

## AED DONATION & ACCEPTANCE AGREEMENT

This AGREEMENT (the "Agreement"), is entered into, effective the date stated below, by and among:

**Parties:**

STEVEN M. GOOTTER FOUNDATION, an Arizona non-profit corporation ("Gootter Foundation");  
and

\_\_\_\_\_, ("You").  
[Organization Name]

The Gootter Foundation agrees to donate money for the purchase of twelve (12) automated external defibrillators ("AEDs") (the "Donation"), and You agree to accept the Donation, under the following terms:

1. **Gootter Foundation Tasks.** The Gootter Foundation will send payment for the purchase price of the AEDs to its chosen dealer or manufacturer ("Dealer"), with instruction to the Dealer to deliver the AEDs directly to You.
2. **Your Tasks.** You will register each of the AEDs with the Arizona Department of Health Services Bureau of Emergency Medical Services & Trauma System's "Save Hearts in Arizona Registry & Education" program ("SHARE"), by filling out and submitting the on-line registration form on the SHARE website.
3. **Maintenance Schedule.** You agree to maintain the manufacturer's recommended schedule of care and maintenance for the AEDs.

\_\_\_\_\_ YOUR INITIALS

4. **Organization.** If You are accepting the Donation on behalf of an organization, You represent and warrant that the execution, delivery, and performance of this Agreement by You is within Your power and authority and has been duly authorized by all necessary action by the organization on whose behalf You execute this Agreement. If You are executing this Agreement on behalf of an organization, then any reference to "You" shall also refer to such organization and its partners, members, shareholders, directors, officers, employees, agents, and contractors.

5. **INDEMNITY & WAIVER.** YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD THE GOOTTER FOUNDATION HARMLESS FOR, FROM, AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, COSTS, EXPENSES, DAMAGES, LOSSES, CAUSES OF ACTION, AND SUITS OF ANY NATURE WHATSOEVER ARISING FROM OR RELATING TO THE CARE, STORAGE, MAINTENANCE, PERFORMANCE, OR USE OF ANY OF THE AEDs ("CLAIMS"). YOU HEREBY WAIVE ANY AND ALL CLAIMS YOU MAY HAVE AT ANY TIME AGAINST THE GOOTTER FOUNDATION AND ITS DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR CONTRACTORS. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 5, YOU ACKNOWLEDGE THAT YOU ARE AN ARIZONA PUBLIC INSTITUTION AND THAT ANY INDEMNIFICATION AND HOLD HARMLESS PROVISION IN THIS SECTION 5 MAY BE LIMITED, IF AT ALL, BY THE LAW OF THE STATE OF ARIZONA, INCLUDING, WITHOUT LIMITATION, BY ARTICLE 9, SECTIONS 5 AND 7 OF THE ARIZONA CONSTITUTION, A.R.S. §35-154, AND A.R.S. §41-621.

\_\_\_\_\_ YOUR INITIALS

6. **YOUR RESPONSIBILITY.** YOU ACKNOWLEDGE AND AGREE THAT IT IS YOUR SOLE RESPONSIBILITY TO PROPERLY CARE FOR, STORE, MAINTAIN IN GOOD WORKING ORDER, USE, AND TEST THE AEDs ACCORDING TO THE GUIDELINES OF THE AEDs' MANUFACTURER, AND THAT THE GOOTTER FOUNDATION HAS NOT, WILL NOT, AND NEED NOT PROVIDE

OVERSIGHT, TRAINING, OR OTHER HELP FOR THIS RESPONSIBILITY. YOU AGREE TO NOTIFY THE GOOTTER FOUNDATION IN WRITING EACH TIME AN AED IS DEPLOYED, AND REPORT ON THE INCIDENT AND OUTCOME.

\_\_\_\_\_YOUR INITIALS

7. **WARRANTIES.** THE GOOTTER FOUNDATION HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, AND GUARANTEES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE, OR QUALITY OF THE AEDs AND SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, MARKETABILITY, USAGE, OR FITNESS OF ANY PARTICULAR PURPOSE WITH RESPECT TO THE AEDs. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXECUTION OF THIS AGREEMENT.

\_\_\_\_\_YOUR INITIALS

8. **Attorney's Fees.** Any party who commences or defends an action against the other party to enforce any of the terms of this Agreement or because of a breach by either party of any of its terms, and is successful in such prosecution or defense, whether in litigation, arbitration, or otherwise, shall recover from the losing or defaulting party reasonable attorney's fees, costs, and expenses incurred in connection with the prosecution or defense of such action.

9. **Governing Law.** Any and all matters in dispute between the parties to this Agreement, whether arising from or relating to the Agreement itself, or arising from alleged extra-contractual facts prior to, during or subsequent to the Agreement, including, without limitation, fraud, misrepresentation, negligence or any other alleged tort or violation of the contract, shall be governed by, construed, and enforced in accordance with the laws of the State of Arizona, regardless of the legal theory upon which such matter is asserted.

10. **Jurisdiction and Venue.** Any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted, or heard by or before, or otherwise involving, any governmental body or arbitrator arising out of or relating to this Agreement shall be brought in the courts of the State of Arizona, County of Pima.

11. **Binding Effect.** This Agreement is binding upon the heirs, personal representatives, administrators, agents, successors and assigns of the respective parties.

12. **Gender and Number.** Whenever used in this Agreement, the singular shall include the plural and the plural shall include the singular, the male shall include the female gender and a trust, partnership, firm, company or corporation, all as the context and meaning of this Agreement require.

13. **Headings.** The descriptive headings of the several sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

14. **Entire Agreement; Amendment.** This Agreement contains all of the agreements of the parties with respect to the matters contained herein and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added except by an agreement in writing signed by the parties and/or their respective successors.

15. **Counterparts; Fax/Electronic Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or electronic signatures shall be as effective as original signatures.

16. **Severability.** In the event that any one or more of the provisions or parts of a provision contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect in any

jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision or part of a provision of this Agreement or any other jurisdiction, but this Agreement shall be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part shall be reformed so that it would be valid, legal, and enforceable to the maximum extent permitted in such jurisdiction.

Wherefore, the parties execute this Agreement effective this \_\_\_ day of \_\_\_\_\_, 20\_\_.

STEVEN M. GOOTTER FOUNDATION:

YOU:

By:



\_\_\_\_\_  
Andrew Messing,  
President

\_\_\_\_\_  
[Organization Name]

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

[Signature]

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Title]

Your Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Your Telephone Number: \_\_\_\_\_

Your Email Address: \_\_\_\_\_