHARITYSMITH, NPO  
C/O Rachel Ward  
National Director of Marketing  
PO Box 7377  
Menlo Park, CA 94025  
Email: [rachel@charitysmith.org](mailto:rachel@charitysmith.org)  
Phone: 800-276-0546

**For the Client:**

Name: \_\_\_\_\_  
Memorial Fund: \_\_\_\_\_  
Fund Administrator: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

11. **Signature Warranty:**

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

**In Witness where of,** the Client and CHARITYSMITH have executed this Contract in duplicate originals, with one original being retained by each party.

**Memorial Fund**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

**CHARITYSMITH**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title



## Attachment A The CHARTIYSMITH Commission and Statement of Work

**The CHARITYSMITH Commission:** CHARITYSMITH Nonprofit Foundation's stated purpose as indicated by commission from the State of California and the Internal Revenue Service Code under section 501(c)3 is the creation, administration, and distribution of memorial funds.

CHARITYSMITH will provide the Individual or Corporation creating the memorial fund, hereafter referred to as Client, with the following services.

### 1. Memorial Fund Administration:

- a. CHARITYSMITH agrees to provide client with documentation of state and federal acknowledgement of 501(c)3 status, and to provide notice of change in such status within 30 days should such a change occur.
- b. CHARITYSMITH agrees to provide client with copies of bylaws and minutes of annual meetings of Board of Trustees.
- c. CHARITYSMITH agrees to respond to email communication in a timely manner, not to exceed 3 days.
- d. CHARITYSMITH agrees to respond to telephone communication in a timely manner, not to exceed 7 days.
- e. CHARITYSMITH agrees to hold secure and private the contact information provided by the Fund Administrators of the memorial fund.

### 2. Memorial Fund Webpage:

- a. CHARITYSMITH agrees to purchase a suitable URL for the establishment of the memorial fund. This URL is to be purchased for a single year and is renewed annually for the duration of existence of the memorial fund at CHARITYSMITH.
- b. CHARITYSMITH agrees to create, maintain and host a single page website for the memorial fund for the duration of existence of the memorial fund at CHARITYSMITH.
- c. CHARITYSMITH agrees that the single page website will include: unlimited text, up to 15 pictures, comments and remembrances section, paypal and google checkout donation buttons, and scholarship application. Additional pages, forms, video formatting, extra photos, etc. are available for an additional fee.
- d. CHARITYSMITH agrees to provide client with 30 minutes duration of website updates per month, completed in a single session. Additional edits will be charged at a rate of \$50 per hour.

### 3. Memorial Fund Bank Account and Donations:

- a. CHARITYSMITH agrees to establish a new savings account at Wells Fargo Bank for the memorial fund.
- b. CHARITYSMITH agrees that the funds deposited into the memorial fund are to be used solely for fulfilling the mission and purpose of the memorial fund and are not to be co-mingled with other CHARITYSMITH memorial funds or used for CHARITYSMITH administrative or other purposes beyond those described in paragraph 5.
- c. CHARITYSMITH agrees to provide donors with receipt(s) for the purpose of tax deductions for all donations.
- d. CHARITYSMITH agrees to assume responsibility of donations upon deposit of donation via online contribution, deposit of mailed check, or processing of credit card donations.



- e. CHARITYSMITH agrees to uphold the standards and commitment described in IRS Tax Code Section 501(c)3.
- f. CHARITYSMITH agrees to keep records of all donations, donors, award recipients, and fund administrators.
- g. CHARITYSMITH agrees to receive, document, deposit, and acknowledge donations to the memorial fund.
- h. CHARITYSMITH agrees to provide client with accounting reports, consisting of complete monthly donation summaries, on the 15<sup>th</sup> day of each month for the previous month.

#### 4. Memorial Fund Disbursements and Awards:

- a. CHARITYSMITH agrees to provide a means for individuals to apply for awards from the memorial fund online at [www.charitysmith.org](http://www.charitysmith.org).
- b. CHARITYSMITH agrees to provide the Fund Administrator with copies of applications for awards from the memorial fund within 14 days of their receipt.
- c. CHARITYSMITH agrees to provide award checks, made payable to the annual recipient of the memorial fund award, in an amount that is no greater than the moneys available in the memorial fund at the time of the request, in the form of a cashier's check. This check will be provided within 14 days of the receipt of the scholarship request form.
- d. CHARITYSMITH acknowledges and agrees to make disbursements for the memorial fund in accordance with the following requirements including, but not limited to, guaranteeing no disbursements "awards" be made without the written consent of the Fund Administrator; implement adequate internal controls over awards; ensure all awards are made to "charitable causes" as defined by the Internal Revenue Service and fall within CHARITYSMITH's guidelines and mission.