

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

JUN 08 2015

WINDWARD FUND  
1201 CONNECTICUT AVE NW STE 300  
WASHINGTON, DC 20036

Employer Identification Number:  
47-3522162  
DLN:  
17053131318015  
Contact Person:  
MS. LEE ID# 31208  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
December 31  
Public Charity Status:  
170(b)(1)(A)(vi)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
February 25, 2015  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Letter 947

WINDWARD FUND

We have sent a copy of this letter to your representative as indicated in your power of attorney.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tamara Piggard".

Director, Exempt Organizations

**Application for Recognition of Exemption  
 Under Section 501(c)(3) of the Internal Revenue Code**

▶ (Use with the June 2006 revision of the Instructions for Form 1023 and the current Notice 1382)

Use the instructions to complete this application and for a definition of all **bold** items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at [www.irs.gov](http://www.irs.gov) for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

**Part I Identification of Applicant**

<b>1</b> Full name of organization (exactly as it appears in your organizing document)		<b>2</b> c/o Name (if applicable)	
Windward Fund			
<b>3</b> Mailing address (Number and street) (see instructions)		<b>Room/Suite</b>	<b>4</b> Employer Identification Number (EIN)
1201 Connecticut Avenue, NW Suite 300			47-3522162
City or town, state or country, and ZIP + 4			<b>5</b> Month the annual accounting period ends (01 - 12)
Washington, DC 20036			12
<b>6</b> Primary contact (officer, director, trustee, or authorized representative)			
<b>a</b> Name: Andras Kosaras, Esq.			
		<b>b</b> Phone: 202-942-5271	
		<b>c</b> Fax: (optional) 202-942-5999	
<b>7</b> Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative. <span style="float:right"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>			
<b>8</b> Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role. <span style="float:right"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>			
<b>9a</b> Organization's website: N/A			
<b>b</b> Organization's email: (optional) N/A			
<b>10</b> Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ. <span style="float:right"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>			
<b>11</b> Date incorporated if a corporation, or formed, if other than a corporation.		(MM/DD/YYYY) 02/25/2015	
<b>12</b> Were you formed under the laws of a foreign country? <span style="float:right"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>			
If "Yes," state the country.			

**Part II Organizational Structure**

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. (See instructions.) **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- 1 Are you a corporation? If "Yes," attach a copy of your articles of incorporation showing certification of filing with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification.  Yes  No
- 2 Are you a limited liability company (LLC)? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application.  Yes  No
- 3 Are you an unincorporated association? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments.  Yes  No
- 4a Are you a trust? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments.  Yes  No
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust.  Yes  No
- 5 Have you adopted bylaws? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected.  Yes  No

**Part III Required Provisions in Your Organizing Document**

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. 

Location of Purpose Clause (Page, Article, and Paragraph): Page 1, Article Third
- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c. 
  - b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. Page 3, Article Eighth
  - c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state:

**Part IV Narrative Description of Your Activities**

Using an attachment, describe your *past*, *present*, and *planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors**

- 1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual compensation, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
See attachment.			

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

**b** List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
See attachment.			

**c** List the names, names of businesses, and mailing addresses of your five highest compensated independent contractors that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
See attachment.			

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

- 2a Are any of your officers, directors, or trustees related to each other through family or business relationships? If "Yes," identify the individuals and explain the relationship.  Yes  No
  - b Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees.  Yes  No
  - c Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship.  Yes  No
- 3a For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.
- b Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through common control? If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement.  Yes  No
- 4 In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use.
- a Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy?  Yes  No
  - b Do you or will you approve compensation arrangements in advance of paying compensation?  Yes  No
  - c Do you or will you document in writing the date and terms of approved compensation arrangements?  Yes  No

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- d** Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements?  **Yes**  **No**
- e** Do you or will you approve compensation arrangements based on information about compensation paid by **similarly situated** taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  **Yes**  **No**
- f** Do you or will you record in writing both the information on which you relied to base your decision and its source?  **Yes**  **No**
- g** If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is **reasonable** for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.
- 5a** Have you adopted a **conflict of interest policy** consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c.  **Yes**  **No**
- b** What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c** What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?  
**Note.** A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.
- 6a** Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through **non-fixed payments**, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  **Yes**  **No**
- b** Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  **Yes**  **No**
- 7a** Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at arm's length, and explain how you determine or will determine that you pay no more than fair market value. Attach copies of any written contracts or other agreements relating to such purchases.  **Yes**  **No**
- b** Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales.  **Yes**  **No**
- 8a** Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f.  **Yes**  **No**
- b** Describe any written or oral arrangements that you made or intend to make.
- c** Identify with whom you have or will have such arrangements.
- d** Explain how the terms are or will be negotiated at arm's length.
- e** Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f** Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.
- 9a** Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f.  **Yes**  **No**

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- b Describe any written or oral arrangements you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

**Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You**

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past, present, and planned* activities. (See instructions.)

- 1a In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals.  Yes  No
- b In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations.  Yes  No
- 2 Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program.  Yes  No
- 3 Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds.  Yes  No

**Part VII Your History**

The following "Yes" or "No" questions relate to your history. (See instructions.)

- 1 Are you a successor to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to non-profit status. If "Yes," complete Schedule G.  Yes  No
- 2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E.  Yes  No

**Part VIII Your Specific Activities**

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past, present, and planned* activities. (See instructions.)

- 1 Do you support or oppose candidates in political campaigns in any way? If "Yes," explain.  Yes  No
- 2a Do you attempt to influence legislation? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a.  Yes  No
- b Have you made or are you making an election to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities.  Yes  No
- 3a Do you or will you operate bingo or gaming activities? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data.  Yes  No
- b Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements.  Yes  No
- c List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo.

**Part VIII Your Specific Activities (Continued)**

**4a** Do you or will you undertake fundraising? If "Yes," check all the fundraising programs you do or will conduct. (See instructions.)  Yes  No

mail solicitations

phone solicitations

email solicitations

accept donations on your website

personal solicitations

receive donations from another organization's website

vehicle, boat, plane, or similar donations

government grant solicitations

foundation grant solicitations

Other

Attach a description of each fundraising program.

**b** Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements.  Yes  No

**c** Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements.  Yes  No

**d** List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.

**e** Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors.  Yes  No

**5** Are you affiliated with a governmental unit? If "Yes," explain.  Yes  No

**6a** Do you or will you engage in economic development? If "Yes," describe your program.  Yes  No

**b** Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

**7a** Do or will persons other than your employees or volunteers develop your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees.  Yes  No

**b** Do or will persons other than your employees or volunteers manage your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees.  Yes  No

**c** If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

**8** Do you or will you enter into joint ventures, including partnerships or limited liability companies treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate.  Yes  No

**9a** Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10.  Yes  No

**b** Do you provide child care so that parents or caretakers of children you care for can be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  Yes  No

**c** Of the children for whom you provide child care, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  Yes  No

**d** Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k).  Yes  No

**10** Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other intellectual property? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed.  Yes  No



**Part VIII Your Specific Activities (Continued)**

- 11** Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution.  Yes  No
- 
- 12a** Do you or will you operate in a foreign country or countries? If "Yes," answer lines 12b through 12d. If "No," go to line 13a.  Yes  No
- b** Name the foreign countries and regions within the countries in which you operate.
- c** Describe your operations in each country and region in which you operate.
- d** Describe how your operations in each country and region further your exempt purposes.
- 
- 13a** Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a.  Yes  No
- b** Describe how your grants, loans, or other distributions to organizations further your exempt purposes.
- c** Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract.  Yes  No
- d** Identify each recipient organization and any relationship between you and the recipient organization.
- e** Describe the records you keep with respect to the grants, loans, or other distributions you make.
- f** Describe your selection process, including whether you do any of the following:
- (i)** Do you require an application form? If "Yes," attach a copy of the form.  Yes  No
- (ii)** Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused.  Yes  No
- g** Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.
- 
- 14a** Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15.  Yes  No
- b** Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.
- c** Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries.  Yes  No
- d** Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors.  Yes  No
- e** Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information.  Yes  No
- f** Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately.  Yes  No

**Part VIII Your Specific Activities (Continued)**

- 15 Do you have a close connection with any organizations? If "Yes," explain.  Yes  No
- 16 Are you applying for exemption as a cooperative hospital service organization under section 501(e)? If "Yes," explain.  Yes  No
- 17 Are you applying for exemption as a cooperative service organization of operating educational organizations under section 501(f)? If "Yes," explain.  Yes  No
- 18 Are you applying for exemption as a charitable risk pool under section 501(n)? If "Yes," explain.  Yes  No
- 19 Do you or will you operate a school? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity.  Yes  No
- 20 Is your main function to provide hospital or medical care? If "Yes," complete Schedule C.  Yes  No
- 21 Do you or will you provide low-income housing or housing for the elderly or handicapped? If "Yes," complete Schedule F.  Yes  No
- 22 Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H.  Yes  No
- Note.** Private foundations may use Schedule H to request advance approval of individual grant procedures.

**Part IX Financial Data**

For purposes of this schedule, years in existence refer to completed tax years. If in existence 4 or more years, complete the schedule for the most recent 4 tax years. If in existence more than 1 year but less than 4 years, complete the statements for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. If in existence less than 1 year, provide projections of your likely revenues and expenses for the current year and the 2 following years, based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. (See instructions.)

**A. Statement of Revenues and Expenses**

	Type of revenue or expense	Current tax year	3 prior tax years or 2 succeeding tax years			(e) Provide Total for (a) through (d)
		(a) From 02/2015 To 12/2015	(b) From 01/2016 To 12/2016	(c) From 01/2017 To 12/2017	(d) From _____ To _____	
Revenues	<b>1</b> Gifts, grants, and contributions received (do not include unusual grants)	500,000	1,750,000	3,000,000		5,250,000.00
	<b>2</b> Membership fees received	0	0	0		0.00
	<b>3</b> Gross investment income	0	0	0		0.00
	<b>4</b> Net unrelated business income	0	0	0		0.00
	<b>5</b> Taxes levied for your benefit	0	0	0		0.00
	<b>6</b> Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)	0	0	0		0.00
	<b>7</b> Any revenue not otherwise listed above or in lines 9–12 below (attach an itemized list)	0	0	0		0.00
	<b>8</b> Total of lines 1 through 7	500,000.00	1,750,000.00	3,000,000.00		5,250,000.00
	<b>9</b> Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)	0	0	0		0.00
	<b>10</b> Total of lines 8 and 9	500,000.00	1,750,000.00	3,000,000.00		5,250,000.00
<b>11</b> Net gain or loss on sale of capital assets (attach schedule and see instructions)	0	0	0		0.00	
<b>12</b> Unusual grants	0	0	0		0.00	
<b>13</b> Total Revenue Add lines 10 through 12	500,000.00	1,750,000.00	3,000,000.00		5,250,000.00	
Expenses	<b>14</b> Fundraising expenses	10,000	25,000	25,000		
	<b>15</b> Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)	50,000	100,000	250,000		
	<b>16</b> Disbursements to or for the benefit of members (attach an itemized list)	0	0	0		
	<b>17</b> Compensation of officers, directors, and trustees	0	0	0		
	<b>18</b> Other salaries and wages	125,000	550,000	660,000		
	<b>19</b> Interest expense	0	0	0		
	<b>20</b> Occupancy (rent, utilities, etc.)	0	0	0		
	<b>21</b> Depreciation and depletion	0	0	0		
	<b>22</b> Professional fees	106,250	420,000	970,000		
	<b>23</b> Any expense not otherwise classified, such as program services (attach itemized list)	86,000	511,000	741,000		
	<b>24</b> Total Expenses Add lines 14 through 23	377,250.00	1,606,000.00	2,646,000.00		

Part IX Financial Data (Continued)

B. Balance Sheet (for your most recently completed tax year)

Year End: n/a

Table with columns for line number, description, and amount. Rows include Assets (Cash, Accounts receivable, Inventories, Bonds and notes receivable, Corporate stocks, Loans receivable, Other investments, Depreciable and depletable assets, Land, Other assets) and Liabilities (Accounts payable, Contributions, mortgages and notes payable, Other liabilities). Total Assets and Total Liabilities are both 0. Fund Balances or Net Assets are also 0.

19 Have there been any substantial changes in your assets or liabilities since the end of the period shown above? If "Yes," explain. [ ] Yes [X] No

Part X Public Charity Status

Part X is designed to classify you as an organization that is either a private foundation or a public charity. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a private operating foundation. (See instructions.)

- 1a Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed. If you are unsure, see the instructions. [ ] Yes [X] No
b As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3). Check the box to confirm that your organizing document meets this requirement, whether by express provision or by reliance on operation of state law. [ ]
2 Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities, as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations. If "Yes," go to line 3. If "No," go to the signature section of Part XI. [ ] Yes [ ] No
3 Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI. If "No," continue to line 4. [ ] Yes [ ] No
4 Have you attached either (1) an affidavit or opinion of counsel, (including a written affidavit or opinion from a certified public accountant or accounting firm with expertise regarding this tax law matter), that sets forth facts concerning your operations and support to demonstrate that you are likely to satisfy the requirements to be classified as a private operating foundation; or (2) a statement describing your proposed operations as a private operating foundation? [ ] Yes [ ] No
5 If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below. You may check only one box.
The organization is not a private foundation because it is:
a 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches. Complete and attach Schedule A. [ ]
b 509(a)(1) and 170(b)(1)(A)(ii)—a school. Complete and attach Schedule B. [ ]
c 509(a)(1) and 170(b)(1)(A)(iii)—a hospital, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital. Complete and attach Schedule C. [ ]
d 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, g, or h or a publicly supported section 501(c)(4), (5), or (6) organization. Complete and attach Schedule D. [ ]

**Part X Public Charity Status (Continued)**

- e 509(a)(4)—an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv)—an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(vi)—an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- h 509(a)(2)—an organization that normally receives not more than one-third of its financial support from gross investment income and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- i A publicly supported organization, but unsure if it is described in 5g or 5h. The organization would like the IRS to decide the correct status.

**6** If you checked box g, h, or i in question 5 above, you must request either an **advance** or a **definitive ruling** by selecting one of the boxes below. Refer to the instructions to determine which type of ruling you are eligible to receive.

- a **Request for Advance Ruling:** By checking this box and signing the consent, pursuant to section 6501(c)(4) of the Code you request an advance ruling and agree to extend the statute of limitations on the assessment of excise tax under section 4940 of the Code. The tax will apply only if you do not establish public support status at the end of the 5-year advance ruling period. The assessment period will be extended for the 5 advance ruling years to 8 years, 4 months, and 15 days beyond the end of the first year. You have the right to refuse or limit the extension to a mutually agreed-upon period of time or issue(s). Publication 1035, *Extending the Tax Assessment Period*, provides a more detailed explanation of your rights and the consequences of the choices you make. You may obtain Publication 1035 free of charge from the IRS web site at [www.irs.gov](http://www.irs.gov) or by calling toll-free 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled. If you decide not to extend the statute of limitations, you are not eligible for an advance ruling.

**Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code**

**For Organization**

\_\_\_\_\_  
(Signature of Officer, Director, Trustee, or other authorized official)

\_\_\_\_\_  
(Type or print name of signer)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Type or print title or authority of signer)

**For IRS Use Only**

\_\_\_\_\_  
IRS Director, Exempt Organizations

\_\_\_\_\_  
(Date)

- b **Request for Definitive Ruling:** Check this box if you have completed one tax year of at least 8 full months and you are requesting a definitive ruling. To confirm your public support status, answer line 6b(i) if you checked box g in line 5 above. Answer line 6b(ii) if you checked box h in line 5 above. If you checked box i in line 5 above, answer both lines 6b(i) and (ii).
- (i) (a) Enter 2% of line 8, column (e) on Part IX-A. Statement of Revenues and Expenses. \_\_\_\_\_
- (b) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," check this box.
- (ii) (a) For each year amounts are included on lines 1, 2, and 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each **disqualified person**. If the answer is "None," check this box.
- (b) For each year amounts are included on line 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of line 10, Part IX-A. Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," check this box.

**7** Did you receive any unusual grants during any of the years shown on Part IX-A. Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual.  Yes  No

**Part XI User Fee Information**

You must include a user fee payment with this application. It will not be processed without your paid user fee. If your average annual gross receipts have exceeded or will exceed \$10,000 annually over a 4-year period, you must submit payment of \$850. If your gross receipts have not exceeded or will not exceed \$10,000 annually over a 4-year period, the required user fee payment is \$400. See instructions for Part XI, for a definition of gross receipts over a 4-year period. Your check or money order must be made payable to the United States Treasury.  
box, or call Customer Account Services at 1-877-829-5500 for current information.


1 Have your annual gross receipts averaged or are they expected to average not more than \$10,000?  Yes  No  
If "Yes," check the box on line 2 and enclose a user fee payment of \$400 (Subject to change—see above).

2 Check the box if you have enclosed the reduced user fee payment of \$400 (Subject to change).

3 Check the box if you have enclosed the user fee payment of \$850 (Subject to change).

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please Sign Here

  
(Signature of Officer, Director, Trustee, or other authorized official)

Eric Kessler  
(Type or print name of signer)

5/10/15  
(Date)

President  
(Type or print title or authority of signer)

Reminder: Send the completed Form 1023 Checklist with your filed-in-application.

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**Part IV. Narrative Description of Activities.**

Windward Fund (the “Windward Fund” or “Fund”) was incorporated on February 25, 2015 as a nonprofit corporation under the District of Columbia Non-Profit Corporation Act (the Articles of Incorporation is attached as Exhibit A and the Bylaws is included as part of Exhibit B). The Windward Fund has been organized to operate exclusively for charitable, educational and scientific purposes, including, but not limited to, engaging in activities intended to raise public awareness about environmental conservation and protection domestically and globally.

**A. Exempt Purposes**

The Windward Fund qualifies as an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).<sup>1</sup> An organization is exempt from taxation under section 501(c)(3) if it is organized and operated for charitable, scientific or educational purposes.

The term “charitable” is used in its “generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of ‘charity’...” Treas. Reg. § 1.501(c)(3)-1(d)(2). The Internal Revenue Service (the “Service”) has explicitly recognized environmental preservation as a charitable purpose. For example, in Revenue Ruling 76-204, the Service stated that it “is generally recognized that efforts to preserve and protect the natural environment for the benefit of the public serve a charitable purpose.” A 1994 Exempt Organizations Continuing Professional Education text summarized this as follows:

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<sup>1</sup> Hereinafter, all references to sections are to the Code unless otherwise specified.

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It is generally recognized that efforts to preserve and protect the nature environment for the benefit of the public serve a charitable purpose under IRC 501(c)(3). While not explicitly mentioned in IRC 501(c)(3), this activity would fall under the “generally accepted legal sense” of charitable described in Reg. 1.501(c)(3)-1(d)(2).

Sadie Copeland and James Bloom, *Environmental Preservation Issues*, IRS EO CPE Text

(1994). The text went on to state that

...the Service position evolved to embrace organizations dedicated to preserving natural habitats against the hazards of industrial blight as a matter of safeguarding the health of the planet and its animal and human inhabitants. This later aspect, which includes preservation of species and maintaining the delicate ecological balance, has become the central focus of exempt organizations that deal with environmental issues.

Thus, the Windward Fund’s efforts to protect and preserve the environment are “charitable” within the meaning of section 501(c)(3) of the Code.

An organization is also considered a section 501(c)(3) organization if it is organized and operated for “educational” purposes. Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term “educational,” as used in section 501(c)(3) of the Code, includes the instruction of the public on subjects useful to the individual and beneficial to the community. Organizations that provide these types of educational services to the public include: educational organizations that organize public discussions, forums, lectures, panels, and other similar programs,<sup>2</sup> organizations that conduct research and make research results available to the public,<sup>3</sup> and organizations that

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<sup>2</sup> Treas. Reg. 1.501(c)(3)-1(d)(3)(ii), Example (2); *see* Rev. Rul. 66-256 (organization that conducted public forums, lectures and debates on controversial social, political and international questions held to be educational where adopted an unbiased position).

<sup>3</sup> *See* Internal Revenue Manual 7.25.3.7.11.2.2. (“Organizations that devote most of their effort to research and development of a new body of knowledge may be educational. The results of the study and research must be available to the public...”); Rev. Rul. 65-60 (social science research organization that  
[Footnote continued on next page]



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publish educational materials in manner distinguishable from ordinary commercial publishing practices.<sup>4</sup>

**B. Description of Activities**

Overview

The Fund plans to raise public awareness about the importance of conservation and environmental protection issues meant to protect land, wildlife and other natural resources. To accomplish these objectives, the Fund will engage in education, grantmaking and implementing and facilitating charitable projects as a fiscal sponsor. The Fund will host numerous charitable endeavors and initiatives focused on raising awareness of conservation issues both domestically and internationally. The Fund will engage in fundraising activities meant to increase general awareness of conservation issues and will serve as a platform to support collaborative efforts from various donors working in this sector. While the Fund's specific endeavors are yet to be determined, they will include raising awareness and funds for issues pressing and current environmental issues, such as overfishing, deforestation and sustainable food and agriculture methods.

Grantmaking

The Fund will both conduct activities and make grants to other organizations. While the Fund has not yet received any grants, grants will be sought to support specific charitable

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*[Footnote continued from previous page]*

made research available to public through seminars, lectures and placement in libraries held to be exempt).

<sup>4</sup> See Rev. Rul. 67-4 (publishing educational if content and preparation of materials is "educational" in character, distribution of materials necessary or valuable to achieving the organization's educational purpose and manner of distribution distinguishable from ordinary commercial publishing practices).

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activities, chosen by the Fund's Board of Directors. The Fund may make grants by invitation only, as well as by publishing general calls for proposals or letters of inquiry from interested grantees. Grantees are likely to include domestic charities and foreign equivalents, as well as other organizations that can help advance the charitable purposes of the initiative. The Fund may create advisory committees composed of donors and experts to advise the Fund and its Board about activities related to specific projects and to assist in vetting grantees and grant proposals. Any such advisory committees would have the right to make only recommendations, with the Fund and its Board retaining final authority to approve any projects and funding.

The Fund may require grantees to submit an application form, but has not yet developed a form at this time. Furthermore, when it makes grants, the Fund will require that grantees enter into a grant agreement with the Fund and furnish a periodic accounting to show that grants were expended for the purposes that were approved by the Fund's Board. The Fund will conduct reasonable due diligence prior to making grants to ensure that grantees will use the funds for charitable purposes. As necessary and reasonable to ensure that the grant funds are used for their intended charitable purposes, the Fund will conduct monitoring, site visits, and audits to review the work and progress of grantees. The Fund will report back to all funders on the progress of the project towards stated goals. The Fund will promptly investigate any allegations of misuse of granted funds and will take appropriate steps to ensure that granted funds are used for charitable purposes. The Board will retain full discretion to terminate funding to any grantee. The Fund will maintain records detailing the amounts and purposes of all grants or other distributions it makes.

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Fiscal Sponsorship

Many of the Fund's activities are expected to involve arrangements in which the Fund would serve as a fiscal sponsor for a project. Fiscal sponsorship arrangements are well established within the nonprofit sector.<sup>5</sup> In 2012, the Internal Revenue Service Advisory Committee on Tax Exempt and Government Entities recommended fiscal sponsorship as an alternative to the ever increasing number of charitable organization being formed and applying for tax-exempt status with the IRS.<sup>6</sup> The National Network of Fiscal Sponsors works to improve the practice of fiscal sponsorship and promotes its value to society. Even the IRS itself, in the wake of Hurricane Sandy, as it had after Katrina, recommended use of existing organizations for community relief efforts, rather than forming new organizations.<sup>7</sup>

As a fiscal sponsor, the Fund would provide fiduciary oversight, financial management, and other administrative services to help build the capacity of charitable projects. As a fiscal sponsor, the Fund would serve as the host for projects engaged in activities related to the Fund's mission. Like other fiscal sponsors, the Fund may act exclusively as fiscal sponsors or provide fiscal sponsorship services as part of a portfolio of

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<sup>5</sup> See, for example, George Johnson and David Jones, *Community Foundations: Exempt Organization Continuing Professional Education Text* (Internal Revenue Service, 1994) (describing appropriate uses of fiscal sponsorship arrangements); Gregory Colvin, *Fiscal Sponsorship: 6 Ways to Do It Right* (Study Center Press, 2<sup>nd</sup> ed., 2005); *How Fiscal Sponsorship Nurtures Nonprofits* (Third Sector New England, 2006); Joshua Sattely, *A White Paper on Comprehensive Fiscal Sponsorship* (Third Sector New England, 2009); *Guidelines for Comprehensive Fiscal Sponsorship* (National Network of Fiscal Sponsors, 2010).

<sup>6</sup> See Advisory Committee on Tax Exempt and Government Entities, *Exempt Organizations: Form 1023 – Updating It for the Future* (June 6, 2012).

<sup>7</sup> Announcement IR-2012-87 (“The IRS also continues to encourage people to use existing organizations currently working on immediate aid efforts.”), available at <http://www.irs.gov/uac/Newsroom/IRS-Expedites-Charity-Applications-and-Urges-Use-of-Existing-Charities>.

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other service offerings. Some fiscal sponsors only accept projects that are focused on a specific sub-sector (e.g., environmental conservation, performing arts, public health); others may exclusively serve a specific geographic area (e.g., a local community or region).<sup>8</sup> As described herein, the Fund expects to focus on environmental issues both domestically and globally.

Projects hosted by the Fund, as a fiscal sponsor, will be under the legal control of the Fund. Like similar fiscal sponsors, the Fund plans to provide projects with a range of programmatic, financial, fundraising and administrative services. For example, as a fiscal sponsor, the Fund would:

- Accept and safeguard charitable donations on behalf of a project.
- Take on fiduciary and legal liability for those funds.
- Oversee project to ensure adherence to charitable intent.
- Create and maintain accounting records for the project.
- Prepare legal, financial, and tax reports as required for donors and funders. In addition, the Fund would generally assist the project organizers to prepare and file grant reports for donors and funders.
- Bring experience and expertise to the project related to programmatic, fundraising, strategic planning and administrative services.

#### Examples of Projects

Although the Fund does not have any specific projects currently, below are a few examples that the Fund expects to be representative of the type of projects that the Fund plans to engage in:

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<sup>8</sup> See *Fiscal Sponsorship: a 360 Degree Perspective* (Trust for Conservation Innovation, March 2014), available at [http://www.trustforconservationinnovation.org/become/fiscal\\_sponsorship\\_faq.php](http://www.trustforconservationinnovation.org/become/fiscal_sponsorship_faq.php).

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(a) Preserving Waterways

Water and waterways has been an economic engine around the world for most societies since the earliest days of civilization. However, water is also a scarce resource in many parts of the world. The United Nations reports that water scarcity is among the main problems to be faced by many societies and the world in the 21st century. Water resources are distributed unevenly and too much of it is wasted, polluted and unsustainably managed.<sup>9</sup>

The Windward Fund may work with funders who believe that the preservation of critical waterways, such as the Nile River, offers one of the best conservation opportunities in the world.<sup>10</sup> Through supporting a team of conservation professionals with extensive grant-making and conservation experience, establishment, management consolidation, and long-term financing, the Fund could facilitate a project could protect one of the largest rivers systems in the world. That effort would require careful coordination of experts both in the United States and abroad and would involve complex areas of compliance oversight, resource coordination, and knowledge management. Those individuals doing the substantive work of the project would have deep technical expertise, but little may have experience in grantmaking, project management, finances, or legal compliance. Complexities in the way funding can be blended from various private foundations, individuals, corporations, and government agencies make it essential that a single entity serve as the fiscal sponsor of the project.

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<sup>9</sup> Additional information from the United Nations is available at <http://www.un.org/waterforlifedecade/scarcity.shtml>.

<sup>10</sup> The Nile is the world's longest river, spanning a distance of almost 6,600 kilometers. See Nile Debate Emphasizes Conservation, Water Sharing (Voice of America, March 28, 2011), available at <http://www.voanews.com/content/upstream-vs-downstream-the-nile-basin-initiative-118079584/157700.html>.

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In hosting the project, the Windward Fund would develop a strategic vision for how best to address the common interests and concerns of the various donors who have expressed interest in preserving the Nile. Lead by an advisory committee of experts, advocates, funders, and other stakeholders, the Fund would devise a multi-year budget to accomplish its goals and seek grantfunding from various sources to implement the budget. Once funded, the project, through the Fund, would hire program and technical staff to work on achieving project goals. By working with consultants, service providers and contractors, the Fund would take advantage of economies of scale available by working through other entities to maximize efficiency. This would also allow the Fund to scale efficiently as it grows, adding on those resources it needs when they are needed.

Initially, grantmaking would be made by invitation only, with no general call for proposals or letters of inquiry. Grantees would likely include domestic charities and foreign equivalents, as well as other organizations that can help advance the charitable purposes of the initiative. All grantee organizations would be required to submit grant proposals that would be evaluated by the project advisory committee. The advisory committee would recommend grantees for funding to the Fund's board of directors for approval. The Fund would enter into grant agreements with all awardees, oversee the work conducted by those grantees, obtain regular reporting, and conduct evaluations of all grantees and their work. The Fund would report back to all funders on the progress of the project towards stated goals.

(b) Serving Gulf Coast Communities

Over the past decade, the Gulf Coast has experienced numerous environmental disasters, including Hurricane Katrina and the Deepwater Horizon oil spill. At the same time,

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the Gulf Coast boasts one of the richest ecosystems in the world. To protect Gulf Coast marine habitat, ensure clean water, and protect the livelihood of individuals who depend on a clean Gulf of Mexico for their livelihood, the Fund would establish a dedicated fund to facilitate the activities of a group of funders interested in creating a core network of leaders for long-term conservation action and to establish the infrastructure that will support the network over time. Housed at the Fund, interested donors would contribute to a dedicated fund to support organizations and activities identified as priorities by the project's advisory committee. The project would be staffed by the Fund and an advisory committee of conservation leaders, experts, funders, and other key stakeholders will provide recommendations to the Fund's officers, directors, and staff to help them establish strategies, set priorities, raise support, and evaluate effectiveness. This approach for developing and implementing projects represents a best practice in philanthropy that allows for diverse perspectives, broader input, meaningful collaboration, transparency and accountability from all partners and greater resiliency as funding sources, leaders, partners and organizations fluctuate in their levels of interest, participation and effectiveness.

Grantmaking from the project (and dedicated fund) would follow an annual cycle with quarterly opportunities, contingent on available funds, to address emerging opportunities, invest in promising innovations, and to support strategies, organizations, and individuals that are realizing success. All grants would be made by invitation only, with no general call for proposals or letters of inquiry. Strong metrics that emphasize the importance of data and evaluation would be built into the solicitation and proposal process. All grantee organizations would be required to sign a memorandum of understanding when submitting grant proposals

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that would outline the expectations for participation in the project, including working on unifying issues, sharing and managing data, and utilizing a joint ladder of engagement to track supporters. The project would invest in opportunities with the greatest ability to:

- Increase sustained public participation in critical conservation issues affecting the health of the Gulf of Mexico and the people who live and work in the communities along its shores.
- Attract broad, non-partisan support and participation from all who care about the future of the Gulf of Mexico without regard to ideology, party, or any other political identifiers.
- Achieve significant conservation impact.

To be successful, the project would invest in leaders who can not only lead the effort in the short term, but identify and support future leaders from among today's youth and young adults. Leaders would come from the nonprofit sector, but also public health officials, commercial and sport fishers, businesses, community leaders, property owners, and others who care about conservation. Those leaders would then work to motivate volunteers to get engaged and to make increasingly bold commitments to the cause and to recruit even more volunteers, building a network to improve lives in Gulf Coast communities and beyond. The project would support multiple organizations and ensure careful coordination, efficiency, and information sharing across the broader effort. A common database would allow data-sharing between participating organizations. A comprehensive public communication campaign would ensure that the messages of the project's goals and good work will be heard by everyone in the affected communities it serves.



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(c) Protect Western Lands in the United States

The Western United States is an area of unique and important biodiversity facing extreme threats and a complicated fast moving political environment. Demands for domestic energy, the persistent shortage of water due to prolonged drought, and pressure of population growth are rapidly transforming the entire Mountain West. Although many small organizations are working to address pieces of the problem, a collaborative approach can help place those disparate efforts within a comprehensive strategic framework. This program would focus on efforts to permanently protect ecologically and culturally significant areas in the West. The program may be managed entirely by third-parties, including grantees, sub-contractors and consultants.

The Fund would develop assessments that lead to effective grant making to address a number of key threats to land and water in the West. We also would expect a shift in awareness and public opinion around these threats and pursue a policy agenda that will buttress our grant making efforts. Working with state and county-level representatives, we would improve land management planning at the federal and regional level. By engaging with all stakeholders, including industry, community leaders, native populations, and others, the Fund would encourage open conversations about the challenges and opportunities to balance everyone's needs in preserving western land and water. Together, we would foster an integrated approach to conservation that coordinates efforts across campaign regions and identify opportunities for cross-region strategies.

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**Part V. Compensation. Question 1a.**

**Board of Directors and Officers**

<u>Name</u>	<u>Title</u>	<u>Address</u>	<u>Compensation</u>
Eric Kessler	Director and President	1201 Connecticut Avenue, NW Suite 300 Washington, D.C. 20036	None
Adam Eichberg	Director and Treasurer	1201 Connecticut Avenue, NW Suite 300 Washington, D.C. 20036	None
Harry Drucker	Director and Secretary	1201 Connecticut Avenue, NW Suite 300 Washington, D.C. 20036	None

**Part V. Compensation. Question 1b. Highest Compensated Employees.**

The Fund does not currently have any employees, but will begin to hire employees as soon as the Fund becomes operational. The Fund expects to pay employees competitive, but no more than market-rate compensation.

**Part V. Compensation. Question 1c. Highest Compensated Independent Contractors.**

The Fund does not currently have any independent contractors, but expects to hire independent contractors as soon as the Fund becomes operational.

**Part V. Compensation. Question 2b. Business Relationships.**

The Fund will a business relationship with a company operated by Eric Kessler, the Windward Fund's Chairman and President, as described in Response to Part V, Question 9, below.

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**Part V. Compensation. Question 3a.**

**1. Eric Kessler**

- a.) **Qualifications:** Eric Kessler has worked in the nonprofit and philanthropy community for over fifteen years, including managing and advising nonprofit organizations and donors in the United States and 23 other countries around the world. Eric served as the National Field Director for the non-partisan League of Conservation Voters Education Fund and then as a Senior Advisor to President Bill Clinton and Interior Secretary Bruce Babbitt deepen their connections with community organizations across the country. He spent six years working in the former Soviet Union, Southeast Asia and throughout the Middle East to train and advise local nonprofit organizations and assist international donors. Eric serves on the Board of the Relations Foundation, on the Selection Committee of the Brower Youth Awards, is a member of the International Association of Advisors in Philanthropy and is a principal advisor with Arabella Philanthropic Advisors in Washington, D.C. He studied at the University of Colorado and earned an MBA from Georgetown University.
- b.) **Average hours worked:** 5 hours per week.
- c.) **Duties:** Mr. Kessler serves as Chair of the Board of Directors and President. In the former role, Mr. Kessler presides over meetings over the Board of Directors, in addition to other Board activities, including policy-setting, financial oversight, fundraising, and outreach to nonprofit organizations. In the latter role, Mr. Kessler's specific responsibilities include execution of organizational activities and goals; development of Board of Directors and maintenance of communications and relations with Directors regarding major policy setting, fundraising, and fiduciary board responsibilities; strategic planning; budget development and monitoring; hiring and management of staff to execute programs and activities; fundraising programs targeted as trustees, individuals, foundations and other institutions; trustee and major donor development.

**2. Harry Drucker**

- a.) **Qualifications:** Harry Drucker formed Revere Corp., a real estate advisory and property management company. He also founded North Shore Realty Partners, a real estate partnership formed to purchase and manage all types of real estate. Since its formation, the partnership, which had an initial capitalization of \$20 million, has invested over \$55 million in various real estate ventures in the United States and Europe.

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Mr. Drucker has been a member of the board of trustees of The Nature Conservancy of Illinois since 1995 and is currently its vice-chair. From 2001 to 2010, he served on the Illinois Nature Preserves Commission, appointed by the governor of Illinois, and served as its chairman for two years. Mr. Drucker is a member of the board of directors of the Environmental Law and Policy Center of the Midwest where he currently serves as its chair.

Mr. Drucker graduated with a BA in German, *summa cum laude*, from Middlebury College in Middlebury, Vermont, in 1980, and a MBA in finance from the University of Chicago Graduate School of Business in 1984.

- b.) Average hours worked: 3 hours per week.
- c.) Duties: Mr. Drucker serves as a Director and as the Secretary, and assumes appropriate responsibilities to his roles as Officer and Board member, including policy-setting, financial oversight, fundraising and outreach to other nonprofit organizations.

**3. Adam Eichberg**

- a.) Qualifications: Adam Eichberg was previously the Executive Director of the Western Conservation Foundation, a foundation dedicated to work with conservation groups across the West as they explore new strategies to protect the West's land, air and water. From 1999 until March 2005, Mr. Eichberg served as the Associate National Director of the Trust for Public Land's ("TPL") Conservation Finance Program, TPL's National Campaigns Director, and as a Vice-President of TPL's The Conservation Campaign. Prior to his appointment with TPL, Mr. Eichberg was a strategic communications consultant with a private Denver-based firm and also served as the Rocky Mountain Regional Director of the League of Conservation Voters Education Fund. Mr. Eichberg is a graduate of the University of Colorado.
- b.) Average hours worked: 3 hours per week.
- c.) Duties: Mr. Eichberg serves as a Director and the Treasurer, and assumes appropriate responsibilities to his roles as Officer and Board member, including policy-setting, financial oversight, fundraising and outreach to other nonprofit organizations.

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**Part V. Compensation. Question 5a.**

The Fund has adopted a conflict of interest policy consistent with the sample conflict of interest policy in Appendix A to the Instructions for Form 1023. This policy was adopted by resolution of the Fund's Board of Directors. A copy of this policy is attached as part of Exhibit B.

**Part V. Compensation. Question 7a.**

The Fund does not have any current intention to purchase goods, services or assets from any officers, directors, trustees, highest compensated employees or highest compensated independent contractors, other than as described in response to Part V, Question 9, below.

**Part V. Compensation. Question 8a.**

The Fund does not expect to have any leases, contracts, loans or other agreements with officers, directors, trustees, highest compensated employees or highest compensated independent contractors, other than as described in response to Part V, Question 9, below.

**Part V. Compensation. Question 9.**

The Fund will enter into an administrative support agreement with Arabella Philanthropic Advisors, Inc. (the "Arabella"), a District of Columbia Limited Liability Company with Eric Kessler as its sole member.<sup>11</sup> Mr. Kessler serves as the Windward Fund's Board Chair and President. The terms of this administrative support agreement were reviewed by, and are subject to approval by, the majority of disinterested members of the Board of Directors (exclusive of Mr. Kessler) in accordance with the conflict of interest policy attached in response to Part V,

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<sup>11</sup> The administrative support agreement will be in substantially the same format as the draft agreement attached as Exhibit C.

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Question 5a, above. The services agreement between the Fund and Arabella is not exclusive. The Fund has absolute discretion to retain other, or additional, service providers. Due to the projects and activities the Fund expects to engage in, as described in Part IV above, the Fund expects to retain numerous independent contractors and service providers with various administrative, technical, programmatic and other expertise. However, the Fund expects that Arabella will be a significant service provider for the Fund. The independent members of the Fund's Board have determined that Arabella's services and fees are best-in-class, competitive and no more than market value. The independent directors expect to review periodically the Fund's arrangement with Arabella, including by obtaining appropriate information regarding market rates for similar services and, if warranted, obtaining competitive bids, to ensure that Arabella's services and fees are competitive and market rate and that the arrangement with Arabella is in the Fund's best interest.

Because of Mr. Kessler's role with Arabella, Mr. Kessler will not have the authority under the services agreement to approve Arabella expenses incurred on behalf of the Fund, challenge the Fund's expenses, or oversee payments from the Fund to Arabella. Instead, the disinterested members of the Board of Directors alone will approve expenses, have the authority to challenge the Arabella's expenditures, and will also oversee the payments made by the Fund to Arabella. The disinterested directors may rely on independent outside financial experts, including an outside accountant to be retained by the Fund (and unrelated to Arabella), to conduct an audit of Arabella's expenditures, should they believe it to be necessary. The independent directors may also request that the Fund's outside accountants conduct "spot" audits on an ongoing basis to ensure that Arabella's expenditures are accurate.

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Under the administrative support agreement, Arabella will provide the Fund with financial management and administrative support services, as well as administer payroll and benefits on behalf of the Windward Fund's employees. The Fund will pay reasonable compensation for the services Arabella provides to the Fund. The compensation will be established on a project by project basis and will include reimbursement of certain direct out-of-pocket expenses Arabella incurs in providing the services to the Fund, plus an administrative overhead rate mutually agreed by the Fund and Arabella (generally between 2% and 15%, depending on, among factors, the size, scope and complexity of the project).

**Part VI. Receipt of Benefits. Question 1.**

In carrying out its exempt charitable, scientific and educational purposes, including, but not limited to, the protection and preservation of the environment, the Windward Fund may in the future provide goods and services (either without charge or for a fee that is substantially below commercial rates) for such goods or services to individuals and/or organizations, including educational materials relating to the Fund's exempt purposes or educational programs relating to environmental preservation. In connection with the fulfillment of its exempt purposes, the Fund may provide funds to a variety of individuals and/or organizations, such as research grants to scientists to study the environmental impact of human activity and grants to promote community-building among groups seeking to protect the environment.

As described in Part IV above, the Fund will also provide fiscal sponsorship services to projects. The Fund will charge a fee for such services based on a percentage of contributions the Fund receives to support the project. The fiscal sponsorship fees charged by the Fund will be

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similar to fees charged by other nonprofit organizations that provide fiscal sponsorship services similar to the services provided by the Fund.

A 2006 report by the Tides Center on fiscal sponsorships reported that fees for fiscal sponsorships typically fall within the range of 1% to 15% of project budgets.<sup>12</sup> The National Network of Fiscal Sponsors describes fiscal sponsorship fees as follows: “To cover the costs of their services, most fiscal sponsors add an administrative allocation to your expenses. This is usually calculated as a percentage of either project revenues or expenses, and should be part of your written agreement with the sponsor. These percentages vary depending on the types of services included, requirements of the project, the sponsor’s policies, and other factors, but in general the range is between 9% and 15%. It is common for fiscal sponsors to charge a higher percentage to administer government grants.”<sup>13</sup> For example, the Trust for Conservation Innovation, a 501(c)(3) public charity, that helps environmental leaders fulfill their visions by providing nonprofit status and fiscal sponsorship services for innovative conservation projects, charges projects a flat fee of 9% of the revenue (including contributions) the projects generate (14% of revenue/contributions from government or international sources) for TCI’s financial, administrative, grant management, and HR services as a fiscal sponsor.<sup>14</sup>

The Fund expects that its fees will range from 2% to 15%, depending on the complexity of the project. The fee for each project will depend on several factors, including the project’s

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<sup>12</sup> Tides Center White Paper, *Fiscal Sponsorship Field Scan: Understanding Current Needs and Practices* (2006), available at [www.tides.org/fileadmin/user/pdf/WP\\_FiscalSponsorFieldScan.pdf](http://www.tides.org/fileadmin/user/pdf/WP_FiscalSponsorFieldScan.pdf).

<sup>13</sup> See National Network of Fiscal Sponsors, *10 Questions Potential Projects Should Ask a Fiscal Sponsor*, available at <http://www.fiscalsponsors.org/pages/10-questions-potential-projects-should-ask-fiscal-sponsor>.

<sup>14</sup> See <http://www.trustforconservationinnovation.org/about/services.php?anchor=fees#fees>.



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budget size, types of services required, and whether the activities are based in the U.S. or internationally. The Fund will execute a fiscal sponsorship agreement with each project in a form that will be in substantially the same format as the draft agreement attached as Exhibit D.

**Part VIII. Specific Activities. Question 2.**

As part of the Fund's exempt purpose of protecting and preserving the environment for the benefit of the public, the organization hopes to facilitate dialogue between itself, its volunteers and interested members of the community with elected officials of all political parties by holding nonpartisan luncheons, conference calls and panels with officials to discuss various initiatives and publicize the Funds' future research on environmental issues. In fulfilling this mission, the Windward Fund may occasionally engage in activities that may constitute attempts to "influence legislation" when specific legislation directly impacts the environmental issues of importance to the Windward Fund – either by engaging in direct contact with legislators regarding specific legislation or encouraging its volunteers or interested members of the community to engage in direct contact with legislators regarding specific legislation.

However, these activities will never constitute a substantial portion of the Fund's activities, as prohibited by section 501(c)(3). At this time, the Fund anticipates that no more than 5% of its time or budget will be spent on attempts to influence legislation as compared to the organization's total activities.

**Part VIII. Specific Activities. Question 4a.**

The Fund plans to conduct fundraising activities which may include, without limitation, solicitations in person, written proposal via mail or email, phone solicitations, solicitations on the Fund's future website (if created), as well as solicitation of grants from other nonprofit

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organizations or the government. Currently, the Fund's fundraising efforts are conducted by members of the Board of Directors who, through personal visits and other outreach activities, are focusing on major and other individual donors and charitable organizations, including environmental foundations.

As described in Part IV above, the Fund also expects to serve as a fiscal sponsor to projects and activities related to the Fund's mission, including by assisting projects to fundraise. Any funds raised as a fiscal sponsor would be under the legal control of the Fund.

**Part VIII. Specific Activities. Question 4d.**

The Fund plans to conduct fundraising on a nationwide and global basis.

**Part VIII. Specific Activities. Question 10.**

The Fund does not currently possess any intellectual property, but may eventually seek copyright or trademark protection over its own logo or published materials. The Fund will own the intellectual property and does not have any current plans to either allow others to use its intellectual property or charge fees for such use. Should the Windward Fund, acting through its Board of Directors, decide to allow others to use its intellectual property or charge fees for such use, the Board will adopt appropriate policies in accordance with applicable law.

**Part VIII. Specific Activities. Question 11.**

The Fund does not currently accept any contributions of real property, conservation easements, closely held securities, intellectual property, works of music or art, licenses, royalties, vehicles or collectibles. Should the Fund, acting through the Board of Directors, make a decision to accept any of these types of property, the Board of Directors will adopt appropriate policies in accordance with applicable law.

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**Part VIII. Specific Activities. Question 12.**

As described in Part IV above, the Fund may engage in projects that are carried out in foreign countries. The Fund is not yet operational and has not engaged in any activities yet. However, the Fund will ensure, through policies and guidelines adopted by its Board of Directors and by conducting appropriate due diligence, that its activities in foreign countries qualify as charitable and educational activities under section 501(c)(3) of the Code and comply with all applicable US and local country laws, including anti-terrorism and anti-corruption laws (e.g., the Foreign Corrupt Practices Act).

**Part VIII. Specific Activities. Question 13a-b.**

The Fund will make distributions to other charitable organizations, as described in Part IV. These distributions will be made after examination of programs of various charitable organizations which conform to the goals of the Fund. The purpose and implementation of each program will be considered and the programs will be selected by the Fund's Board of Directors. Any funds will be distributed in accordance with a policy adopted by the Board of Directors which conforms with applicable law.

**Part VIII. Specific Activities. Question 13c.**

The Fund expects to send a grant notification letter to notify a grantee that a grant has been made. The Fund expects to use a written contract with grantees to make a grant award, but has not developed a grant agreement yet. The typical grant agreement would set forth the terms under which the grant will operate, including the purpose and scope of the grant, the amount and duration of the grant, and any reporting requirements and prohibited uses by the grantee.

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**Part VIII. Specific Activities. Question 13d.**

The Fund is a new organization and expects to make grants to a variety of organizations for charitable purposes, but has not yet identified such grantees. Any organization known to have a relationship to the Fund which would constitute a conflict of interest would be able to receive a grant only pursuant to the requirements outlined in the Fund's conflict of interest policy to ensure that the Fund does not engage in any impermissible conflict of interest or self-dealing transaction.

**Part VIII. Specific Activities. Question 13e.**

Documentation will include proof of 501(c)(3) status, description of the funded program, financial statements for the organization and its program, as available and required, any agreements between the Fund and the recipient organization, and the dates and amounts of distributions to each program.

**Part VIII. Specific Activities. Question 13f.**

The Fund may use an application form or grant proposal to select grantees. The selection process would be conducted by the Board of Directors after review of the candidate programs and organizations. If a grant proposal is developed for use by the Fund, it would specify the responsibilities of both the Fund and the grantee and would obligate the grantee to use the grant funds exclusively for the purposes for which the grant is made. It would also acknowledge the Fund's authority to withhold and/or recover grant funds that are, or appear to be, misused by the grantee and would require a final written report and an accounting of how grant funds were used by the grantee.

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**Specific Activities. Question 13g.**

In general, it is the responsibility of the recipient organization to monitor the performance of their program. The Fund will request reports by the organization, as necessary and available, to ensure that the grantee used the grant funds exclusively for the purposes for which the grant is made and to review the success of the program and include this assessment into the consideration of future funding of the program. The Fund would retain all documentation associated with grants, including proposals, correspondence and financial reports.

**Part VIII. Specific Activities. Question 14a-c.**

The Fund does not currently make any grants, loans or other distribution to foreign organizations. Should the Fund, acting through the Board of Directors, decide to make any grants, loans or other distributions to any foreign organization in support of its exempt purposes described in Part IV above, it will do so in accordance with a policy adopted by the Board of Directors which conforms to applicable law and mandates that all such grants, loans or other distributions are used solely for charitable and educational purposes.

**Part VIII. Specific Activities. Question 14d.**

The Fund will advise all contributors that the Board of Directors of the Fund retains the ultimate authority to use contributions to further its exempt purposes and that it cannot accept contributions earmarked for particular organizations and will obtain from each contributor a written acknowledgment to that effect.

**Part VIII. Specific Activities. Question 14e.**

In conformity with Revenue Ruling 66-79, 1966-1 C.B. 48, which sets forth guidelines for international grantmaking, the Fund's Board of Directors will at all times exercise discretion and control over the Fund's funds, including those funds spent outside of the United States, to

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ensure that all funds are used for specific projects that further the purposes for which the Fund was established. The Fund will make pre-grant inquiries into each recipient organization's financial status, its tax-exempt status under the Internal Revenue Code, and its ability to accomplish the purposes for which the resources are provided.

**Part VIII. Specific Activities. Question 14f.**

The Fund may enter into a written agreement with grant recipients memorializing the recipient's obligation to use the funds exclusively for the purposes approved by the Board of Directors. Following the distribution of funds, the Fund will make periodic investigations and audits and require periodic and final financial reports documenting the use to which the recipient put such funds. The Fund's Board members or staff may also perform site visits to ensure that distributions to foreign organizations are being used in furtherance of the Fund's exempt purposes.

In addition, in undertaking its activities, the Fund intends to comply with all statutes, Executive Orders, and regulations restricting or prohibiting U.S. persons from engaging in transactions and dealings with terrorist designated countries, entities, individuals, or in violation of economic sanctions administered by OFAC.

The Fund will conduct its international activities using best practices, including, as appropriate and applicable, the recommendations and guidelines provided by (a) the U.S. Department of Treasury Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities and (b) the Principles of International Charity (2005) (developed by the Treasury Guidelines Group of Charitable Sector Organizations and Advisors) (attached).

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If the Fund enters into an arrangement with a foreign organization with which the Fund is not otherwise familiar, the Fund intends to check whether such organization is on the SDN List based on an assessment of the risk of diversion of its activities for terrorist related activities.

Finally, the Fund intends to acquire from OFAC the appropriate license and registration where necessary to conduct its activities. However, the Fund does not have current plans to engage in any activities or conduct activities in any countries where the Fund would be required to obtain a license and/or registration from OFAC.

**Part IX. Financial Data. A. Statement of Revenue and Expenses**

**Line 15: Grants**

	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>SUBTOTAL</b>	<b>\$50,000</b>	<b>\$100,000</b>	<b>\$250,000</b>

Although the Windward Fund does not yet award grants, it will likely do so in the future. See description in Part VIII, Question 13, above.

**Line 18: Other Salaries and Wages**

	<b>2015</b>	<b>2016</b>	<b>2017</b>
Salaries and Wages for the Fund's Employees (e.g., program officers and employees working on the Fund's various projects)	\$125,000	\$550,000	\$660,000
<b>SUBTOTAL</b>	<b>\$125,000</b>	<b>\$550,000</b>	<b>\$660,000</b>

**Line 22: Professional Fees**

	<b>2015</b>	<b>2016</b>	<b>2017</b>
Arabella Administrative Support	11,250	75,000	100,000
Legal and Accounting Fees	20,000	20,000	20,000
Independent Contractors,	75,000	325,000	850,000

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Including Programmatic Activities			
<b>SUBTOTAL</b>	<b>\$106,250</b>	<b>\$420,000</b>	<b>\$970,000</b>

**Line 23: Unclassified Expenses**

	<b>2015</b>	<b>2016</b>	<b>2017</b>
Board Meetings and Travel	2,000	12,000	12,000
Supplies	5,000	15,000	20,000
Other Travel	4,000	24,000	24,000
Computer and Equipment	15,000	10,000	10,000
Educational and Research Studies and Activities	35,000	300,000	450,000
Conferences and Events for Funders and Programs	25,000	150,000	225,000
<b>SUBTOTAL</b>	<b>\$80,000</b>	<b>\$511,000</b>	<b>\$741,000</b>



# EXHIBIT A

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
CORPORATIONS DIVISION



**CERTIFICATE**

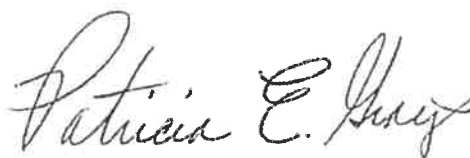
**THIS IS TO CERTIFY** that all applicable provisions of the District of Columbia Business Organizations Code have been complied with and accordingly, this **CERTIFICATE OF INCORPORATION** is hereby issued to:

WINDWARD FUND

**Effective Date:** 2/25/2015

**IN WITNESS WHEREOF I** have hereunto set my hand and caused the seal of this office to be affixed as of 2/25/2015 3:25 PM

Business and Professional Licensing Administration



PATRICIA E. GRAYS  
Superintendent of Corporations  
Corporations Division

Muriel Bowser  
Mayor

Tracking #: fthPVTT9

Windward Fund  
47-3522162

EIN:

Windward Fund

DCRA Corp. Div.

FEB 25 2015

FILE COPY *1/2/15*

ARTICLES OF INCORPORATION

OF

WINDWARD FUND

I, the undersigned natural person of the age of eighteen years or more, acting as incorporator of the above-named corporation, adopt the following Articles of Incorporation of such corporation pursuant to the District of Columbia Nonprofit Corporation Act of 2010, Title 29, Chapter 4, of the District of Columbia Code.

FIRST: The name of the corporation is Windward Fund (the "Corporation").

SECOND: The period of the Corporation's duration is perpetual.

THIRD: The purposes for which the Corporation is organized are as follows:

A. To operate exclusively for charitable, educational and scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, engaging in activities intended to raise public awareness about environmental conservation and protection domestically and globally.

B. To exercise any powers conferred upon corporations formed under the District of Columbia Nonprofit Corporation Act of 2010 as may be necessary or convenient in order to accomplish the above-described purposes, including, but not limited to, the power to accept donations of money or property, whether real or personal, or any interest therein, wherever situated, or any other thing of value.

FOURTH: The Corporation shall have members of such classes, and with such obligations and rights, including voting rights, as may be provided in the Bylaws.

FIFTH: Except for the initial Board of Directors, whose names are set forth in these Articles of Incorporation, the Board of Directors shall be chosen in the manner provided in the Bylaws.

SIXTH: Except as provided in these Articles of Incorporation, the internal affairs of the Corporation shall be regulated and determined as provided in the Bylaws.

SEVENTH: At all times, and notwithstanding merger, consolidation, reorganization, termination, dissolution or winding up of the Corporation (voluntary or involuntary or by operation of law), or any other provisions hereof:

A. The Corporation shall not possess or exercise any power or authority, whether expressly, by interpretation, or by operation of law, that would pose a substantial

Windward Fund EIN: 47-3522162

risk of preventing it at any time from qualifying and continuing to qualify as an organization described in section 501(c)(3) of the Code, contributions to which are deductible for federal income tax purposes, nor shall the Corporation engage directly or indirectly in any activity that would pose a substantial risk of causing the loss of such qualification under section 501(c)(3) of the Code.

B. At no time shall the Corporation engage in any activities that are unlawful under the laws of the United States, the District of Columbia or any other jurisdiction where any of its activities are carried on.

C. No part of the assets or net earnings of the Corporation shall ever be used, nor shall the Corporation ever be organized or operated, for purposes that are not exclusively charitable, educational or scientific within the meaning of section 501(c)(3) of the Code.

D. The Corporation shall never be operated for the primary purpose of carrying on a trade or business for profit.

E. The Corporation shall not carry on propaganda or otherwise attempt to influence legislation to an extent that would disqualify it for tax exemption under section 501(c)(3) of the Code by reason of attempting to influence legislation. Nor shall the Corporation, directly or indirectly, participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

F. No solicitation of contributions to the Corporation shall be made, and no gift, bequest or devise to the Corporation shall be accepted, upon any condition or limitation that would pose a substantial risk of causing the Corporation to lose its federal income tax exemption.

G. Pursuant to the prohibition contained in section 501(c)(3) of the Code, no part of the net earnings, current or accumulated, of the Corporation shall ever inure to the benefit of any private shareholder or individual.

H. Notwithstanding any other provision of these Articles of Incorporation, if at any time or times the Corporation is a private foundation within the meaning of section 509 of the Code, then during such time or times:

(1) The Corporation shall not engage in any act of self-dealing as defined in section 4941(d) of the Code;

(2) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to subject the Corporation to tax under section 4942 of the Code;

(3) The Corporation shall not retain any excess business holdings as defined in section 4943(c) of the Code;

(4) The Corporation shall not make any investments in such a manner as to subject the Corporation to tax under section 4944 of the Code; and

(5) The Corporation shall not make any taxable expenditures as defined in section 4945(d) of the Code.

**EIGHTH:** Upon the termination, dissolution or winding up of the Corporation in any manner or for any reason, voluntary or involuntary, its assets, if any, remaining after the payment or provision for payment of all liabilities of the Corporation shall be distributed to, and only to, one or more organizations described in section 501(c)(3) of the Code.

**NINTH:** The private property of the officers and directors of the Corporation shall not be subject to payment of debts of the Corporation to any extent whatever.

**TENTH:** The Corporation shall indemnify any director or former director of the Corporation for any liability to any person (i.e., any obligation to any person to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred with respect to a threatened, pending or completed proceeding) for any action taken (or any failure to take any action) as a director, except for any liability for (A) receipt of a financial benefit to which the director is not entitled, (B) an intentional infliction of harm, (C) a violation of section 29-406.33 of the District of Columbia Nonprofit Act of 2010 (which imposes director liability for unlawful distributions) or (D) an intentional violation of criminal law. The indemnification provided by this Article TENTH shall not be deemed exclusive of any other rights to which such director may be entitled under any bylaw, agreement, vote of the Board of Directors or otherwise. No payment shall be made under this Article TENTH if such payment would result in any liability for tax under chapter 42 of the Code.

**ELEVENTH:** All references contained in these Articles of Incorporation to the Internal Revenue Code of 1986, or to the "Code," shall be deemed to refer to the Internal Revenue Code of 1986 and to the Regulations established pursuant thereto as they now exist or as they may hereafter be amended. Any reference contained in these Articles of Incorporation to a specific section or chapter of the Code shall be deemed to refer to such section or chapter and the Regulations established pursuant thereto as they now exist or as they may hereafter be amended, and to any corresponding provision of any future United States Internal Revenue law and any Regulations established pursuant thereto.

**TWELFTH:** The address, including street number and zip code, of the initial registered office of the Corporation and the name of its initial registered agent at such address are:

CT Corporation System  
1015 15th Street, N.W., Suite 1000  
Washington, D.C. 20005


**THIRTEENTH:** The number of directors constituting the initial Board of Directors of the Corporation is three (3). The name and address, including street number and zip code, of each of the individuals who are to constitute the initial Board of Directors are:

<u>Name:</u>	<u>Address:</u>
Harry Drucker	1201 Connecticut Avenue, NW, Suite 300 Washington, D.C. 20036
Adam Eichberg	1201 Connecticut Avenue, NW, Suite 300 Washington, D.C. 20036
Eric Kessler	1201 Connecticut Avenue, NW, Suite 300 Washington, D.C. 20036

**FOURTEENTH:** The name and address, including street number and zip code, of the incorporator is:

<u>Name:</u>	<u>Address:</u>
James P. Joseph, Esq.	555 12th Street, N.W. Washington, D.C. 20001

IN WITNESS WHEREOF, I have signed and acknowledged these Articles of Incorporation this 25th day of February, 2015.

  
James P. Joseph

# EXHIBIT B

**UNANIMOUS WRITTEN CONSENT  
TO ACTION TAKEN IN LIEU OF MEETING  
OF THE BOARD OF DIRECTORS  
OF  
WINDWARD FUND**

The undersigned, being all the members of the Board of Directors of Windward Fund, a District of Columbia nonprofit corporation (the "Corporation"), do hereby approve, adopt and consent to the following Resolutions as the acts of the Board of Directors of the Corporation effective as of February 25, 2015.

**RESOLVED**, that the Bylaws attached hereto as Annex A are hereby approved and adopted as the Bylaws of the Corporation, and the Secretary of the Corporation is hereby directed to maintain the Bylaws of the Corporation as they may hereafter be amended current form in the minute book of the Corporation.

**RESOLVED**, that Eric Kessler is elected to serve as the Chair of the Board of Directors of the Corporation to serve for a term of three (3) years or until his successor is appointed or elected and qualified.

**RESOLVED**, that each of the individuals whose names appear below is elected to the office of the Corporation set forth opposite his name, to serve for a term of three (3) years or until his successor is appointed or elected and qualified:

Eric Kessler	President
Harry Drucker	Secretary
Adam Eichberg	Treasurer

**RESOLVED**, that the President, or such other individual or individuals as may be designated by the President, shall designate a bank as depository of securities, funds and other assets of the Corporation, that the Officers of the Corporation (or any one of them) are authorized and directed to take such action as may be required to open one or more accounts for the Corporation with such bank; and that the President, Vice-President, Treasurer, and Secretary are each authorized to sign checks, drafts and other similar instruments on behalf of the Corporation, provided that the signature of two such Officers shall be necessary to validate a check, draft or similar instrument in an amount in excess of \$50,000.

**RESOLVED**, that the President, or such other individual or individuals as may be designated by the President, shall have authority over hiring, retention and termination of the Corporation's employees.

**RESOLVED**, that the Officers of the Corporation (or any one of them) and such other individuals as may be designated by the President may enter into and execute on behalf of the Corporation contracts, leases, debt obligations and all other forms of



agreements or instruments, whether under seal or otherwise, permitted by law, the Articles of Incorporation and Bylaws if such action has not otherwise been delegated by the Board of Directors and if such action is deemed necessary or desirable to further the interests of the Corporation; provided that, unless otherwise provided by the Board of Directors, the signature of the President of the Corporation shall be necessary to enter into and execute on behalf of the Corporation a contract, lease, debt obligation or other form of agreement or instrument obligating the Corporation to pay an aggregate amount in excess of \$50,000.

**RESOLVED**, that the Officers of the Corporation (or any one of them) are authorized and directed to execute and file all necessary applications and do all other things deemed by such Officer or Officers to be necessary or desirable to secure for the Corporation appropriate exemptions from income, real property, sales, franchise, use and other taxes.

**RESOLVED**, that for the purpose of authorizing the Corporation to do business in any state or territory of the United States of America or any foreign country in which it is necessary or expedient for the Corporation to transact business and, so long as permissible under applicable laws and regulations, the Officers of the Corporation (or any one of them) are authorized and directed to appoint and substitute all necessary agents for service of process, to designate and change the location of all necessary statutory offices and, under the corporate seal, to execute and file all necessary certificates, reports and other instruments as may be required by the laws of such state, territory or country to authorize the Corporation to transact business therein, and whenever it is expedient for the Corporation to cease doing business therein and withdraw therefrom, to revoke any appointment of agent for service of process, and to file such certificates, reports, revocations of appointment, or surrender of authority as may be necessary to terminate the authority of the Corporation to do business in any such state, territory or country.

**RESOLVED**, that the Conflict of Interest Policy attached hereto as Annex B is approved and adopted as the Conflict of Interest Policy of the Corporation.

**RESOLVED**, that the Whistleblower Policy attached hereto as Annex C is approved and adopted as the Whistleblower Policy of the Corporation.

**RESOLVED**, that the Record Retention Policy attached hereto as Annex D is approved and adopted as the Record Retention Policy of the Corporation.

**RESOLVED**, that the fiscal year of the Corporation shall be December 31.

**RESOLVED**, that the Secretary of the Corporation shall secure a minute book and seal for the Corporation.

**RESOLVED**, that the Secretary or other corporate officer of the Corporation is hereby authorized to certify the foregoing actions and resolutions for any purpose or purposes as the proper and official actions and resolutions of the Board.

No other actions were taken by the undersigned.

**Harry Drucker, Director**

**Adam Eichberg, Director**

**Eric Kessler, Director**

Windward Fund EIN: 47-3522162

BYLAWS  
OF  
WINDWARD FUND

Article I

Name

The name of the corporation is Windward Fund (the “Corporation”).

Article II

Purposes of the Corporation

The Corporation has been organized to operate exclusively for charitable and educational purposes, including, but not limited to, engaging in activities intended to raise public awareness about environmental conservation and protection domestically and globally.

Article III

Offices and Registered Agent

Section 1. Offices. The principal office of the Corporation and such other offices as it may establish shall be located at such place(s), either within or without the District of Columbia, as may be designated by the Board of Directors.

Section 2. Agent. The Corporation shall maintain continuously within the District of Columbia a registered agent, which agent shall be designated by the Board of Directors or the President.

Section 3. Changes. Any change in the name or address of the registered agent of the Corporation shall be accomplished in compliance with the District of Columbia Nonprofit Corporation Act of 2010, Title 29, Chapter 4, of the District of Columbia Code, and as provided in these Bylaws.

Article IV

Board of Directors

Section 1. General Powers and Duties. The affairs and property of the Corporation shall be managed, controlled and directed by a Board of Directors. The Board of Directors shall have, and may exercise, any and all powers provided in the Articles of Incorporation or the District of Columbia Nonprofit Corporation Act of 2010 which are necessary or convenient to carry out the purposes of the Corporation.

Section 2. Composition of the Board of Directors

A. The number of Directors constituting the Board of Directors shall be fixed by resolution of the Board of Directors, but shall not be less than three (3) nor more than eleven (11).

B. The term of a Director shall be three (3) years, or until a successor is appointed or elected. The term of a Director shall also expire by his or her death, resignation or removal in accordance with these Bylaws. Directors may be elected to consecutive terms.

C. Any vacancy in the Board of Directors, including a vacancy caused by an increase in the number of Directors comprising the Board of Directors, shall be filled by a majority vote of the remaining Directors in office, even though less than a quorum. The expiration of a Director's stated term of office shall be treated as a vacancy to be filled in accordance with this section.

D. A Director may resign at any time by giving notice thereof in writing to the Secretary of the Corporation.

E. A Director may be removed, with or without cause, by a three-quarters vote of the other Directors in office.

F. The Board of Directors, at its first regular meeting, and from time to time thereafter, shall elect one Director as Chair of the Board of Directors, and may elect one Director as Vice-Chair of the Board of Directors, each to serve at the pleasure of the Board of Directors. The Chair of the Board of Directors shall preside at all meetings of the Board of Directors at which he or she is present, and shall perform such other duties as may be required of him or her by the Board of Directors. The Vice-Chair of the Board of Directors shall preside, in the absence of the Chair of the Board of Directors, at meetings of the Board of Directors and shall perform such other duties as may be required of him or her by the Board of Directors.

Section 3. Meetings of the Board of Directors.

A. Regular meetings of the Board of Directors shall be held at least once each year. Special meetings shall be called at the discretion of the Chair of the Board of Directors, at the request of one-third of the Directors in office or at the request of the President. The last regular meeting of the Board of Directors in each fiscal year shall constitute its annual meeting.

B. The time and place of all meetings of the Board of Directors shall be designated by the Chair of the Board of Directors. The meetings may be held within or without the District of Columbia.

C. At least ten days' notice shall be given to each Director of a regular meeting of the Board of Directors. A special meeting of the Board of Directors may be held upon notice of at least five days. Notice of a meeting of the Board of Directors shall specify the date, time and place of the meeting, but, except as provided in Article IX of these Bylaws, need not specify the purpose for the meeting or the business to be conducted. Notice must

be either delivered personally to each Director, mailed to his or her business address as it appears on the records of the Corporation, sent by facsimile to his or her facsimile number as it appears on the records of the Corporation, or sent to his or her email address as it appears on the records of the Corporation. If such notice is given by mail, it shall be deemed delivered when deposited in the United States mail properly addressed and with postage prepaid thereon. If such notice is given by facsimile or email, it shall be deemed delivered upon receipt of confirmation that the transmittal has been successful.

Notwithstanding the foregoing, a Director may waive notice of any regular or special meeting of the Board of Directors by written statement filed with the Board of Directors, or by oral statement at any such meeting. Attendance at a meeting of the Board of Directors shall also constitute a waiver of notice, except where a Director states that he or she is attending for the purpose of objecting to the conduct of business on the ground that the meeting was not lawfully called or convened.

D. A majority of the number of Directors in office, or two Directors, whichever is greater, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

E. Except as otherwise provided by law, the Articles of Incorporation or these Bylaws, all matters before the Board of Directors shall be decided by a majority vote of the Directors present at a meeting at which a quorum exists.

F. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if the text of the resolution or matter agreed upon is sent to all the Directors in office and all the Directors in office consent to such action in writing, setting forth the action taken. Such consent in writing shall have the

same force and effect as a vote of the Board of Directors at a meeting and may be described as such in any document executed by the Corporation.

G. Any or all Directors may participate in a meeting of the Board of Directors, or a committee of the Board of Directors, by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.

## Article V

### Committees

Section 1. Executive Committee. By a majority vote of the Directors in office, the Board of Directors may designate an Executive Committee consisting of at least three Directors, one of whom shall be the Chair of the Board of Directors, who shall also be Chair of the Executive Committee. The Board of Directors may designate one or more of the Directors as alternate members of the Executive Committee, who may replace any absent or disqualified member at any meeting of the Committee upon the request of the Chair of the Board of Directors. Except as otherwise required by law or these Bylaws, the Executive Committee shall have such authority as the Board of Directors shall grant to it for the management of the Corporation, including the power to authorize the seal of the Corporation to be affixed to all papers that may require it. The Executive Committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors when required. Vacancies in the Executive Committee shall be filled by the Board of Directors at a regular or special meeting.

Section 2. Other Committees. The Board of Directors may create other committee(s) consisting of Directors or other persons, which committee(s) shall have such authority as the Board of Directors may by law direct.

**Section 3. Attendance by the President.** The President shall be entitled to participate in meetings of the Board of Directors, the Executive Committee and all other committees, but shall not be entitled to vote in his or her capacity as President.

**Section 4. Meetings of Committees.** The following shall apply to committee meetings unless otherwise provided in a committee charter, as approved by the Board of Directors.

A. One-third of the number of Directors in a committee, or two Directors, whichever is greater, shall constitute a quorum for the transaction of business at any meeting of such committee.

B. Except as otherwise provided by law, the Articles of Incorporation, or these Bylaws, all matters before a committee shall be decided by a majority vote of the Directors present at a meeting at which a quorum exists.

C. Any action required or permitted to be taken at any meeting of a committee may be taken without a meeting if the text of the resolution or matter agreed upon is sent to all the Directors of the committee and all the Directors of the committee consent to such action in writing, setting forth the action taken. Such consent in writing shall have the same force and effect as a vote of the committee at a meeting and may be described as such in any document executed by the Corporation.

D. Any or all Directors may participate in a meeting of a committee by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.



## Article VI

### Officers

Section 1. The Officers of the Corporation shall be a President, a Secretary, a Treasurer and such other Officers as may from time to time be deemed advisable by the Board of Directors. Officers shall be chosen by the Board of Directors. Officers may, but need not, be Directors. Any two or more offices may be held by the same individual, except for the offices of President and Treasurer.

Section 2. All of the Officers of the Corporation shall hold their offices for such terms, not in excess of three years, as shall be determined from time to time by the Board of Directors, and shall exercise such powers, perform such other duties and receive such compensation as shall be determined from time to time by the Board of Directors. The Officers may be elected to consecutive terms.

Section 3. The Officers of the Corporation shall hold office until their successors are chosen and qualified. Any Officer of the Corporation may be removed, with or without cause, at any time by a majority of the Directors in office. Any vacancy occurring in any office of the Corporation may be filled by the Board of Directors.

Section 4. The President, Secretary, Treasurer and such other Officers as may be authorized by the Board of Directors may enter into and execute on behalf of the Corporation contracts, leases, debt obligations and all other forms of agreements or instruments, whether under seal or otherwise, permitted by law, the Articles of Incorporation and these Bylaws, except where such documents are required by law to be otherwise signed and executed, or where the signing and execution thereof shall be exclusively delegated to some other Officer or agent of the Corporation.

Section 5. The duties and powers of the Officers of the Corporation shall be as provided in these Bylaws or as provided pursuant to these Bylaws, or (except to the extent they are inconsistent with these Bylaws or with any provision made pursuant hereto) shall be those customarily exercised by corporate officers holding such offices.

Section 6. The President. The President shall be the chief executive officer of the Corporation and, subject to the control of the Board of Directors, shall perform all duties customary to that office and shall supervise and control all of the affairs of the Corporation in accordance with any policies and directives approved by the Board of Directors. The President shall have the power to change the registered agent and registered office of the Corporation.

Section 7. The Secretary. The Secretary shall be responsible for keeping an accurate record of the proceedings of all meetings of the Board of Directors, and such other actions of the Corporation as the Board of Directors shall direct. He or she shall give or cause to be given all notices in accordance with these Bylaws or as required by law and, in general, perform all duties customary to the office of secretary. The Secretary shall have custody of the corporate seal of the Corporation, and he or she, or an Assistant Secretary, shall have authority to affix the same to any instrument requiring it. When so affixed, it may be attested by his or her signature or by the signature of such Assistant Secretary. The Board of Directors may give authority to any Officer to affix the seal of the Corporation and to attest the affixing by his or her signature.

Section 8. The Treasurer.

A. The Treasurer shall perform all duties customary to that office, shall have the custody of and be responsible for all corporate funds and securities and shall keep full and

accurate accounts of receipts and disbursements in the books of the Corporation. He or she shall deposit or cause to be deposited all monies or other valuable effects in the name of the Corporation in such depositories as shall be selected by the Board of Directors.

B. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors or its delegate, taking proper vouchers for such disbursements, and shall render an account of all his or her transactions as Treasurer and of the financial condition of the Corporation to the President and the Board of Directors at its regular meetings or when the Board of Directors so requires.

## Article VII

### Indemnification

Section 1. The Corporation does hereby indemnify to the maximum extent legally permissible, and subject to the other provisions of this Article VII, each Director and Officer and former Director and Officer of the Corporation, and each Director and Officer who served at the Corporation's request as a director, officer, partner, or trustee, employee or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan or other entity, against expenses (including attorneys' fees) and any liability to any person (i.e., any obligation to any person to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan) incurred by him or her in connection with or arising out of any threatened, pending or completed claim, action, suit, proceeding, issue or matter of whatever nature, whether civil, criminal, legislative, administrative or investigative) in which he or she may be involved as a party or otherwise by reason of his or her being or having been such Director, Officer, director, officer, partner, trustee, employee or agent.

Section 2. The Corporation shall not indemnify a Director or former Director unless he or she (i) acted in good faith, (ii) reasonably believed (A) in the case of conduct in an official capacity, that his or her conduct was in the best interests of the Corporation, and (B) in all other cases, that his or her conduct was at least not opposed to the best interests of the Corporation, and (iii) in the case of any criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

Section 3. Unless ordered by a court under Section 29-406.54(a)(3) of the District of Columbia Nonprofit Corporation Act of 2010, the Corporation shall not indemnify a Director or former Director (i) in connection with a proceeding by or in the right of the Corporation, except for reasonable expenses incurred in connection with the proceeding if the Director or former Director has met the requirements of Section 2 of this Article VII, or (ii) in connection with any proceeding with respect to conduct for which the Director or former Director was adjudged liable on the basis of having received a financial benefit to which he or she was not entitled, whether or not involving action in an official capacity.

Section 4. The Corporation shall not indemnify an Officer or former Officer who is not or was not also a Director, or who is a party to the proceedings because of an act or omission solely as an Officer, with respect to (i) liability in connection with a proceeding by or in the right of the Corporation, other than for reasonable expenses incurred in connection with the proceeding, or (ii) liability arising out of conduct that constitutes either (A) receipt by such Officer or former Officer of a financial benefit to which he or she is not entitled, (B) an intentional infliction of harm against the Corporation or (C) an intentional violation of criminal laws.

Section 5. The indemnification provided by this Article VII shall not be deemed exclusive of any other rights which such Director, former Director, Officer or former Officer may have under any agreement, vote of the Board of Directors or otherwise.

Section 6. No indemnification shall be made under this Article VII if such indemnification would result in any liability for tax under chapter 42 of the Internal Revenue Code of 1986, as amended.

## Article VIII

### Miscellaneous Provisions

Section 1. Seal. The Corporation may adopt a seal as determined by resolution of the Board of Directors.

Section 2. Checks. All checks, drafts or other orders for the payment of money shall be signed by such Officer or Officers or such other person or persons as the Board of Directors may from time to time designate.

Section 3. Fiscal Year. The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

## Article IX

### Amendments

Section 1. Amendment of Bylaws. These Bylaws may be altered, amended or repealed, or new Bylaws may be adopted, at any meeting of the Board of Directors, by a majority vote of the Directors then in office, if at least ten days' written notice is given of the intention to take such action at such meeting.

Section 2. Amendment of Articles of Incorporation. The Articles of Incorporation may be altered or amended, or new Articles of Incorporation may be adopted, at any

meeting of the Board of Directors, by a majority vote of the Directors then in office, if at least ten days' written notice is given of the intention to take such action at such meeting.

Windward Fund EIN: 47-3522162

**WINDWARD FUND  
CONFLICT OF INTEREST POLICY**

**Article I.  
Coverage**

**A. Purpose.**

The purpose of this Conflict of Interest Policy is to ensure that the deliberations and decisions of Windward Fund (“Windward”) are made in the best interests of Windward and its overall mission and to protect the interests of Windward when it is contemplating entering into any transaction or arrangement that might benefit the private interest of a member of the Board of Directors (“Director”), an officer of Windward (“Officer”) or a key employee (as designated by the Board of Windward) (“Key Employee”) or that might result in a possible “excess benefit transaction” (i.e., a financial transaction at more than fair market value), as defined in section 4958 of the Internal Revenue Code of 1986, as amended (the “Code”). This Policy is intended to supplement, but not replace, any applicable state or federal laws governing fiduciary duties or nonprofit and charitable organizations.

All information required to be reported or disclosed pursuant to this Policy shall be to the best knowledge of the Covered Person. All requirements of this Policy that are triggered by the knowledge of a Covered Person shall be triggered by such Covered Person’s actual knowledge.

**B. Definitions**

1. “Board” or “Board of Directors” shall mean Windward’s board of directors.
2. “Board Designee” shall mean a member of Board, if any, who has been designated by the Board of Directors to be the Board’s contact person on conflict of interest issues.
3. “Committee Member” shall mean a member of a Committee.
4. “Conflict of Interest” shall mean a Financial Interest that may influence a Covered Person to further his or her own Financial Interest as part of a Transaction or Arrangement and not act solely in the best interest of Windward. The Board of Directors, or a committee of the Board of Directors designated by the Board of Directors to consider potential conflicts of interests (“Committee”), may waive a Conflict of Interest if, after considering all relevant facts, the Board or Committee, as applicable, determines that Windward, including Windward’s financial interests and its reputation, is not adversely affected by such Conflict of Interest.

5. "Covered Person" shall mean:
- a. a Director;
  - b. an Officer;
  - c. a Key Employee;
  - d. a Committee Member;
  - e. a spouse or domestic partner of any individual listed above in Section B.5(a)-(d); or
  - f. a former Officer, Director, or Key Employee who served in such capacity within the last five years.

6. "Family" or "Family Member" shall mean (i) a Covered Person's ascendants (parents, grandparents and great-grandparents), descendants (children, grandchildren and great-grandchildren) and siblings, (ii) a spouse or domestic partner of a Covered Person's ascendants (parents, grandparents and great-grandparents), descendant (children, grandchildren and great-grandchildren) or sibling, or (iii) an entity in which a Family Member has an Ownership or Investment Interest.

7. "Ownership or Investment Interest" shall mean a 5 percent or more ownership or investment interest in an organization or entity.

8. "Transaction or Arrangement" shall mean (i) a contract of sale, lease, license, (ii) performance of services, (iii) joint ventures, (iv) grants or assistance given to a Covered Person, and (v) any other similar transactions.

**C. Financial Interest**

1. A Covered Person has a Financial Interest if the Covered Person directly, or indirectly through his or her Family, has:

- a. an Ownership or Investment Interest in any entity with which Windward has a proposed or current Transaction or Arrangement that might benefit the interest of such Covered Person;
- b. a compensation arrangement with Windward or with any entity or individual with which Windward has a proposed or current Transaction or Arrangement that might benefit the interest of such Covered Person; or
- c. a known potential Ownership or Investment Interest in, or a known potential compensation arrangement with, any entity or individual with which



Windward has a proposed or current Transaction or Arrangement that might benefit the interest of such Covered Person.

2. A Covered Person also has a Financial Interest if the Covered Person or a Family Member is:

- a. an officer in an entity,
- b. a director in an entity,
- c. a trustee in an entity,
- d. a partner with any ownership interest in a partnership, or
- e. a shareholder with any ownership interest in a professional corporation

with which Windward has a proposed or current Transaction or Arrangement.

**E. Other Disclosable Relationships**

1. In addition to the disclosures required as a result of a Financial Interest, a Covered Person must also disclose the following Disclosable Relationships, on at least an annual basis, if:

- a. a Family Member is, or is being considered, to be an employee or independent contractor of Windward;
- b. such Covered Person is a Family Member of any other Covered Person;
- c. such Covered Person, and any other Covered Person, are employees of the same person or entity;
- d. such Covered Person, either directly or indirectly through an entity in which he or she has an Ownership or Investment Interest, has a proposed or current Transaction or Arrangement with another Covered Person; or
- e. such Covered Person, and any other Covered Person, are each a director, trustee, officer or greater-than-5% owner in the same entity.

**Article II.**  
**Procedures**

**A. Duty to Disclose**

1. In connection with any actual or possible Conflict of Interest, a Covered Person must immediately disclose to the Board, Committee or Board's Designee the existence and nature of his or her Financial Interest or any Disclosable Relationships. If a

Covered Person is uncertain if his or her interest constitutes a Financial Interest or a Disclosable Relationship under this Policy, he or she shall disclose to the Board, Committee or Board's Designee such possible Financial Interest or Disclosable Relationship.

2. All newly appointed or elected Board members or officers shall disclose all known Conflicts of Interest and Disclosable Relationships upon assumption of their duties, and should a Conflict of Interest or Disclosable Relationship develop, must immediately disclose to the Board, Committee or Board's Designee such actual or possible Conflict of Interest or Disclosable Relationship.

**B. Determining Whether a Conflict of Interest Exists**

After a Covered Person has disclosed the existence of a Financial Interest or a possible Financial Interest to the Board of Directors, Committee or Board's Designee, the Board or Committee shall determine if a Conflict of Interest exists because the Covered Person has an actual Financial Interest in the proposed Transaction or Arrangement and that he or she shall benefit from such proposed Transaction or Arrangement.

**C. Procedures for Addressing a Conflict of Interest**

1. If the Board of Directors or Committee determines that a Covered Person has a Financial Interest, then:

a. If appropriate to protect the interests of Windward, the Board of Directors or a majority of the disinterested Directors (if any) (the "disinterested party") shall appoint a disinterested person or committee (if any) to investigate alternatives to the proposed Transaction or Arrangement;

b. After exercising reasonable due diligence, the disinterested Directors or disinterested party (if any) shall determine whether Windward could obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a Conflict of Interest; and

c. If a more advantageous transaction or arrangement is not reasonably attainable, the Board of Directors or disinterested party shall determine by a majority vote of the disinterested members (if any) whether the Transaction or Arrangement is in Windward's best interests and for its own benefit and whether the transaction is fair and reasonable to Windward and shall decide as to whether to enter into the Transaction or Arrangement in conformity with such determination.

2. If the Board of Directors or a majority of the disinterested Directors (if any) determine that it is not necessary to investigate alternatives to the proposed Transaction or Arrangement to protect the interests of Windward, the Board or Committee of the Board shall determine the extent to which such Covered Person shall recuse himself or herself from further involvement in the proposed Transaction or Arrangement.

**D. Violations of the Conflicts of Interest Policy**

1. If the Board of Directors or Committee has reasonable cause to believe a Covered Person has failed to disclose a Financial Interest, it shall inform the Covered Person of the basis for such belief and afford the Covered Person an opportunity to explain the failure to disclose.

2. If, after hearing the response of the Covered Person and, after making such further investigation as it concludes is warranted by the circumstances, the Board of Directors or Committee determines the Covered Person has failed to disclose a Financial Interest, it shall take appropriate steps to protect Windward, including, but not limited to, termination of the Covered Person and repayment of appropriate funds to Windward by the Covered Person.

**Article III.**  
**Records of Proceedings**

A. The minutes of the meetings of the Board of Directors or Committee considering Conflicts of Interest shall contain:

1. The name of each Covered Person who disclosed a Financial Interest, possible Financial Interest, or otherwise was found to have a Financial Interest, the nature of the Financial Interest or Disclosable Relationship, any action taken to determine whether a Conflict of Interest was present, and the decision as to whether a Conflict of Interest in fact existed.

2. The names of the individuals who were present at discussions and votes relating to the Transaction or Arrangement, the content of the discussion, including consideration of any alternatives to the Transaction or Arrangement, and a record of any votes taken in connection with the proceedings.

**Article IV.**  
**Compensation**

A. Special procedures shall be in effect with respect to compensation issues. Except as provided in this Policy, a voting member of the Board or any committee of the Board whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Windward for services is precluded from voting on matters pertaining to that member's compensation.

B. A Director, or a member of a committee of the Board whose jurisdiction includes compensation matters, who receives compensation, directly or indirectly, from Windward, is not prohibited from providing information to the Board of Directors or to any committee of the Board regarding compensation.

**Article V.**  
**Annual Statements**

A. Each Covered Person shall annually sign a statement that affirms that such person:

1. has received a copy of this Policy,
2. has read and understands the Policy,
3. has agreed to comply with the Policy, and
4. understands that Windward is a charitable organization and that in order to maintain its federal tax exemption and the trust of the public it must diligently avoid conflicts of interest or the appearance of any conflict and engage primarily in activities that accomplish one or more of its tax-exempt purposes.

B. This Policy shall be reviewed annually for the information and guidance of Covered Persons, and any new Covered Person shall be advised of the Policy upon becoming a Covered Person and shall file an annual statement with Windward.

C. To further the purpose of the disclosure provisions of this Policy, Windward may provide the Board with a full list of proposed or current Transactions or Arrangements on no less than a yearly basis to ensure that no conflicts exist, or have developed, in the preceding year.

**WINDWARD FUND**

**ANNUAL CONFLICT OF INTEREST DISCLOSURE STATEMENT**

**ATTENTION:    READ CAREFULLY AND COMPLETE ALL FIVE PAGES**  
**PLEASE DO NOT LEAVE ANY SECTION BLANK**

NAME:

\_\_\_\_\_

CAPACITY:

- Director
- Officer
- Key Employee<sup>1</sup>
- Committee Member
- Former Officer
- Former Director
- Other, Specify: \_\_\_\_\_

EMPLOYER(S) (other than Windward):

\_\_\_\_\_

\_\_\_\_\_

LIST MEMBERSHIPS ON FOR-PROFIT AND NON-PROFIT BOARDS OF DIRECTORS (other than Windward):

\_\_\_\_\_

\_\_\_\_\_

<sup>1</sup> Any defined terms not defined in this Disclosure Statement are defined in Windward's Conflict of Interest Policy.

In accordance with the Conflict of Interest Policy adopted by the Board of Directors of Windward Fund ("Windward"), during the period in which I am a Covered Person, I will:

**1. Fiduciary Duty**

Observe my fiduciary duties to Windward and act in good faith and in the best interests of Windward at all times.

**2. Protection of Confidential Information**

Not disclose to any person information about Windward that is confidential, proprietary or not generally known to the public, pertaining to the business and affairs of Windward or any of its subsidiaries, affiliates, suppliers, consultants, funders or contractors whether related to a specific transaction or to matters pertaining to Windward's interests and/or operations, for any purpose including to gain advantage for one's self or to permit any other person to use that information for their benefit or the benefit of any other organization, except when specifically approved by Windward's Board of Directors.

**3. Duty to Notify**

Notify the Board of Directors, Committee or Board's Designee immediately of any circumstances that are or may appear to others to be an actual or potential Conflict of Interest.

**4. My Activities and Activities of Family Members**

As required by the Conflict of Interest Policy, notify the Board, Committee or Board's Designee of any circumstances in which I have, or may reasonably appear to others to have, a Financial Interest or further where there may appear to others to be a Conflict of Interest involving me or my Family.

**5. Non-Participation in Board Action When a Conflict Situation Exists**

As provided in the Conflict of Interest Policy, to recuse myself from the meeting and therefore take no part in discussions and decisions on any transaction or arrangement before the Board or Committee in which I, or any Family Member has or may be perceived to have a Conflict of Interest.

**6. Continuing Obligation to Report**

Report promptly to the Board of Directors, Committee or the Board's Designee in writing or, if precluded due to the lack of time, orally, that I, or a Family Member, has a possible Conflict of Interest.

I have answered the following questions as they pertain to (a) me; (b) my spouse or domestic partner, (c) my ascendants (parents, grandparents and great-grandparents), descendants (children, grandchildren and great-grandchildren) and siblings, as well as a spouse or domestic partner of any ascendant, descendant or sibling ("Family" or "Family Member"); and (d) any organization, institution or other entity in which I (my spouse or domestic partner or a Family Member) have more than a 5% ownership/investment interest (each an "affiliated entity"), to the best of my knowledge.

1. Do you, your Family or affiliated entities have a Financial Interest in any transactions or arrangements or proposed transactions or arrangements of Windward in the past year (other than your compensation as an employee or member of the Board or a Committee of Windward)?

\_\_\_ YES \_\_\_ NO

If yes, please describe the Financial Interest:

2. Are you, or is any member of your Family, an officer, director, trustee, key employee, or partner in an entity, or shareholder in a professional corporation, with which Windward has a current or proposed transaction or arrangement?

\_\_\_ YES \_\_\_ NO

If yes, please describe the transaction or arrangement:

3. Have you, your Family or affiliated entities received compensation for services to Windward in the past year (other than your compensation as an employee or a member of the Board or a Committee of Windward)?

\_\_\_ YES \_\_\_ NO

If yes, please describe the purchased services:

4. Have you, your Family or affiliated entities received compensation for property provided to Windward in the past year?

\_\_\_ YES \_\_\_ NO

If yes, please describe the transaction:

5. Have you, your Family or affiliated entities purchased services or property from Windward in the past year?

YES  NO

If yes, please describe the purchased services or property:

6. Please indicate whether you, your Family or affiliated entities had, have, or will have any direct or indirect interest in any business transaction(s) in the past year to which Windward was or is a party?

YES  NO

If yes, please describe the business transaction(s):

7. Were you, your Family or affiliated entities indebted to pay money to Windward at any time in the past year (other than pledged charitable contributions to Windward, travel advances or the like)?

YES  NO

If yes, please describe the indebtedness:

8. In the past year, did you, your Family or affiliated entities receive, or become entitled to receive, directly or indirectly, from Windward any personal benefits other than compensation or reimbursements directly related to your duties to Windward as a Covered Person?

YES  NO

If yes, please describe the benefits:



9. Are you a Family Member of any other Covered Person?

YES  NO

If yes, please describe:

10. Are you and another Covered Person employees of the same person or entity?

YES  NO

If yes, please describe:

11. Did you or an affiliated entity engage in a transaction or arrangement in the past year with any other Covered Person, or affiliated entity of such Covered Person?

YES  NO

If yes, please describe:

12. Are you and any other Covered Person a director, trustee, officer or greater-than-5% owner in the same entity?

YES  NO

If yes, please describe:

13. Are you, any Family Member or any affiliated entities a party to, or have an interest in, any pending legal proceeding involving Windward?

YES  NO

If yes, please describe the proceedings:

Windward Fund EIN: 47-3522162

14 Are you aware of any other events, transactions, arrangements, or other situations that you believe should be examined by Windward's Board of Directors in accordance with the terms and intent of Windward's Conflict of Interest Policy?

\_\_\_ YES

\_\_\_ NO

If yes, please describe the situation(s):

I hereby certify that I have read, understand and agree to comply with Windward's Conflict of Interest Policy, and that my responses contained in the Conflict of Interest Disclosure Statement are complete and correct to the best of my knowledge and belief. I further confirm that I understand that Windward is a charitable organization and that in order to maintain its federal tax exemption and the trust of the public it must diligently avoid conflicts of interest or the appearance of any conflict and engage primarily in activities that accomplish one or more of its tax-exempt purposes. To the best of my knowledge and belief, neither I nor any Family Member is now, or has been since the date of the last Disclosure Statement filed by me, engaged in any activity which would violate the Conflict of Interest Policy or might otherwise create a Conflict of Interest with Windward, except as explained above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

## **WINDWARD FUND WHISTLEBLOWER POLICY**

Hopewell Fund (the "Corporation") requires directors, officers and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the Corporation, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. Any employee who is requested to engage in any activity that the employee believes may be illegal, could result in harm to the Corporation or be contrary to the Corporation's policies, or who otherwise becomes aware of such activity, should report such information to his or her Department Director immediately. If the employee does not feel comfortable reporting the information to his or her Department Director, or if the Department Director may be engaged in such conduct, then the employee should report the behavior immediately to the Chair of the Board of Directors.

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

The Corporation prohibits any kind of retaliatory act, including harassment, intimidation, adverse employment actions, or any other form of retaliation, against an individual reporting such information in good faith. Any complainant who believes that he or she has been subjected to any form of retaliation as a result of reporting a suspected violation under this policy should immediately report the retaliation to one of the individuals set forth in the preceding paragraph.

**WINDWARD FUND  
DOCUMENT RETENTION POLICY**

**I. Purpose**

It is the purpose of this policy to establish a consistent record retention policy for Windward Fund (the "Corporation").

**II. Policy**

The Corporation shall retain records for the period of their immediate or current use, unless longer retention is necessary for historical reference or to comply with contractual or legal requirements. Records and documents outlined in this policy includes paper, electronic files (including e-mail) and voicemail records regardless of where the document is stored, including network servers, desktop or laptop computers and handheld computers and other wireless devices with text messaging capabilities.

It is the policy of the Corporation to preserve official records as provided in the Record Retention Schedule of this policy. Records that have exceeded the retention period provided in the Schedule are authorized to be discarded consistent with the policy provisions that follow. The Schedule's retention periods have been established consistent with Federal and legal regulations.

However, if an official investigation is underway or even suspected, document purging must stop in order to avoid criminal obstruction. Thus, records pertaining to programs under litigation or audit are to be retained until such issues are resolved.

**III. Procedure**

**A. General Records**

The Chief Executive Officer may appoint and maintain a Records Deputy who is to work on all matters of document retention. Such Record Deputy will audit and inventory, as needed, section records and take timely steps to insure section compliance with the following record retention schedule.

**Record Retention Schedule**

**Accounting and Audit**

Accounts payable/receivable ledger reports	7 years
Audited yearly reports	Permanently
Bank statements and reconciliation	3 years
Budget analysis and reports for sections	3 years
Cancelled checks	7 years
Cost rate proposals/work papers	Permanently
Depreciation schedules	Permanently

Financial transfers documentation ( <i>see definitions</i> )	3 years
Fixed asset schedules	7 years
Internal audit reports	3 years
Monthly closing ledgers	7 years
Monthly financial statements	7 years
Monthly general ledger documents	Review after 7 years
Monthly travel reports	3 years
Supporting documents for grant monitoring/auditing	Closeout of grant + 3 years
Tax records/supporting documentation for tax purposes	Permanently
Vendor invoices	7 years

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**Administration and Organization Resources**

Applicant resumes	3 years
Audit responses	Review after 3 years
Benefit and compensation studies	7 years
Board minutes and books, bylaws, charter, founding documents	Permanently
Budget & Audit reports	Review after 7 years
EEO Charges/Investigation	10 years
Payroll files and timesheets	7 years
Personnel and Consultant Files ( <i>see definitions</i> )	Service of employee + 7 years
Operational administration documentation ( <i>see definitions</i> )	Permanently
Retirement and pension records	Permanently
Risk reports	7 years
Contracts, notes and leases (expired)	7 years
Contracts (in effect)	Permanently
Insurance policies (expired)	3 years
Insurance records, current accident reports, claims, current policies	Permanently
Inventories of products, materials and supplies	7 years
Trademark registrations and copyrights	Permanently

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**Correspondence**

General business correspondence	2 years
Legal and tax correspondence	Permanently
Official Chief Executive Officer's Correspondence ( <i>see definitions</i> )	Permanently
Email correspondence	See III.B

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**Grants Records**

General grants records and supporting materials ( <i>see definitions</i> )	3 years after filing final financial report/tax return
Personnel workload analysis	3 years
Trip reports	3 years

<b>Policy and Procedural</b>	
Employee guidelines manuals	Review after 7 years
Employee procedures materials	Review after 7 years
Corporation training manuals	Review after 7 years
<b>Publications and Events</b>	
Corporation publications	Permanently
Supporting documents for publications ( <i>see definitions</i> )	Review after 3 years
Official event-related documents ( <i>see definitions</i> )	Permanently
Preparation documents for events ( <i>see definitions</i> )	Review after 3 years

### Retention Schedule – DEFINITIONS

Financial transfers documentation – **Accounting and Audit**; Records such as wire confirmations, wire transfers, and cash receipts which document official financial transfers

General grants records and supporting materials – **Grants Records**; Records which document the grant-making process (as either grant maker or grantee), such as: Grant proposals and budgets, accounting questionnaires and payment forms, grant applications to funding agencies, private foundations and other donors, email correspondence, monthly grants payable reports, financial reports, narrative reports, evaluation reports, preliminary grant files, grant closeout forms, independent assessments and evaluations, grant review tracking sheets

Official event-related documents – **Publications and Events**; Applies *only* to official documents relating to an event, such as the invitation, transcript, program, other handout

Official Chief Executive Officer’s correspondence – **Correspondence**; only applies to correspondence stored in the Chief Executive Officer’s Chron File

Operational administrative documentation – **Administration and Organization Resources**; Any record which is necessary to ensure the normal functioning of the Corporation, such as: Corporation tax exemption papers, insurance policies, office leases and management succession plans

Personnel and consultant files – **Administration and Organization Resources**; Records such as benefit forms, W2 tax forms, I-9 forms, that provide basic documentation of Corporation personnel and consultants

Supporting/preparation documents for events – **Publications and Events**; Any documents created in preparation for an event, or for administrative support of an event, such as: RSVP lists, draft programs, invoices

Supporting documents for grant monitoring/auditing – **Accounting and Audit**; Any records which support or document audits of Corporation grants, such as: accounting questionnaires, risk assessments, core on-site reviews, audit logs

Supporting documents for publications – **Publications and Events**; any documents created while preparing a finalized Corporation publication

## **B. E-mail Records**

For the purposes of this retention policy, “Email” (or “E-mail”, “e-mail”, “email”) is defined as “Electronic mail that is:

- destined for a specific user or set of users internal or external to the Corporation
- from a specific, identifiable email address (real or virtual)
- received by our internal electronic mail system

The following items are expressly **not** considered electronic mail:

- items from an unidentified source (i.e. no entry in the “From” field)
- notifications from systems indicating system status, backup success/failure, hard drive space warnings, or any similar types of notification
- notifications from the SPAM (or associated) filter (although items released as a result of authorization from the SPAM filter is considered electronic mail)
- any items not allowed through by the SPAM (or associated) filter (except as noted above)
- a notification from an automated process or system
- trapped, quarantined or otherwise impeded by the external filtering system or internal anti-virus/anti-SPAM systems”

All email received and stored by the internal mail system, regardless of whether it is sent by an external source or an internal source will be maintained by the system for a period of **6 months (approximately 180 days) from the date of receipt by the mail system**. Even if a user deletes an email, the system will maintain an accessible copy for a period of **6 months**. For the purposes of consistency and enforceability, all data will reside solely on the email server.

The various additional functions provided by the current electronic mail system, to include, but not limited to, task lists entries, journal entries and notes (or e-notes) are also subject to the same **6 month** time frame.

Meetings will be automatically deleted from public calendars and individual calendars **3 months (90 days)** after the meeting date.

Items placed within folders other than the Sent Items folder, either by human intervention or by a rule which is initiated by the user will be retained until the user’s electronic mail account is deleted. Individual contact information will be kept as long as the account is active.

The deleted items folder will be set to “empty” upon closing of the mail application on the user’s computer.

A user’s electronic mail account and associated contacts and personal folders will be automatically deleted 30 days after the user is no longer employed or contracted by the Corporation.

### **C. Legal Holds**

From time to time, the Chief Executive Officer may issue a notice, known as a Legal Hold, suspending the destruction of records due to pending, threatened or otherwise reasonably foreseeable litigation, audits, government investigations or similar proceedings. No records specified in any Legal Hold may be destroyed, even if the scheduled destruction date has passed, until the hold is withdrawn in writing by the Chief Executive Officer.

### **IV. Record Deputy - Appointment and Reporting**

The Chief Executive Officer may appoint a Records Deputy who is to work on all matters of document retention. The name of the Record Deputy is to be communicated to Corporation staff. Such appointees serve at the pleasure of the Chief Executive Officer and shall be changed from time to time as operational needs warrant.

### **V. Responsibility**

It is the responsibility of each Department of the Corporation to adhere to the Record Retention Schedule. The Chief Executive Officer is responsible for resolving questions of interpretation about this policy and to develop and present organization-wide training to facilitate sound administration of this policy. Matters requiring further resolution are to be referred to legal counsel.



# EXHIBIT C

**ADMINISTRATIVE SERVICES AGREEMENT**

**THIS ADMINISTRATIVE SERVICES AGREEMENT** (this “**Agreement**”) dated as of \_\_\_\_\_, 2015, but effective as of \_\_\_\_\_, 2015 (the “**Effective Date**”), is by and between Arabella Philanthropic Advisors, Inc., a District of Columbia Limited Liability Company (“**Advisors**”), and Windward Fund, a District of Columbia Nonprofit Corporation (“**Windward Fund**”).

**WITNESSETH:**

**WHEREAS**, Windward Fund, is a District of Columbia Nonprofit Corporation and is exempt from tax under section 501(a) of the Internal Revenue Code of 1986, as amended (the “**Code**”), as an organization described in section 501(c)(3) of the Code, and a publicly supported organization described in Code section 509(a)(1);

**WHEREAS**, certain managerial and administrative personnel employed by Advisors have the capacity to provide management and administrative services with respect to the exempt purposes of Windward Fund; and

**WHEREAS**, Windward Fund desires to obtain from Advisors and Advisors desires to provide to Windward Fund certain management and administrative services of the general character previously provided by persons who are and will be employed by Advisors with respect to the exempt purposes of Windward Fund and for specific exempt projects of the Windward Fund.

**NOW, THEREFORE**, in consideration of the premises, the mutual and dependant agreements contained herein and the mutual benefits to be obtained from this Agreement, Windward Fund and Advisors agree as follows:

**ARTICLE I**

**MANAGERIAL AND ADMINISTRATIVE SERVICES**

**1.1 Agreement to Perform Services.** Subject to and on the terms and conditions of this Agreement, Advisors undertakes to perform for Windward Fund, on an as available basis, such Services (as defined below) as may be required by Windward Fund in the performance of its exempt purposes. Advisors (the “**Service Provider**”) shall provide the Services directly to Windward Fund (the “**Service Recipient**”) under the terms of this Agreement. The Service Provider shall perform the Services hereunder within the time period requested by the Service Recipient unless the performance of such Services within the time period requested by the Service Recipient would, in the reasonable opinion of the Service Provider, jeopardize the ability of the Service Provider’s personnel to complete in a timely manner tasks for the benefit of Service Provider within the time period reasonably required for the completion of such tasks. In the event the Service Provider is required to delay the Services, it shall so notify the Service Recipient and provide an estimate of the time by which it expects that the requested Services can be performed. The Service Provider shall have no obligation to hire additional personnel or otherwise acquire additional resources to accommodate requests for the Services, but may do so at any time. Notwithstanding the foregoing, if the Service Recipient hires any employees, the

Service Provider shall provide the corresponding Services that relate to such employee at an agreed-upon cost to the Service Recipient.

**1.2 Project Services.** With respect to a specific project (each a “Project”) of the Service Recipient and by mutual agreement of the parties, the Service Provider shall provide the services set forth on the schedule (the “Schedule”) for that Project which services may include, but are not limited to, management and administrative services, including consultation, relating to the following functions: accounting and financial reporting; cash management; investment management; payroll; data processing; benefits administration; human resources; risk management and insurance; file and record storage; information technology; and such other functions as may be added by mutual agreement of the parties (the “Services”).

**1.3 Modification of Services.** By mutual agreement of the parties, additional Services may be added to the Schedule for a Project at any time or from time to time. The Service Provider may remove a Service from a Schedule, to the extent such Service is provided to the Service Recipient, at any time upon thirty (30) days prior written notice to the Service Recipient. Upon removal of a Service from a Schedule, this Agreement and the Schedule shall continue in effect for all Services that remain on the Schedule, but shall no longer cover the eliminated Service. Prior to such removal of a Service, the parties shall mutually agree upon the cost of such Service and shall reduce the Compensation to reflect the removal of such Service from the Services performed by the Service Provider for the Service Recipient.

**1.4 Exempt Purpose of Services.** All of the Services provided under this Agreement shall be in furtherance of the exempt purposes of the Service Recipient.

## ARTICLE II

### COMPENSATION AND REIMBURSEMENT

**2.1 Compensation.** As compensation for performing Services (the “Compensation”), the Service Provider shall charge the Service Recipient and the Service Recipient shall pay the Service Provider an amount equal to the Service Provider’s direct costs incurred in providing such Services, in addition to an administrative surcharge equal to a set percentage of the Project’s total cost as determined by mutual agreement of the parties, which percentage and total Project cost shall be set forth on the Schedule for that Project but shall, in no event exceed fifteen (15) percent of the Project’s total cost. If the total the Compensation under this Section 2.1 exceeds what the Service Recipient reasonably determines would be considered “reasonable” compensation under section 4958 of the Code, then the Service Recipient shall not pay the allocated amount it determines is attributable to the excess portion of such Compensation.

**2.2 Expenses.** The Service Recipient shall also reimburse the Service Provider for any direct, out-of-pocket expenses reasonably incurred by the Service Provider in the performance of the Services, such expenses being referred to herein as “Expenses.” The Service Provider shall receive the prior written approval of the Service Recipient for any expenses that individually exceed \$1000.

**2.3 Billings.** The Service Provider shall bill the Service Recipient monthly for incurred Compensation and Expenses. A direct cost incurred by the Service Provider on behalf of the Service Recipient shall be charged to the Service Recipient under either Section 2.1 or Section 2.2, as appropriate; in no event shall the Service Provider bill the Service Recipient more than once for any direct cost incurred.

**2.4 Disputes; Audits.** If the Service Recipient disputes any amount invoiced, or any Expense in excess of \$1000 that has not been previously approved by the Service Recipient, the Service Recipient shall pay the amount of the invoice not disputed and shall give the Service Provider a reasonably detailed explanation of any factual and legal bases on which the balance is disputed. The Service Recipient shall be entitled to audit the Service Provider's books and records relating to the Compensation and Expenses five (5) business days after the Service Provider has received from the Service Recipient written notice of the Service Recipient's intention to conduct such an audit. Any difference in the audited amount as opposed to the amount previously invoiced to the Service Recipient shall result in the Service Provider's submission of a new invoice for the correct amount. No invoice may be disputed or audited after eighteen (18) months from the date it was received by the Service Recipient.

### ARTICLE III

#### TERM OF AGREEMENT

**3.1 Term.** With respect to the Service Recipient, the term of this Agreement shall commence on the Effective Date and shall continue for the period ending three (3) years thereafter, unless sooner terminated in accordance with the provisions of this Article III. This Agreement shall renew by agreement between the Service Provider and the Service Recipient.

**3.2 Transfer of Records.** Upon termination of this Agreement for any reason, or upon removal of any Service from a Schedule under this Agreement, the Service Provider shall transfer to the Service Recipient all records, accounts, information and files, including those in computer-readable form, that pertain to the Services which the Service Provider no longer shall provide. Any out-of-pocket expenses paid or incurred by the Service Provider in connection with such transfer shall be reimbursed by the Service Recipient upon receipt of such records. Additionally, the Service Provider shall forward any funds held by the Service Provider on behalf of the Service Recipient upon the termination of this Agreement or removal of a Service related to the management of such funds.

**3.3 Termination.** In the event of a material breach of this Agreement by a party hereto, the non-breaching party may terminate this Agreement effective upon delivery to the breaching party of a written termination notice. This Agreement shall also terminate (i) on the sale of substantially all of the assets of the Service Provider or the Service Recipient, (ii) upon the insolvency or bankruptcy of the Service Provider or the Service Recipient, or (iii) upon the written agreement between the Service Provider and the Service Recipient to terminate the Agreement. The Agreement shall also terminate immediately if participation in this Agreement by the Service Recipient jeopardizes its tax-exempt status under section 501(a) of the Code, as an organization described in section 501(c)(3) of the Code.

## ARTICLE IV

### CONFIDENTIALITY

**4.1 Confidentiality Obligations.** Each party hereto (a "Receiving Party") acknowledges that it and its employees or agents may, in the course of performing services or satisfying its obligations hereunder, be exposed to or acquire information which is proprietary to and/or confidential to the other party (a "Disclosing Party"). Any and all information of any form obtained by a Receiving Party or its employees or agents in the performance of services or the satisfaction of such party's obligations hereunder shall be deemed to be the confidential and proprietary information of the Disclosing Party. The financial terms of this Agreement shall be deemed the Confidential Information of both parties. The Receiving Party agrees to hold such information in strict confidence and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose such information to third parties, or to use such information for any purposes whatsoever other than pursuant to the terms and conditions set forth in this Agreement and to advise each of its employees, contractors and agents of their obligations to keep such information confidential. All such confidential and proprietary information described herein, in whatever form, is hereinafter collectively referred to as "Confidential Information." Such information shall be kept strictly confidential, except as required by law or to comply with auditing standards, by each Receiving Party and those of its directors, officers, employees, contractors and advisors to whom disclosure is made for the purposes hereunder (collectively referred to as the "Representatives"), it being understood that these Representatives shall be informed of the confidential nature of such information under this Agreement. Each party shall be responsible for breach of this Agreement by any of such party's Representatives. Notwithstanding anything in this Agreement, the Receiving Party shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose the Disclosing Party's Confidential Information to a competitor of the Disclosing Party without the prior written consent of the Disclosing Party.

**4.2 Exclusions.** Confidential Information shall exclude all information, which (a) is at the time of disclosure, or thereafter becomes, a part of the public domain through no act or omission of the other party, its employees, contractors or agents; (b) was in the other party's possession as shown by written records prior to the disclosure and had not been obtained by such party either directly or indirectly from the Disclosing Party; (c) is hereafter disclosed to the other party by a third party who did not acquire the information directly or indirectly from the Disclosing Party hereunder; (d) was independently developed by the other party without use of the Confidential Information, as evidenced by written records; or (e) was required by law to be disclosed, but only to the extent and for the purposes of such required disclosure.

**4.3 Notice of Possible Disclosure.** The Receiving Party shall promptly advise the Disclosing Party in the event the Receiving Party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Article IV and the Receiving Party shall at its expense cooperate with the Disclosing Party in seeking injunctive or other equitable relief against any such person.

**4.4 Return of Information.** Upon the termination or expiration of this Agreement, the Receiving Party shall promptly deliver to the Disclosing Party, or at the Disclosing Party's option, destroy all of the Disclosing Party's Confidential Information in the Receiving Party's

possession, whether such Confidential Information is in tangible (hard copy) or intangible (electronic) form. If such Confidential Information is destroyed, the Receiving Party shall promptly provide a written certification of such destruction to the Disclosing Party.

**4.5 Enforcement.** The parties hereto agree that any breach of this Article IV shall cause irreparable damage to the Disclosing Party, the full extent of the Disclosing Party's damages shall be impossible to ascertain, monetary damages shall not be an adequate remedy for the Disclosing Party, and the Disclosing Party shall be entitled to enforce this Agreement to prevent a breach or threatened breach of this Agreement by a preliminary or permanent injunction or other equitable relief, without the necessity of proving actual damages or of posting bond or security, which the Receiving Party expressly waives.

## ARTICLE V

### MISCELLANEOUS

**5.1 Application of the Service Recipient's Conflict of Interest Policy.** Pursuant to the Service Recipient's Conflict of Interest Policy, if the Board of Directors of the Service Recipient determines that a "Covered Person" has a "Financial Interest" in this Agreement (as those terms are defined in the Conflict of Interest Policy), then such Covered Person shall not be permitted to exercise any of the rights, responsibilities or authority held by the Service Recipient under this Agreement, to include, but not be limited to, the Service Recipient's ability to agree to Services and Compensation under Sections 1.2, 1.3 and 2.1 and the Service Recipient's authority under Section 2.4 to dispute amounts charged to the Service Recipient or to audit the Service Provider.

**5.2 Relationship.** This Agreement (or any of the arrangements contemplated by it) is not intended to create and shall not be construed to create a partnership, joint venture or similar business relationship among the parties hereto. The respective rights and obligations of the parties hereto shall in all respects be several and not joint or collective.

**5.3 Representations.** Each party hereto represents and warrants that (a) it is duly organized, validly existing and in good standing under the laws of the District of Columbia, with power and authority to carry on the businesses in which it is engaged and to perform its obligations under this Agreement; (b) the execution and delivery of this Agreement have been duly authorized and approved by all necessary action; (c) it has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder; and (d) the execution and delivery of this Agreement do not, and the performance of this Agreement shall not, violate any of the provisions of its governing documents or any applicable laws or regulations. The Service Provider hereby further represents and warrants that it shall assign only qualified individuals to perform the Services.

**5.4 Indemnification.**

(a) The Service Recipient shall indemnify, defend and hold harmless the Service Provider and the Service Provider's affiliates, and their respective officers, directors, managers, employees, agents and representatives (each, a "Service Provider Indemnitee") from and against any and all losses, claims, demands, costs, damages,

liabilities, joint and several, expenses of any nature (including reasonable attorneys' fees and disbursements), judgments, fines, settlements and other amounts (collectively "Losses") arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative (collectively, "Claims"), in which a Service Provider Indemnatee was involved or may be involved, or threatened to be involved, as a party or otherwise, arising out of (i) any breach by the Service Recipient of, or act or omission of the Service Recipient relating to this Agreement (except to the extent such Losses are due to the gross negligence or willful misconduct of the Service Provider) or (ii) a breach of the Service Recipients's covenants, representations or warranties herein.

(b) The Service Provider shall indemnify, defend and hold harmless the Service Recipient and the Service Recipient's affiliates, and their respective officers, directors, managers, employees, agents and representatives (each, a "Service Recipient Indemnatee") from and against any and all Losses arising from any and all Claims in which the Service Recipient Indemnatee was involved or may be involved, or threatened to be involved, as a party or otherwise, arising out of (i) any breach by the Service Provider of, or act or omission of the Service Provider relating to this Agreement (except to the extent such Losses are due to the gross negligence or willful misconduct of the Service Recipient), (ii) any actions by the Service Provider, its employees, consultants and representatives, not performed on behalf of or at the direction of the Service Recipient, to the fullest extent permitted by all applicable laws, or (iii) a breach of the Service Provider's covenants, representations or warranties herein.

**5.5 Notices.** Any notice, instruction, authorization, request or demand required hereunder shall be in writing, and shall be delivered either by personal delivery, facsimile, by certified or registered mail, return receipt requested, or by courier or delivery service, addressed to the parties hereto at the principal offices of the parties hereto at the address indicated beneath their respective signatures on the execution page of this Agreement, or at such other address and number as a party shall have previously designated by written notice given to the other party in the manner hereinabove set forth. Notices shall be deemed given when received, if sent by facsimile (confirmation of such receipt by confirmed facsimile transmission being deemed receipt of communications sent by facsimile); and when delivered and receipted for (or upon the date of attempted delivery where delivery is refused), if hand-delivered, sent by express courier or delivery service, or sent by certified or registered mail, return receipt requested.

**5.6 Amendment and Waiver.** This Agreement may be amended, modified or superseded only by written instrument executed by the parties hereto. Any waiver of the terms, provisions, covenants, representations, warranties, or conditions hereof shall be made only by a written instrument executed and delivered by a duly authorized executive officer of the party waiving compliance. The failure of any party at any time or times to require performance of any provisions hereof, shall in no manner effect the right to enforce the same. No waiver by any party of any condition or provision, or the breach of any term, provision, representation, or warranty contained in this Agreement in one or more instances shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or the breach of any other term, provision, covenant, representation or warranty.

**5.7 Successors and Assigns.** All of the terms, provisions, covenants, representations, warranties, and conditions of this Agreement shall bind, be enforceable by, and inure to the benefit of, the parties hereto, but this Agreement and the rights and obligations hereunder shall not be assignable or delegable by any party without the consent of the other party to this Agreement.

**5.8 Definitions, Gender and Certain References.** As used in this Agreement, each parenthetically or quoted capitalized term in the introduction, recitals and other Sections of this Agreement shall have the meaning so ascribed to it. Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural. References to Articles or Sections shall be to Articles or Sections of this Agreement unless otherwise specified. The headings and captions used in this Agreement are solely for reference and shall not affect the meaning or interpretation of any article, section or paragraph herein, or this Agreement. The terms "hereof," "herein" or "hereunder" shall refer to this Agreement as a whole and not to any particular Section.

**5.9 Governing Law and Severability.** The validity, interpretation, construction, and performance of this Agreement shall be governed by the internal law, and not the law of conflicts, applicable in the District of Columbia. The invalidity of any provision of this Agreement shall not affect any other provision of this Agreement, which shall remain in full force and effect, nor shall the invalidity of a portion of any provision of this Agreement affect the balance of such provision.

**5.10 Entire Agreement.** No agreements or representations, oral or otherwise, express or implied, have been made by any party hereto with respect to the subject matter hereof that are not set forth expressly in this Agreement. This Agreement supersedes and cancels any prior agreement, arrangement or understanding entered into between the Service Provider and the Service Recipient relating to the subject matter hereof.

**5.11 Counterparts.** The parties may execute this Agreement in any manner of counterparts, each of which is an original, but all of which together constitute one and the same instrument.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed by a duly authorized executive officer as of the date set forth above, but effective as of the Effective Date.

**Windward Fund**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

Windward Fund EIN: 47-3522162



**Arabella Philanthropic Advisors, Inc.**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

Windward Fund EIN: 47-3522162

# EXHIBIT D

**<ORGANIZATION> – Windward Fund  
Administrative Agreement (“Agreement”)**

This Agreement between the Windward Fund (the “Fund”) and the <ORGANIZATION> (the “<ACRONYM>”) is effective <DATE>.

The Board of Directors of the Windward Fund (the “Fund”) approved financial support of the project described in Part 1 of this Agreement (the “Project”), as advancing the Fund’s tax-exempt purposes. The Fund has created a restricted fund designated for this project, and will grant and expend amounts that it deposits in the fund for the benefit of <ACRONYM>, subject to the following terms and conditions:

**1. Purposes of the Project.** <PURPOSE OF PROJECT>

**2. <ACRONYM> Executive Committee.** An advisory committee (the “Executive Committee”) shall oversee the activities of the Project and make recommendations regarding the expenditure of funds contributed to the Fund for this Project. The Fund is not obligated to follow the recommendations of the Executive Committee. The Executive Committee will designate a representative to serve as liaisons between itself and the Board of the Fund.

**3. Contributions to the Fund.** Donors may make contributions to the Fund exclusively for the purpose of supporting and advancing the charitable and educational activities and purposes of the Project. Specifically, these funds may be used for: compensation of employees and consulting fees for independent contractors hired by the Fund to work on the Project activities; grants to other exempt entities tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”); fees associated with contracts with data service providers; meeting expenses, accounting fees, legal expenses relating to the Project, and special supplies, equipment and other materials required for the Project. Any other expenditure of restricted fund monies must be approved by the Board of Directors of the Fund according to its policies and procedures. Donors that request a letter/receipt acknowledging their gift to the Fund for the Project will receive one from the Fund. On a periodic basis as requested by the Executive Committee, but in no case more frequently than once a month, the Fund shall provide the Executive Committee with information regarding cash on hand in the <ACRONYM> restricted fund.

**3.A. Approved Subcontracted Services.** The Board of Directors of the Fund must approve all subcontracts executed by <ACRONYM> in support of the Project. Subcontracts will not be executed until the total cost of the subcontractor’s work has been received in contributions and designated to the Fund’s restricted account.

**4. Fundraising for <ACRONYM>.** Members of the Executive Committee and those that they designate with approval from the Fund may solicit gifts, contributions, and grants to the Fund, designated for the Fund’s restricted fund for the Project. To the extent that funds are being raised for Fund’s restricted account for this project, the <ACRONYM>’s choice of funding sources to be approached, and the text of the <ACRONYM>’s fundraising materials, must be approved in advance by the Fund in writing. All grant agreements, pledges or other

commitments with funders to support this project through the Fund's restricted fund must be executed by the Fund. The costs associated with preparing grant reports and other compliance measures required by funders will be paid from the administrative fees provided for in Paragraph 5. Any changes in the purposes for which grant funds are spent must be approved in advance in writing by the Fund.

5. **Administrative Charge.** An administrative charge of [2% - 15%] of contributions made to the <ACRONYM>'s restricted fund after <DATE> will be deducted by the Fund to defray the Fund's costs of administering the restricted fund, including, but not limited to, the costs of financial reporting, cash management, investment management, payroll administration, data processing, benefits administration, human resources, risk management and insurance, file and record storage, information technology, and ordinary and necessary office overhead. This administrative fee will be reevaluated by the Fund and the Executive Committee as necessary.

6. **No Political Activities.** No portion of the <ACRONYM>'s funds may be used to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur, or to take any other action inconsistent with Code section 501(c)(3).

7. **Notifications.** The Executive Committee will notify the Fund immediately of any changes in the <ACRONYM>'s legal status, the Executive Committee or key staff responsible for the <ACRONYM>.

8. **Cooperation; Time is of the Essence.** The parties agree that time is of the essence and that representatives of the Fund and the Executive Committee will work diligently, efficiently and cooperatively to take the necessary steps for the <ACRONYM> to conduct its activities in a timely manner. Each party agrees to take all steps that are necessary and reasonably requested by the other party to advance the activities contemplated by the collaborative.

9. **Confidentiality.** The Fund and Executive Committee acknowledge that any disclosure of confidential and proprietary information to third parties may adversely affect the interests of the Fund and the Executive Committee. The confidential and proprietary information includes, but is not limited to: names of funders and any description of planned or ongoing activities of the <ACRONYM>, unless such funder names or activities must be made public as required by law. Each party agrees to make a good faith effort (i) to hold all confidential, propriety information and trade secrets in confidence and not to disclose such information to any third parties and (ii) not to use such information for any purpose at any time other than to conduct discussions with the parties and implement this Agreement. Either party may request that the other party sign a separate confidentiality agreement.

10. **Termination of Agreement.** Either party may terminate this Agreement for any reason with 30 days' written notice. Upon notice of termination by either party, the Executive Committee may make a nonbinding recommendation that the Fund grant to one or more public charities the remaining amount held in the <ACRONYM> restricted fund, less reasonable

expenses of the Fund. The Executive Committee shall provide a list of proposed recipients of such grants to the Fund for its review and determination.

11. **Disposition of Excess Funds.** In the event that <ACRONYM> ceases activities and there are remaining funds held in the <ACRONYM> restricted fund, the Fund agrees to make a grant of such funds to one or more public charities, the names of which have been provided to the Fund as recommended recipients from the Executive Committee. If the Executive Committee does not provide the Fund with a list of proposed public charities to receive such grants within 30 days of cessation of activities, the Fund may distribute such funds to one or more public charities of its choice or the Fund may retain such excess funds to be used for its charitable purposes.

12. **Governing Law and Severability.** The validity, interpretation, construction, and performance of this Agreement shall be governed by the internal law, and not the law of conflicts, applicable in the District of Columbia. The invalidity of any provision of this Agreement shall not affect any other provision of this Agreement, which shall remain in full force and effect, nor shall the invalidity of a portion of any provision of this Agreement affect the balance of such provision.

13. **Relationship.** This Agreement (or any of the arrangements contemplated by it) is not intended to create and shall not be construed to create a partnership, joint venture or similar business relationship among the Fund and any members of the Executive Committee.

14. **Final Agreement.** This Agreement supersedes any prior oral or written understandings or communications between the parties and constitutes the entire agreement of the parties with respect to the subject matter. This Agreement may not be amended or modified, except in a writing signed by both parties hereto.

15. **Authority.** The Fund and the Executive Committee each has the full right, power and authority to enter into this Agreement [Note: if <ACRONYM> is an entity, it should be listed here, not the Executive Committee].

IN WITNESS WHEREOF, the parties have executed this Grant Agreement effective on the <DATE>.

Agreed to and accepted on behalf of the founder of the <ORGANIZATION> this <DATE> [Note: this should be executed by the Chair of the Executive Committee/president of the <ACRONYM>, as appropriate].

\_\_\_\_\_  
<CONTACT>

Agreed to and accepted on behalf of the Windward Fund this \_\_\_ day of \_\_\_\_\_, 2015.

**Eric Kessler**  
**President**

Windward Fund    EIN: 47-3522162