



## **CONFIDENTIALITY AGREEMENT**

This confidentiality Agreement is hereby made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ two thousand and \_\_\_\_\_ by and between Book Fairies and \_\_\_\_\_ (“Board Member”).

### **AGREEMENT**

Book Fairies wishes to protect its confidential information. Board Member and Book Fairies are entering into this Confidentiality Agreement (“Agreement”) to provide such protection to Book Fairies upon the terms and conditions set forth in this Agreement. In consideration of the foregoing and the mutual agreements herein contained the Parties agree as follows.

### **ARTICLE 1. DEFINITIONS**

Confidential Information shall mean, but is not limited to, plans, processes, reports, financials, business or strategic plans, compensation, donor lists and donors, client lists and clients (including, but not limited to, clients or donors of Book Fairies who Board Member calls or with whom Board Member became acquainted with during the term of employment) and any information relating or belonging to Book Fairies’ clients, donors, customers, and any other third-party individuals Book Fairies transacts with whether furnished before or after the date hereof, oral or written, and regardless of the form of communication or the manner in which it is furnished.

Book Fairies Records shall mean any document or record concerning the business and affairs of Book Fairies.

Party shall mean Book Fairies or Board Member and Parties shall mean both Book Fairies and Board Member.

Representative shall mean any person, such person's affiliates and its and their directors, shareholders, partners, members, officers, Board Members, consultants, independent contractors, agents, advisors (including, without limitation, financial advisors, counsel and accountants) and controlling persons.

### **ARTICLE 2. CONFIDENTIALITY**

Board Member acknowledges that the provision of services, goods and resources to those economically or traditionally disadvantaged largely depends upon the public’s trust (herein the “Mission”). Any direct or indirect disclosure of Confidential Information to anyone outside of Book Fairies would threaten the Mission and operations of Book Fairies, cause the public to lose trust in Book Fairies, and would do damage, monetary or otherwise, to Book Fairies’ Mission. Board Member’s employment with Book Fairies has or will expose Board Member to Confidential Information. Board Member expressly acknowledges the status of the Confidential Information and that the Confidential Information constitutes a protectable interest of Book Fairies.

For the purposes of this Agreement, Confidential Information shall not include information that is:

- (a) readily available to the public in the same or an equally useable form as that maintained by Book Fairies;
- (b) has been lawfully received from an independent third party without any restriction and without

any obligation of confidentiality; or(c) has been independently developed without access to or knowledge or use of the Confidential Information.

### ARTICLE 3. MAINTAINING CONFIDENTIALITY

Board Member shall not divulge, disclose, provide or disseminate, in any manner to any person or entity at any time, the Confidential Information described in Article 2 of this Agreement, Confidential Information which may affect the Mission of Book Fairies or matters relating to the Mission of Book Fairies without Book Fairies' express consent in writing. Board Member agrees to maintain security measures to safeguard the Confidential Information.

Pursuant to such maintenance, Board Member shall: (i) attempt in every reasonable way to prevent intentional or unintentional unauthorized use or disclosure of Confidential Information and Book Fairies Records; (ii) promptly notify Book Fairies of an unauthorized use, copying or disclosure of Confidential Information or Book Fairies Records; and (iii) assist Book Fairies in every reasonable way to retrieve wrongfully disclosed Confidential Information, or Book Fairies Records, and/or terminate unauthorized use or disclosure.

Moreover, Board Member shall adhere to following measures to comply with their confidentiality obligations herein:

(a) Take reasonable steps to maintain the secrecy of Confidential Information, including, but not limited to, maintaining the physical security of Confidential Information by using locked drawers, computer passwords and marking documents as "Confidential."(b) Refrain from discussing Book Fairies' Mission or its donors with anyone other than personnel or Representatives within Book Fairies.(c) Refrain from discussing the business of Book Fairies or its donors in public places or common areas.(d) Take reasonable efforts to avoid inadvertent disclosure caused by things including, but not limited to, open doors, speaker phones, etc.; and(e) When destroying Book Fairies Records or documents containing Confidential Information, take the appropriate steps to ensure that such destruction is done properly.

### ARTICLE 4. USE OF CONFIDENTIAL INFORMATION

Board Member may use Confidential Information, and Book Fairies Records, to the extent necessary to perform their authorized duties. Notwithstanding the foregoing, Board Member shall not use Confidential Information, or any Book Fairies Record, for any purpose not permitted herein without the prior written authorization of a corporate officer. Board Member agrees not to use Confidential Information in any way which would be harmful to The Book Fairies.

### ARTICLE 5. DISCLOSURE OF CONFIDENTIAL INFORMATION

Board Member shall not, directly or indirectly, in any capacity, make known, disclose, furnish, make available or utilize any of the Confidential Information of Book Fairies other than in the proper performance of the duties contemplated herein, or as required by a court of competent jurisdiction or other administrative or legislative body. In the event Board Member is requested pursuant to, or required by, applicable law or regulation or by legal process to disclose any Confidential Information, the Board Member shall provide Book Fairies with prompt written notice of such request or requirement so that Book Fairies may; (i) seek an appropriate protective order or other remedy with respect thereto, (ii) consult with the Board Member in taking steps to resist or narrow the scope of such request or legal process, or (iii) waive compliance, in whole or in part, with the terms of this Agreement.

Notwithstanding the foregoing, Book Fairies may consent to information being disclosed, or relieve Board Member from having to comply with this Agreement, in whole or in part, provided prior written consent is obtained.

#### ARTICLE 6. TERMINATION OF CONFIDENTIALITY, RETURN OF CONFIDENTIAL INFORMATION

Board Member shall be released from obligations in this Agreement, in whole or in part, if; (i) Book Fairies provides a written demand that any Confidential Information be returned, (ii) the employment of Board Member expires, is voluntarily or involuntarily terminated or suspended, or (iii) Board Member breaches any terms in this Agreement.

Upon such release, Board Member shall return all Confidential Information within seven (7) business days, from the day Board Member is released, along with all copies including, but not limited to, anything disclosed by Book Fairies or made by the Board Member. Anything that cannot be returned shall be completely destroyed, including deletion from all computers of all copies, reproductions, summaries, analyses or extracts thereof or based thereon (whether in hard-copy form or on intangible media, such as electronic mail or computer files) in the Board Member's possession. If a legal proceeding has been instituted to seek disclosure of Confidential Information, such material shall not be destroyed until the proceeding is settled or a final judgment with respect thereto has been rendered. Book Fairies reserves the right to inspect any and all devices used to conduct business or store Book Fairies' information.

#### ARTICLE 7. GOVERNING LAW AND REMEDIES

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to its principles or rules regarding conflicts of laws. Each party hereby consents to, and subsequently waives any objection of, the institution and resolution of any action, or proceeding, of any kind or nature with respect to, or arising out of, this agreement brought by either Party in the federal or state courts located within the State of New York

#### ARTICLE 8. SEVERABILITY

In the event any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of this Agreement shall not in any way be affected or impaired thereby. Moreover, if any one or more of the provisions contained in this Agreement shall be held to be excessively broad as to duration, activity or subject, such provisions shall be construed by limiting and reducing them so as to be enforceable to the maximum extent allowed by applicable law.

#### ARTICLE 9. WAIVER

The failure of either Party to this Agreement to enforce any of its terms, provisions or covenants shall not be construed as a waiver of the same or of the right of such Party to enforce the same. The consent, waiver, or change rendered by either Party to this Agreement with respect to a certain event shall only be applicable to that event, and shall not be presumed as the approach of that Party to any event of the same kind which may occur in the future, unless otherwise expressly indicated in writing.

#### ARTICLE 10. ENTIRE AGREEMENT

This Agreement sets forth the entire agreement between the Parties with respect to its subject matter and merges and supersedes all prior discussions, agreements and understandings of every kind and nature

between any of them and neither Party shall be bound by any term or condition other than as expressly set forth or provided for in this Agreement. This Agreement may not be changed or modified nor may any of its provisions be waived, except by an agreement in writing, signed by the Parties hereto.

#### ARTICLE 11. GENERAL PROVISIONS

**Injunctive Relief.** Each Party recognizes that the unauthorized use or disclosure of Confidential Information may give rise to irreparable injury and acknowledges that remedies other than injunctive relief may not be adequate. Accordingly, Book Fairies has the right to equitable and injunctive relief to prevent the unauthorized use or disclosure of its Confidential Information, as well as such damages or other relief as is occasioned by such unauthorized use or disclosure.

**Headings.** Section headings are provided in this Agreement for convenience only and shall not be deemed to substantively alter the content of such sections.

EACH PARTY TO THIS AGREEMENT REPRESENTS AND WARRANTS TO EACH OTHER PARTY THAT SUCH PARTY HAS READ AND FULLY UNDERSTANDS THE TERMS AND PROVISIONS HEREOF, HAS HAD AN OPPORTUNITY TO REVIEW THIS AGREEMENT WITH LEGAL COUNSEL, AND HAS EXECUTED THIS AGREEMENT BASED UPON SUCH PARTY'S OWN JUDGMENT AND ADVICE OF INDEPENDENT LEGAL COUNSEL (IF SOUGHT).

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

\_\_\_\_\_  
(Board Member's Signature)

\_\_\_\_\_  
(Book Fairies authorized Signature)

\_\_\_\_\_  
(Print Board Member's Name)

\_\_\_\_\_  
(Print TBF authorized name printed)