

## Donor Advised Fund Agreement

This agreement is made on \_\_\_\_\_, 2018 between the Community Foundation of Anne Arundel County, Inc. ("CFAAC") and \_\_\_\_\_ ("Founder") to establish and govern the administration of a Donor Advised Fund of CFAAC.

### 1. Name of Fund:

Funds at the Community Foundation of Anne Arundel County are identified by a fund name. Please indicate the name for this Fund:

\_\_\_\_\_

### 2. Purpose of Fund

- General Charitable Purpose  
 Specific Charitable Purpose (describe below)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### 3. Property of the Fund

An initial contribution of \$ \_\_\_\_\_ made via \_\_\_\_\_ (check, securities, other) will be contributed to open this Fund. Additional gifts may be made to the Fund at any time.

- a. All contributions to the Fund shall be administered pursuant to the terms and conditions of this agreement.
- b. Founder acknowledges that the delivery of the initial property and any additional property contributed to the Fund, including any income therefrom, constitutes an irrevocable gift of such property to CFAAC, and shall constitute an asset of CFAAC.

### 4. Fund Advisors

The Founder is considered the "Fund Advisor" of this Fund and will have the privileges normally assigned to "Fund Advisors" as allowed under IRS regulations and, have the authority to access Fund information, recommend grants, and name additional Fund Advisors and/or Successor Advisors.

### 5. Additional Fund Advisors

To name additional Fund Advisors, please list them below:

\_\_\_\_\_

Name

\_\_\_\_\_

Relationship

\_\_\_\_\_

Name

\_\_\_\_\_

Relationship



services designed to enhance advisors' giving and philanthropic experience. The fees for this fund will be \_\_\_\_\_% per year.

**9. Fund Promotion**

To express appreciation to the Founder and to set an example for others to follow, CFAAC may choose to publicize its funds or highlight grants in its public communication and promotional materials. If the Founder wishes to remain anonymous or semi-anonymous, **please initial here**\_\_\_\_\_.

**10. Successor Advisors**

The Founder may designate individuals to serve as Successor Advisors with the privilege of making grant distribution recommendations from the Fund in the event of the Founder's death, resignation, incapacity, or inability to serve for any reason. When Successor Advisors assume responsibility for the Fund, they may not name additional Successor Advisors. Successor Advisors may be changed or added via written request by the Founder to CFAAC.

**11. Estate Plans**

If you would like to, or have already included CFAAC in your will or estate plan, please let us know so that we can thank you.

- Bequest
- Charitable Remainder Trust
- Charitable Gift Annuity
- Other: \_\_\_\_\_
- IRA/Retirement Plan Assets
- Life Insurance
- Charitable Lead trust

**12. Ultimate Disposition of the Fund**

At such time as there is no Advisor or Successor Advisor willing or able to serve, or if the Fund remains inactive (no new contributions received, or grants distributed) for three years, the Fund shall be administered as follows:

- a. CFAAC's Operating Endowment** \_\_\_\_\_%  
Please consider supporting CFAAC's Community Leadership efforts to build and sustain Anne Arundel County with a designation of 10% or more.
- b. CFAAC's Fund for Anne Arundel** \_\_\_\_\_ %  
Please consider supporting CFAAC's grantmaking efforts to address the most pressing needs in Anne Arundel County with a designation of 10% or more.
- c. Field of Interest:** \_\_\_\_\_ %  
To support a specific interest of the Founder (e.g. Health, Arts, Environment etc.).
- d. Designated for the support of the following nonprofit organization(s):** \_\_\_\_\_%

\_\_\_\_\_  
\_\_\_\_\_

**13. Policies and Procedures**

The Founder has reviewed the *Donor Advised Fund Policies and Procedures* on pages 5-10 in this agreement and agrees to the terms and conditions described therein. The undersigned understands that any contribution, once accepted by CFAAC, represents an irrevocable gift to CFAAC. 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 CFAAC. Legal control and responsibility for the Fund rests with CFAAC. In carrying out such responsibilities, CFAAC shall hold, manage, invest, and reinvest the Fund, and shall collect the income and pay and disburse monies from the Fund for the charitable purposes outlined in this agreement. The Founder certifies that all information presented in connection with this agreement is accurate and agrees to notify CFAAC 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.

**14. Variance Power**

Should the purposes for which this Fund was created ever become obsolete, inconsistent with the charitable needs of the community, or incapable of fulfillment, as determined by CFAAC’s Board of Trustees in its sole discretion, CFAAC’s Board of Trustees shall have the power and authority to modify any restriction or condition on distributions from this Fund set forth in this agreement. In adopting any such modification, the Board of Trustees shall endeavor to use the Fund’s assets for a purpose as similar as possible as those set forth in this agreement.

**15. Signatures**

The undersigned acknowledge that we have read and agree to the Community Foundation of Anne Arundel County’s Policies and Procedures. The undersigned represent the Founder of this Fund and agree to the terms of this agreement. This agreement may be amended only by mutual agreement of the parties hereto and this agreement shall be governed in all respects by the laws of the State of Maryland. CFAAC is authorized to amend this agreement to conform to the provisions of any applicable law or government regulation.

**Founders:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Community Foundation of Anne Arundel County**

By: \_\_\_\_\_  
Melissa Curtin, Executive Director

\_\_\_\_\_  
Date

## Donor Advised Fund Policies and Procedures

All gifts are subject to the Community Foundation of Anne Arundel County's Policies and Procedures and may be amended from time to time at CFAAC's sole discretion.

### FOUNDER

The Founder is defined as the person(s) who establish the Fund and is responsible for the initial contribution and is considered the Fund Advisor. **If the Founder is not an active Fund Advisor, the named Fund Advisors may act on the Founder's behalf.** The Community Foundation of Anne Arundel County (CFAAC) will communicate with the Founder or Fund Advisor(s) as appropriate about the Fund.

### FUND ADVISORS

Upon establishing a Donor Advised Fund, the Founder may give one or more Fund Advisors the authority to access information regarding the Fund and make grant recommendations. Fund Advisors may access quarterly statements electronically and will receive statements sent by mail as well. The Founder is automatically a Fund Advisor.

### APPOINTMENT OF ADDITIONAL AND SUCCESSOR ADVISORS

Requests to appoint additional Fund Advisors, Successor Advisors, or changes in the Fund Advisors must be communicated to CFAAC in writing. Such requests will be accepted from the Founder or current Fund Advisors. There is a limit to one generation of Successor Advisors unless a request in writing is submitted to permit additional generations of Successor Advisors. Should the Fund Advisor be deceased, unwilling, or unable to serve or cannot be located, and a Successor Advisor has not been named and there is no written succession plan on file at CFAAC, the balance of the fund will be moved to CFAAC's permanent Community Leadership Fund.

Donor Advised Funds created by organizations, rather than by individuals, are often advised by an appointed committee with an identified process for selecting new members. As with funds created and advised by individuals, additional Fund Advisors, Successor Advisors, or changes in the Fund Advisors must be communicated to CFAAC in writing by the organization and/or the appointed committee.

### SUCCESSION PLANS

Founders can request a succession plan for their Donor Advised Fund. There are many options available including naming Successor Fund Advisors, converting to a Designated Fund, converting to a Field of Interest Fund, or becoming a named fund within CFAAC's permanent Community Leadership Fund. All plans must be submitted in writing and are subject to CFAAC's approval. For further information on various types of succession plans please call 410-280-1102.

### MAKING GRANT RECOMMENDATIONS

Grant recommendations can be submitted online via FundManager located on the CFAAC website, [www.cfaac.org](http://www.cfaac.org), or by contacting a staff member of CFAAC. Grants will be designated for general operating support unless otherwise requested by the Fund Advisor. All grants must be for charitable purposes. Grants of \$250 or more may be recommended to any qualified public charity as described in section 501(c)(3) of the IRS Code or any *church* as described in the IRS Code. Fund Advisors may also recommend grants to most units of government (e.g., public schools, town and municipal governments, police departments, etc.). All recommendations may be accepted or rejected, in whole or in part, by CFAAC at its sole and absolute discretion.

CFAAC **will not** make grants from Donor Advised Funds, even for charitable purposes, to other types of nonprofit organizations (noncharities) or to businesses. Examples of

organizations to which CFAAC will not make grants include social welfare organizations 501(c)(4); veterans' organizations; cemeteries; Chambers of Commerce and similar business associations; fraternities and sororities; social clubs; and fraternal organizations such as Elks or Moose. CFAAC does not make grants to private foundations. Grants requiring expenditure responsibility are not permitted from Donor Advised Funds.

### **INTERNATIONAL GRANTS**

CFAAC makes grants to qualified public charities located in the U.S.A. that carry on their work in other countries. Grants to international organizations without a U.S. 501(c)(3) determination may also be possible after CFAAC completes an alternate due diligence process through a third-party agency for an additional fee. CFAAC does not make grants to foreign governmental entities. Please contact CFAAC at 410-280-1102 for additional information or to discuss a specific organization.

### **GRANT RESTRICTIONS**

CFAAC verifies that all grant recipients are classified as public charities under section 501(c)(3) of the Internal Revenue Code. Additional due diligence is performed in accordance with CFAAC's Due Diligence Policy available upon request at 410-280-1102. CFAAC will alert the Fund Advisor(s) should a matter of concern be discovered during the due diligence process.

The Internal Revenue Code prohibits grants to individuals from Donor Advised Funds. Also prohibited are grants for political contributions or to support political campaigns. Grants may not result in benefits, goods, or services to a Donor, the Fund Advisor, members of their families, or businesses they control. Failure to observe this restriction can subject the Fund Advisor to tax penalties. Benefits include the payment of pledges, event tickets, meals, registration fees, discounted merchandise, preferred parking and/or seating, and memberships unless the membership confers nothing of value. Please contact CFAAC if you have specific questions about whether a grant you are considering recommending will result in a prohibited benefit.

Expense reimbursements, loans, compensation, and other similar payments are not permitted from a Donor Advised Fund to individuals including Donors, Fund Advisors, or related parties.

### **GRANT ACKNOWLEDGMENT**

Unless other arrangements have been made, grant letters will indicate that the grant is from the Fund and that it has been given upon the recommendation of the "advisor" of the Fund. The recipient organization is encouraged to acknowledge the gift *to the advisor through CFAAC. Additional language confirms that no benefits have been or will be offered or provided to the advisor in exchange for the accompanying grant.* If the recipient organization publishes a news release or a list of donors, it is asked to indicate the contribution as a grant from "*The "Name of Fund" of The Community Foundation of Anne Arundel County*". All grants are distributed or delivered directly from CFAAC to the grantee. Fund Advisors are prohibited from delivering grants awards to grantees for any reason. Award presentations may be arranged through CFAAC.

### **ANONYMITY**

CFAAC's IRS Form 990 is accessible on our website, [www.cfaac.org](http://www.cfaac.org), and through other public online resources but does not disclose individual donor names. CFAAC offers various levels of anonymity as part of the grant recommendation process. Founders may indicate a default preference for anonymity when completing the Fund Agreement.

## **ENDOWED (PERMANENT) FUNDS**

Founders or Fund Advisors may request to make their Donor Advised Fund endowed (permanent) thereby limiting the amount available for grant distributions to CFAAC's annual spending policy. *The minimum fund balance for an endowed fund is \$25,000.* The Fund will be managed using a total return concept of endowed management based on CFAAC's annual spending policy rate, as adjusted from time to time, by CFAAC's Board of Trustees. CFAAC's spending policy rate 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 and predictable level of funding available for grantmaking. Should the Fund be endowed, Successor Fund Advisors may not change the fund to a non-endowed fund. CFAAC's Endowed Fund Policy may be requested by contacting CFAAC.

## **LOW BALANCE FUNDS**

Should a non-endowed Fund's balance fall below CFAAC's minimum, CFAAC will contact the current Fund Advisor and offer options to make additional contributions to bring the Fund up to the minimum or to grant out the Fund balance and close the Fund. If the low balance continues for 24 months and/or attempts to locate and/or contact the most recent Fund Advisors fail, the fund will be closed, and its assets transferred to the CFAAC Community Leadership Fund.

## **LOW ACTIVITY FUNDS**

CFAAC encourages the Founder to retain an active role in their Donor Advised Fund. To carry out its mission of distributing charitable dollars to the community, CFAAC periodically reviews the grantmaking activity of all Donor Advised Funds. Should a non-endowed fund with a balance above the minimum fail to disburse any grants for a period of two years, CFAAC will contact the Founder to discuss intentions for the Fund. If the Founder or Fund Advisor(s) cannot be located or is/are unresponsive after another year, making the Fund inactive for a total of three years, the Fund will be considered inactive and the *Ultimate Distribution of the Fund*, as described in the Fund Agreement, will be implemented.

## **INVESTMENTS**

Fund Assets are combined in Pools for investment to reduce investment costs. CFAAC offers several investment options to donors. IRS regulations permit the Founder to indicate investment preferences for the Fund. Founders may request to change the investment allocation in writing at any time, subject to the approval of CFAAC. CFAAC will consider a reallocation request no more than once per year and reserves the right to manage the timing of any transfers. The following is a brief description of the investment options:

**Preservation:** *The primary investment objective of the Preservation Pool is stability of principal. This pool is appropriate for pass-through and operating reserve funds or other situations where funds can be withdrawn with little or no advance notice, and/or in situations where only minimal fluctuations to principal can be tolerated. Agencies and donors with time horizons of zero to three years should consider this strategy.*

**Conservative:** *The primary investment objective of the Conservative Pool is to provide both income and growth, with growth being a secondary objective. This pool may experience some reduction of purchasing power over time due to inflation. This pool will most likely experience moderate fluctuations to principal. This pool is appropriate for non-endowed funds that have a time horizon that is more than three years.*

**Balanced:** *The investment objective of the Balanced Pool is to balance spending needs with growth, providing for greater total spending over a longer time period. This pool will most likely experience considerable fluctuations to principal. This pool is appropriate for non-endowed funds that have a time horizon of more than six years.*

**Long-Term Growth:** *The primary investment objective of the Long-Term Growth Pool is to provide a relatively stable, inflation adjusted, annual payout to support CFAAC's annual spending rate. There will be some inevitable volatility in principal value in this pool, but it offers the potential for a sustainable payout plus inflation protection over the long term. This pool is intended for endowed funds, or non-endowed funds with a time horizon of ten years or more.*

CFAAC retains final discretion regarding the investment of the Fund. The Founder understands that investments will be administered in accordance with CFAAC's investment policies as determined by its Board of Trustees. The Founder(s) understand that investments are subject to the risk of market and interest rate fluctuation, and that any investment gain or loss generated will be credited or charged to the Fund.

Additional Investment information and performance information is available at [www.cfaac.org](http://www.cfaac.org) or by calling 410-280-1102.

## **INVESTMENT RETURNS**

Investment returns are allocated pro-rata to funds on a monthly basis. Due to the inflows and outflows within each fund, the returns are allocated using the average daily balance.

## **ADDITIONAL CONTRIBUTIONS**

Once a Fund is established, donations may be added to the Fund at any time. There is no minimum contribution amount. Gifts of cash, securities, and many types of real and/or tangible property may be added to the Fund. Please call 410-280-1102 for additional information about acceptable gifts.

## **EXCESS BUSINESS HOLDINGS**

CFAAC places a limitation on accepting gifts of assets to a Donor Advised Fund and does not allow Donor Advised Funds to purchase business holdings. CFAAC recognizes the IRS Ruling included in the Pension Protection Act (PPA) regarding excess business holdings. That is, the holdings of a Donor Advised Fund in a business enterprise, together with the holdings of persons who are disqualified persons with respect to that Fund, may not exceed any of the following:

- Twenty percent of the voting stock of an incorporated business;
- Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity;
- Ownership of an unincorporated business that is not substantially related to the Fund's purposes.

CFAAC will identify and monitor any new gift to a Donor Advised Fund of any interest qualifying as an "excess business holding" under the PPA and will accept such gifts as appropriate according to CFAAC's Gift Acceptance Policy. CFAAC will exercise its best effort to dispose of the contributed interest at the best possible price within five years of the date of the gift, as required under the PPA. In any event, CFAAC will dispose of any excess business holding prior to the five-year time limit, except in the event that the



Treasury Department grants an additional five-year holding period. CFAAC will notify potential donors of such interests of this requirement prior to the contribution of such interest.

### **GIFT ACKNOWLEDGEMENT**

All gifts are acknowledged in accordance with IRS requirements. Generally, the IRS requires taxpayers to complete and file a Form 8283 with their federal income tax return for gifts of property valued at \$5,000 or more. It is the donor's responsibility to obtain a qualified appraisal for all gifts other than cash and marketable securities for tax deduction purposes.

### **DONOR FUNDRAISING**

CFAAC maintains rigorous fundraising policies in accordance with IRS guidelines, which excludes any type of public fundraising and/or events to benefit Donor Advised Funds. Fund Advisors may personally request family members to contribute to a fund with certain restrictions. Please contact CFAAC prior to making **any** third-party solicitation.

### **FEES**

Unless specifically described in an associated Administrative Agreement, annual fees are assessed quarterly in March, June, September and December and are calculated as follows: Average month-end balance of the previous three months multiplied by the annual fee percentage and divided by four. Additional terms may be set for some funds, such as those requiring additional or special services. All funds are subject to a minimum annual fee of \$250 for the first five years and \$500 per year thereafter. New funds are assessed a set-up fee of \$250.

A schedule of fees is available at [www.cfaac.org](http://www.cfaac.org) or by calling 410-280-1102. CFAAC reserves the right to increase or decrease fees from time to time and will notify the Fund Advisor of any changes affecting the Fund.

### **CONTROL OF ASSETS/MATERIAL RESTRICTION**

In order for a contribution to be treated as a charitable gift, the IRS requires that CFAAC retain ultimate control over investments, administration, and grantmaking activity. Additionally, the IRS requires all such funds be free of material restrictions imposed by donors in a manner consistent with the requirements of Section 1.507-2 of the Treasury Regulations.

### **VARIANCE POWER**

CFAAC is committed to abiding by the wishes of the donor of each gift to CFAAC. Occasionally a situation arises that renders this impossible such as when a nonprofit organization closes, a nonprofit is not in compliance with state laws, or a specified program is no longer needed. In these types of situations, CFAAC's Board of Trustees may decide to use its variance power to delay a grant or direct a grant to a different organization. As stated on page 22 of CFAAC's Bylaws, the Board of Trustees of CFAAC has the right to redirect the use of any gift under certain conditions to better meet the changing needs of the community.

### **ASSIGNMENT**

The rights and obligations with respect to a fund may not be transferred nor assigned without the prior written consent of the Founder or Fund Advisors and CFAAC. The advisory function of the Fund cannot be assigned or varied without the prior written approval of CFAAC.

**DISPUTES**

The Fund Agreement (including these Policies and Procedures) between the Founder(s) and CFAAC is governed by the laws of the State of Maryland without regard to its conflicts of law principles. The venue for any disputes arising out of/or in connection with the Fund shall be sited in the federal or state courts located in Maryland.

**CONFLICT OF TERMS**

In the event of an inconsistency between these Policies and Procedures and any policies and procedures appearing elsewhere in connection with the Fund, these Terms and Conditions as interpreted by CFAAC shall govern. CFAAC reserves the right to take any actions at any time, which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any Fund.

**PRIVACY POLICY**

CFAAC deeply values its relationship of trust with its donors and Fund Advisors. CFAAC's Confidentiality Policy and Website Privacy Policy govern the maintenance of personal data and prohibit CFAAC from the selling, trading, or exchanging information about its donors or Fund Advisors, and requires CFAAC to honor the wishes of those who prefer to remain anonymous in all communications materials. The full policy is available on the website at [www.cfaac.org](http://www.cfaac.org) or by calling CFAAC at 410-280-1102.

Fund \_\_\_\_\_

**Founder**

Name(s): \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Phone (home): \_\_\_\_\_ Phone (cell): \_\_\_\_\_

Phone (work): \_\_\_\_\_ Phone(other): \_\_\_\_\_

Email: \_\_\_\_\_

**Fund Advisors (if other than Founder)**

1. Name(s): \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Phone (home): \_\_\_\_\_ Phone (cell): \_\_\_\_\_

Email: \_\_\_\_\_

2. Name(s): \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Phone (home): \_\_\_\_\_ Phone (cell): \_\_\_\_\_

Email: \_\_\_\_\_

**Successor Advisors**

1. Name(s): \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Phone (home): \_\_\_\_\_ Phone (cell): \_\_\_\_\_

Email: \_\_\_\_\_

2. Name(s): \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Phone (home): \_\_\_\_\_ Phone (cell): \_\_\_\_\_

Email: \_\_\_\_\_