

Donor-Advised Fund Agreement

This agreement is made on _____, 20__ between the Baltimore Community Foundation, Inc. ("BCF") and _____(the "Founders") to establish and govern the administration of a donor-advised fund within BCF.

1. Name _____ (the "Fund").

2. Purpose of Fund (check one)

- General charitable purposes
- Specified charitable purposes:

3. Advisors to the Fund

The following persons shall be authorized to recommend grants from the Fund (the "Advisors").

- Founders
- _____
Full name of additional advisor (strike through if none)
- _____
Full name of additional advisor (strike through if none)

4. Distributions from the Fund

BCF shall make distributions from the Fund exclusively for the charitable purposes described in Item 2 above. The Advisors may submit written suggestions regarding distributions from the Fund. Such recommendations may be accepted or rejected, in whole or in part, by BCF in its sole and absolute discretion.

Select whether this is an endowed or non-endowed fund: (check one)

- This is an endowed fund.**

Distributions will be made under the terms of BCF's spending policy for endowed funds as it is amended from time to time. The Fund will be managed using a total

return concept of endowed management based on BCF's spending policy rate, as adjusted from time to time, by BCF's board of trustees. BCF's spending policy for endowed funds is designed to maintain and, if possible, increase the real value (as adjusted by inflation) of the Fund while at the same time providing a relatively stable but predictable level of funding for grantees. Distributions may be made annually according to BCF's spending policy without regard to the recorded principal value of the Fund. BCF's board of trustees reviews the spending policy annually and approves the spending rate for the following year.

This is a non-endowed fund.

Distributions may be made from the entire fund balance, including both income and principal, and the Fund may be spent down in its entirety and retired.

If you wish your non-endowed fund to convert to an endowed fund upon your death, please initial here:

_____ **At the death of the last surviving Founder, the Fund shall convert to**
(Founders' Initials) **an endowment.** If Successor Advisors are named in Item 5 below, they may make grant recommendations pursuant to BCF's spending policy for endowed funds.

5. Successor Advisors

The Founders may designate individuals to serve as Successor Advisors with the privilege of making grant recommendations from the Fund in the event of the Advisor's death, resignation, incapacity or inability to serve for any reason. When Successor Advisors assume responsibility for the Fund, they in turn may name additional Successor Advisors, subject to BCF's approval. Successor Advisors may be changed or added by submitting an Advisor Update Form to BCF.

Successor Advisor 1

Name: _____

Relationship to Founder: _____

Successor Advisor 2

Name: _____

Relationship to Founder: _____

6. Ultimate Disposition of the Fund

At such time as there is no Advisor or Successor Advisor willing or able to serve, the Fund shall be administered as follows:

- A. If the Fund has a value of less than \$25,000, the Fund shall be retired and the balance will become part of BCF's unrestricted assets for use at the discretion of BCF's board of trustees.
- B. If the Fund has a value of more than \$25,000, it shall continue as a named, permanent endowment at BCF, and may make distributions in support of BCF and its programs, other designated non-profit organizations, or a field of interest as specified below.

- 1. **Baltimore Community Foundation Grantmaking** _____%
 - 2. **Designated for the support of the following** _____%
-

7. Fees

BCF assesses a fee to help defray the costs associated with the administration and investment of the Fund. A schedule of the administrative fees in effect at the time of this agreement is attached. BCF reserves the right to increase or decrease the administrative fee from time to time.

8. Policies and Procedures

The Founder(s) have received and reviewed the *Policies and Procedures for Establishing and Operating Donor-Advised Funds* (the "Policies"), which are Policies incorporated herein by reference, and agree to the terms and conditions described therein. The undersigned understand that any contribution, once accepted by BCF, represents an irrevocable gift to BCF. All contributions of any kind and from whatever sources, including any earnings and appreciation on such contributions to the Fund, will be subject to the terms of this Agreement. The Fund will become active once the initial gift is received by BCF. The Founder(s) certify that all information presented in connection with this Agreement is accurate, and agree to notify BCF in writing of any changes. In the event of any conflict between the terms of this Agreement and the Policies, the terms of this Agreement will govern.

Policies and Procedures for Establishing and Operating Donor-Advised Funds

Authorization

The Baltimore Community Foundation, Inc. ("BCF") has authorized the establishment of donor-advised funds by resolution of the board of trustees adopted on February 4, 1972. These policies and procedures, which constitute a part of the donor-advised fund agreement to which they are attached, may be amended from time to time when deemed necessary or desirable by BCF's board of trustees.

Characteristics of Donor-Advised Funds

Contributions to donor-advised funds, along with any earnings and appreciation on such contributions, represent irrevocable gifts to BCF subject to the legal and fiduciary ownership and control of BCF's board of trustees. A donor may not impose any material restriction or condition that prevents BCF from freely and effectively employing the contributed assets, or the income derived therefrom, in furtherance of BCF's charitable purposes. Any costs related to stock transactions for the fund's benefit are borne by the fund. Should advisors engage in fundraising to add to the balance of the fund, they must communicate their plans to BCF and follow the attached guidelines on fundraising. Online donation capacity for the fund can be activated upon the advisor's request.

Administration of Donor-Advised Funds

Each donor-advised fund shall be the property of BCF, owned by it in its normal corporate capacity. In such capacity, BCF shall have the ultimate authority and control of all property in the fund, including earnings and appreciation, for BCF's charitable purposes. Each fund may be recorded on BCF's books and records of BCF as an identifiable and separate fund and may be given a name or other appropriate designation as requested by the founder in the agreement. Anything herein or in the deed of gift or other instrument of transfer creating a donor-advised fund to the contrary notwithstanding, each fund shall be a component part of BCF, as defined in Section 1.170A-9(e)(11) of the Income Tax Regulations, or any successor regulation, and shall be subject to BCF's governing instruments, including the Articles of Incorporation and Bylaws, as amended from time to time.

Role of Donors

BCF welcomes the involvement and recommendations of the advisors with respect to distributions from donor-advised funds, but such recommendations are advisory only and are in no way binding upon BCF. BCF attempts to honor the charitable intentions of its advisors consistent with community needs and applicable laws and regulations. Donor advice will be considered if offered in writing, by fax, by email, or through Donor Xpress which is available

on BCF's website. In cases where more than one advisor is serving, we ask that the advisors identify one advisor through whom instructions will be received. Because IRS regulations require that grants from donor-advised funds be consistent with BCF's general charitable purpose, your grants should be primarily for organizations and institutions in Maryland, although grants to all qualified U.S. charitable organizations will be considered.

Evaluation of Donor Recommendations

In evaluating recommendations for distributions from donor-advised funds, BCF staff investigates all prospective grant recipients to ensure that they are organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code or that the grant will be used for a charitable purpose. All distributions from donor-advised funds must be ratified by BCF's Board of Trustees or its designee.

Distributions

Distributions from donor-advised funds recommended by donors, advisors or related parties may not be made to individuals, private foundations, or supporting organizations. This includes grants, loans, compensation or expense reimbursement. Distributions may not be made for non-charitable purposes. Distributions will not be made for any purpose or to any organization that provides a tangible benefit to the donors, advisors or related parties in return for recommending the distribution. This prohibition includes the purchase of tickets or tables at charitable events and other similar items. Distributions will not be made to satisfy a personal pledge of the donors, advisors or related parties of the fund. Distributions from donor-advised funds will not be made to support or promote political or legislative activities.

BCF suggests that distributions from a donor-advised fund be at least \$250. Unless otherwise requested by the advisor, any distribution from a donor-advised fund shall identify the fund from which the distribution is made and the name and mailing address of the advisor for acknowledgement purposes.

Successor Advisors

The privilege of making recommendations shall be extended to founder(s) of the fund, and their nominees as designated in the agreement. All requests to appoint additional advisors and to nominate successor advisors must be communicated to BCF in writing. The founder may change or revoke the designation of additional advisors or successor advisors, by communicating the change in writing to BCF.

Investment

Endowed funds will be invested in the BCF Pool, which is managed with a long-term horizon and aims to produce a relatively stable spendable amount available for grantmaking from year to year. Non-endowed funds are invested in the Money Market Pool, though donors with a

longer time-horizon for grants may recommend investment in the BCF Pool. BCF requests 30 days advance notice of grant recommendations exceeding \$500,000 from a non-endowed, donor-advised fund invested in the BCF Pool.

Inactive Funds

If no gifts are received and no grants are recommended during a 24-month period prior to January 1st of each year, BCF's board of trustees may declare the fund to be inactive. When a fund is declared inactive, BCF shall treat the fund as an endowed fund and shall apply its spending policy to determine the annual amount available for grantmaking (AAG) from the fund. The AAG calculated will be distributed in accordance with the founder's preference for the ultimate disposition of the fund, as noted in the agreement. If no election for the ultimate disposition of the fund has been made, the AAG will be added to BCF's unrestricted assets for use at the discretion of the board of trustees.

Spending Policy

BCF's board of trustees may adjust the spending policy rate from time to time. In determining the spending policy rate, the board of trustees may consider the expected total return on the investments of BCF's permanent funds, and the desirability of maintaining the value of BCF's permanent funds, and other factors that it deems relevant.

Endowed Funds – Calculation of Spendable

Endowed funds are managed using a total return approach, which utilizes both income and capital appreciation. The spendable amount available for grantmaking is calculated annually by applying the spending rate— currently set at 4%-5% depending on the type of fund—to the average of the fund's principal value for the previous twelve quarters ending each September 30th.

For newly created funds, no calculation will be made until four quarters after the September 30 following creation of the fund. After that time and until the fund has been in existence for twelve full quarters, the average will be based on the number of quarters the fund has been in existence as of each September 30th.

The full amount available for grantmaking is not required to be distributed annually; any portion may remain in the investment pool for long-term growth or may be carried forward for future grantmaking.

Conflict of Terms

In the event of an inconsistency between these policies and the agreement, the terms of the agreement will govern. In the event of any inconsistency between these policies and any other procedures, terms or conditions appearing elsewhere in connection with any fund, these

policies, as interpreted by BCF, shall govern, and BCF reserves the right to take any actions at any time which, in its sole discretion, it deems reasonably necessary or desirable for the proper administration of any fund.

Fees

Donor-advised funds are subject to administrative and investment fees and BCF reserves the right to change its fee structure at any time.

Exhibit A

Policies Regarding Fundraising for Funds of The Baltimore Community Foundation

Occasionally groups want to increase the amount of money in a particular fund at the Baltimore Community Foundation by undertaking some form of fundraising to benefit the fund. BCF is structured to raise endowment through acquisition of major and planned gifts. BCF is not equipped to operate public fundraising events for its component funds.

In order to protect its status as a 501(c)(3) public charity, of which your fund is a component, BCF must ensure that all fundraising efforts meet IRS guidelines.

If you are considering a fundraising event, solicitation or special project of any kind for a fund of the Baltimore Community Foundation, you must discuss your plans with BCF's VP Philanthropy and Chief Development Officer in advance.

We will review your plan, determine whether your plan meets IRS guidelines and confirm that BCF's role is appropriately represented in any materials you are planning to use to promote your charitable fund. All fundraising events require insurance; depending upon the circumstances you may need to purchase additional insurance before BCF can approve your fundraising plans.

To help you understand the ways you may fundraise and to clarify the role of the Baltimore Community Foundation in such efforts, we provide the following information.

The most common ways that funds of the Baltimore Community Foundation receive money from a fundraising event are:

- 1. Fund founders ask other individuals through a personal ask or direct mail to make an outright gift to a fund.**

Solicitation letters and other direct mail material must be approved by BCF's VP Philanthropy and Chief Development Officer prior to mailing. We will review your solicitation and confirm that BCF's role is appropriately represented. BCF will process all gifts received for your fund and issue a tax receipt for each gift directly to the donor.

2. Proceeds from an event/solicitation sponsored by another 501(c)(3) organization with a fund at the Baltimore Community Foundation.

An organization with its own tax exemption may sponsor a fundraising event/solicitation and deposit the proceeds (which may include individual contributors' checks) into their Baltimore Community Foundation fund. The organization issues its own acknowledgement letters, and the contributors receive a charitable deduction for their gifts because the sponsoring organization has its own charitable tax status.

3. Proceeds from an event/solicitation for which donors were not offered a tax deduction.

This is the most common way component funds of the Baltimore Community Foundation receive money from a fundraising event. The net income is forwarded to BCF and is designated for a particular fund. BCF has neither endorsed the activity nor been involved in its planning or execution. *BCF does not acknowledge the individual contributors of the dollars, and no one receives a charitable deduction for participating in the event.* A receipt for the net amount received is sent to the organizing group. Any published materials related to the fundraising event should include the following wording: "The net proceeds of this event will be contributed to the XYZ Fund of the Baltimore Community Foundation."

4. Galas, golf tournaments, silent auctions and other events held to benefit the fund

BCF does not support and cannot accept donations which result from galas, golf tournaments, silent auctions and other event based fundraising where the donor receives a benefit for making a contribution.

Please consult BCF's VP Philanthropy and Chief Development Officer before planning any fundraising effort for your charitable fund.

Instructions for Fund Founders Completing the Donor-Advised Fund Agreement

1. Name of Fund

Please choose a name for your fund. Grants made to charities are accompanied by a letter which includes the name of the fund and the name and address of the advisor, unless you request anonymity. Your fund's name will appear in BCF's materials including our annual report and website. If you wish your fund to be anonymous, please name it accordingly. (e.g. *The Fund for Good as opposed to The John and Mary Smith Family Fund*).

2. Purpose of Fund

Select *general charitable purposes* for the greatest flexibility in grantmaking. If you wish to focus but not limit the fund's grantmaking, select *general charitable purposes* and name a specific area of focus (like education or the environment). If you wish to restrict the purpose of the fund, name the specific area of charitable focus but do not select *general charitable purposes*.

3. Fund Advisors

Only authorized advisors have the authority to recommend distributions from the fund. As the founder you may elect to be the advisor and/or you may designate others to advise the fund with you or on your behalf. Should you wish to change the advisor(s) after the fund agreement is signed, you may do so by making a written recommendation to BCF.

4. Distributions from the Fund

Please indicate whether you want this fund to be an endowed or a non-endowed fund. Under current law, there is not a requirement that annual distributions be made from either endowed or non-endowed donor-advised funds. The following describes how the amount available for grantmaking (AAG) is currently calculated for endowed and non-endowed funds.

Endowed funds are managed using the total return concept of endowment management, which limits the AAG by applying BCF's spending policy rate to a 12-quarter average market value of the fund. Under the current spending policy, you will be able to distribute about 5 percent of the fund balance each year, and the fund will always remain at BCF.

You do not have to distribute the full AAG each year. Any undistributed portion may be carried forward for future grantmaking, and will be noted on your fund statement as available for grantmaking. For new or newly endowed funds, no AAG will be calculated until at least four quarters have passed. After that time and until the fund has been in existence for twelve quarters, the AAG will be calculated by applying the spending policy rate to the average quarterly market value for the number of quarters the fund has been in existence.

The AAG may be drawn from ordinary income (*i.e.*, dividends, interest), appreciation and principal without regard to any restrictions contained in the Uniform Management of Institutional Funds Act.

Non-endowed funds are not subject to spending limits. The AAG is equal to the entire fund balance. Advisors may recommend grants in amounts up to the total fund balance. The fund may be spent down and the fund may be retired. BCF requests 30 days advance notice of grant recommendations exceeding \$500,000 from a non-endowed, donor-advised fund invested in the BCF Pool.

5. Successor Advisors

As the founder you may change the successor advisor named in the agreement. The successor advisor will have no right to recommend distributions from the fund until the advisor's death, resignation, incapacity or inability to serve, at which point the successor advisor will become the advisor. As long as each generation of advisors names a successor advisor, the advisory privileges for the fund shall remain in effect.

6. Ultimate Disposition of the Fund

When the last named advisor or successor advisor is no longer able or willing to advise the fund, BCF will carry out the founder's wishes regarding the ultimate disposition of the fund. Non-endowed funds with a balance of \$25,000 or less will be retired and any remaining assets will be transferred to an existing endowed fund at BCF, as designated by the founder in the Agreement. Endowed funds and funds with a balance of more than \$25,000 will continue as separate named endowments, and the AAG will be distributed annually to the funds designated by the founder.