**SAMPLE TEMPLATE**

**RETAINED LIFE ESTATE AGREEMENT**

This Retained Life Estate Agreement (this “***Agreement***”) is effective the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between DONOR, residing at ADDRESS (whether one or more, the “***Donor***”) and the CHARITY (“***Charity***”).

Concurrently with this Agreement, the Donor has executed a deed conveying to Charity a remainder interest in the real property, including all improvements thereon, legally described on the attached Schedule “A” (the “***Property***”), and reserving a life estate in the Property for the Donor. The life estate terminates on the death of the Donor, or, if there is more than one Donor, on the death of the last surviving Donor.

The Donor and Charity desire to enter into this Agreement to establish the rights and responsibilities of each with respect to the Property.

1.  During the term of the life estate, the Donor, at its sole expense, shall:

1. Maintain the Property in good condition, including (1) the upkeep and repair of improvements to protect the Property from loss of value and damage, (2) routine maintenance such as mowing and landscaping maintenance, snow removal where applicable, painting, termite and other pest prevention, and all other types of routine maintenance, (3) all minor and major repairs and capital improvements, such as roof replacement and mechanical systems repairs and replacements, and (4) all other actions in order to maintain the Property in compliance with all applicable codes, laws, regulations, and ordinances. If the Property is damaged from any cause, the Donor, at its sole expense, shall repair the damage unless the Donor and Charity agree that it is impractical to do so, in which case any insurance proceeds from insurance carried by the Donor or the Donor’s tenant shall be divided between the Donor and Charity in accordance with the percentages corresponding to each parties’ interest in the Property as of the date of the damage. For purposes of determining the interest of each party, the methodology used to value a remainder interest in U. S. Treasury Regulations § 1.170A-7, or the successor regulation, shall be used;
2. Pay before delinquency all real estate taxes, local or government taxes or excise taxes associated with the ownership of the Property, owners or condominium association assessment, and any and all other assessments or impositions against the Property. The Donor shall deliver to Charity at the address stated below copies of paid tax and assessments receipts within 45 days after the due date. Without the prior written consent of Charity, which may be given or withheld in its sole discretion, the Donor shall not voluntarily or involuntarily defer the payment of taxes or assessments, notwithstanding any statutory or contractual right of the Donor to do so. If the expiration of the Donor’s life estate is on a date other than the last day of any tax fiscal year, the taxes for such year shall be apportioned between the Donor and Charity;
3. Pay water and sewer charges, utilities, and all other charges assessed against the Property;
4. Insure the Property against fire, vandalism, flood, windstorm, and other hazards and risks through all risk property insurance in accordance with terms to be determined and agreed upon from time to time by the Donor and Charity, but no less than 80% of the actual replacement cost of the Property, unless the parties otherwise agree in writing.  The Donor shall provide Charity with an annual certification that the insurance described above is in effect and that the premiums have been paid. All insurance shall be secured and maintained in a company or companies reasonably satisfactory to Charity and shall be primary and not contributory to that carried by Charity. The all-risk property insurance policy shall name Charity as "an insured as its interest may appear." The Donor shall secure an appropriate clause in, or an endorsement upon, each policy of insurance, pursuant to which the insurance company waives subrogation and rights of recovery or permits the insured to agree to waive any claim it might have against Charity.

2. The Donor shall not, without the prior written consent of Charity, permit any lien, encumbrance, or mortgage to be placed on the Property and shall not, without the prior written consent of Charity, permit the amount of any mortgage, encumbrance, or lien now existing to increase. The Donor shall, on or before each due date, make all payments on any existing mortgage, lien, or encumbrance. By February 15 of each year, the Donor shall deliver to Charity a copy of the status of the mortgage, lien, or encumbrance, if any, through December 31 of the prior year.

3.  The Donor has the sole right, during his/her/their lifetime(s), to occupy the Property and to lease the Property. The Donor shall consult with Charity before leasing the Property, and, unless Charity also signs the lease, the lease term shall automatically end, notwithstanding anything to the contrary in the lease, no later than the end of the month in which the date of the termination of the life estate occurs. The Donor shall receive all rent from the Property during the Donor’s lifetime(s); Charity shall receive all rent from the Property from and after the date of death of the surviving Donor.

4. The Donor shall consult with Charity before making material changes to the use of the Property. If the Property is currently occupied by the Donor, the rental of the Property constitutes a material change in the use of the Property.

5. If the Donor is no longer able to maintain the Property as required by this Agreement, whether due to age, health issues, financial ability, or other reason, or if the Donor wishes to end its occupancy of the Property and does not wish lease out the Property in accordance with the preceding section, then the Donor and Charity will jointly market the Property for sale and the parties will divide the net sale proceeds, after all expenses of the sale have been deducted, in accordance with their respective interests in the Property. In the alternative, the Donor may elect to contribute to Charity the balance of the Donor’s life estate as an additional charitable gift to Charity. For purposes of determining the interest of each party, the methodology used to value a remainder interest in U. S. Treasury Regulations § 1.170A-7, or the successor regulation, shall be used.

6.  The Donor, jointly and severally, agrees to indemnify and hold Charity harmless from all loss, costs, damages, claims, and liabilities that are caused by any act or omission of the Donor. The Donor’s tenants, agents, representatives, or contractors (including, without limitation, any such loss, costs, damages, claims or liabilities that arise out of the presence or release on the Property of hazardous or toxic materials in violation of applicable local, state or federal law) to the extent that such claims arise during the term of the life estate, except to the extent caused by any act or omission of Charity or any of its agents, employees or contractors.

7.  Charity, its authorized employees, representatives, and contractors, have the right to:

1. Enter the Property from time to time with at least seven days prior written notice to the Donor to inspect the Property; provided, however, that in the case of an emergency, no notice or only such notice as is appropriate under the circumstances shall be required; and
2. Make any reasonable repairs that are reasonably necessary to protect its interest in the Property in the event that the Donor has not made such repairs within a reasonable time after notice from Charity to the Donor of the need for same.  In such case, and if the repairs are the responsibility of the Donor under this Agreement, the Donor shall reimburse Charity for the full cost of such repairs within 30 days after Charity delivers to the Donor copies of invoices for the repairs.

8.  The Donor shall consult with Charity before making major structural changes or improvements to the Property. The Donor has the right, after such consultation and at the Donor’s sole cost and expense, to make improvements and alterations to the Property, provided that such improvements do not reduce the value of the Property.

9. The Donor shall not permit to be foreclosed any mechanic's or materialman's lien or other statutory lien against the Property by reason of work, labor, services, or materials supplied to or at the request of the Donor. The Donor shall pay and discharge any such mechanic's or materialman's lien filed against the Property within twenty (20) days after the filing thereof. In no event shall the Donor have the right, authority, or power to bind Charity or any interest of Charity in the Property for any claim for labor or material or for any other charge or expense incurred in the repair, maintenance, construction, or alteration of the Property or the improvements thereon.

10. Whenever any notice is required or permitted hereunder, such notice shall be in writing and shall be deemed to be delivered when actually received or three days after deposit in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the persons shown below, or at such other addresses as the parties have hereafter specified by written notice.

**If to the Donor:**

**If to Charity:**

**with a copy to:**

11.  This Agreement may be amended only by an instrument in writing executed by both parties, and it shall be binding upon and inure to the benefit of the parties hereto and their respective successors, distributees, heirs, legal representatives, and assigns.

In witness whereof, the parties have duly executed this Agreement to be effective for all purposes as of the date stated in the introductory paragraph.

**DONOR:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_        Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Print Name:

**DONOR:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_        Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Print Name:

**CHARITY:**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Schedule “A”**