

## SAMPLE

### AGREEMENT FORM – ENDOWED DONOR-ADVISED FUND

On this date, \_\_\_\_\_, 201\_, and with this agreement (“Agreement”), \_\_\_\_\_ (“Donor”), makes an irrevocable gift of \$\_\_\_\_\_ to the Hampton Roads Community Foundation (“HRCF” or “Foundation”), a 501(c)(3) organization authorized to receive and hold charitable funds in accordance with its Articles of Incorporation and Bylaws.

A. HRCF accepts this gift subject to the terms and conditions of this Agreement as follows:

1. That the gift is to be used to establish a permanent fund at the Foundation to be known as the \_\_\_\_\_ Donor-Advised Fund (“Fund”).
2. That the Donor(s) understands that any contribution, once accepted by the Foundation, represents an irrevocable gift to the Foundation and is not refundable.
3. That, subject to the Foundation’s Gift Acceptance and Donor-Initiated Fundraising policies, additional contributions may be made by the Donor(s) or others to the Fund to ensure its growth.
4. That the Donor(s) has received and reviewed the *Procedures for Establishing and Operating Endowed Donor-Advised Funds* and agrees to the terms and conditions described therein.
5. That the Donor(s) understands that any recommendations made regarding charitable distributions from the fund are advisory and that final judgment rests with the HRCF Board of Directors whose charge is to see that all distributions affirm the charitable purpose for which the fund was created and are within the broad charitable purposes of the Foundation. The Foundation has exclusive legal and fiduciary control over the contributed assets.
6. That the Donor(s) designate the following Advisor(s) [*and Successor Advisor(s) (optional)*]:

**Advisor(s)**

Donor(s) shall serve as Advisor to the Fund[, with \_\_\_\_\_  
serving as the primary advisor contact (if more than one Donor)].

Or

Donor(s) names the following individual(s) to serve as Advisor(s) to the Fund[, with \_\_\_\_\_  
serving as the primary advisor contact (if more than one Advisor)]:

Name, Date of Birth \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_

Business Address \_\_\_\_\_

Phone Numbers \_\_\_\_\_

**Successor Advisor(s)** *(If Donor chooses to name successors; if not, remove)*

Successor Advisors named below will have privileges to make recommendations appropriate for the Fund after the initial advising period ends. Donor wishes for Successor Advisor(s) to assume responsibility on \_\_\_\_\_ or upon the death or resignation of present Advisors. Donor may change this designation by submitting a written request to the Foundation.

Donor(s) names the following individual(s) to serve as Successor Advisors.

**Successor Advisor 1** (primary advisor contact upon succession to Advisor)

Name, Date of Birth \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_

Business Address \_\_\_\_\_

Phone Numbers \_\_\_\_\_

**Successor Advisor 2**

Name, Date of Birth \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_

Business Address \_\_\_\_\_

Phone Numbers \_\_\_\_\_

7. That all fund correspondence will be sent to the then-current Advisor unless otherwise specified. If more than one Advisor is in place, one will be designated to receive all fund correspondence. It is the responsibility of the designated Successor Advisor(s) to contact the Foundation at such time as he/she becomes Advisor(s) to the Fund. If Foundation does not hear from the Successor Advisor(s) and is not able to locate him or her within twelve months of becoming Advisor(s) to the Fund, assets will be utilized as stipulated in paragraph 8 below.

8. That upon death, resignation, or incapacity of the Fund's last surviving Advisor, or if named above, Successor Advisor, Donor(s) requests that the Fund (choose and edit one or more below as appropriate):

Create an Unrestricted Fund

Create a Designated Fund for the benefit of \_\_\_\_\_

Create a Scholarship Fund (see attached addendum outlining parameters)

Create a Field of Interest Fund providing grants in the following area – (insert fields)

9. That the annual amount available for distribution from the Fund shall be determined under the HRCF policies in effect from time to time with respect to distributions from permanent funds.
- B. In addition to the above terms and conditions, the Donor(s) further agrees to the following administrative provisions:
1. That HRCF shall have absolute authority and discretion as to the investment of the Fund's assets.
  2. That all property and money in the Fund shall be the assets of the Foundation and may be co-mingled with other Foundation assets. HRCF shall not be required to segregate the Fund's assets for investment purposes; however, it shall be required to maintain a separate accounting of the Fund on its books and records.
  3. That if HRCF in good faith determines that any condition or restriction on which the Fund is held, including any condition or restriction provided for in this Agreement, has become, in effect, unnecessary, impractical, or incapable of fulfillment or is inconsistent with the charitable needs of the communities of southeastern Virginia, the Foundation shall be authorized to modify such condition or restriction.
  4. That the Fund is subject annually to an administrative fee based on the Foundation's then current administrative fee structure. The Donor(s) has received and reviewed HRCF Policy 7110 (General Support from Component Funds).

**SO AGREED:**

\_\_\_\_\_  
*/Signature/*  
 Deborah M. DiCroce  
 President & CEO  
 Hampton Roads Community Foundation

\_\_\_\_\_  
*/Signature/*  
 [Donor's Name]  
 [Donor's Address]  
 [Donor's Phone Number]



## **Procedures for Establishing and Operating Endowed Donor-Advised Funds**

### **Definition**

An Endowed Donor-Advised Fund at the Hampton Roads Community Foundation (“the Foundation”) is a permanent component fund where, for a limited period of time, the Donor (or persons designated by the Donor) may make non-binding recommendations to the board of directors of the Foundation suggesting charitable organizations to receive grants from the fund. After the advisory period, the amount remaining in the fund will create a permanent fund and be used for the ultimate disposition selected by the Donor in the fund agreement. If no such ultimate disposition is chosen by the Donor, the fund will operate as an unrestricted fund.

### **Nature and Terms of Contributions**

Each Endowed Donor-Advised Fund will be subject to the terms of the articles of incorporation and by-laws of the Foundation. Contributions to Endowed Donor-Advised Funds represent irrevocable gifts subject to the legal and fiduciary ownership and control of the Foundation’s board of directors. The Foundation has exclusive legal control over the contributed assets. A Donor may not impose any material restriction or condition that prevents the Foundation from freely and effectively employing the contributed assets, or income derived therefrom, in furtherance of a charitable purpose of the Foundation.

### **Role of Fund Advisors**

The Foundation welcomes the involvement and recommendations of the fund’s advisors with respect to distributions from Endowed Donor-Advised Funds, but such recommendations are advisory only and are in no way binding upon the Foundation.

The Foundation actively encourages engagement and communication with the fund’s advisors. If, however, the fund advisor 1) dies or resigns or evidence of his or her incapacity is provided to the Foundation, and if no successor advisor has been named; 2) all named successor advisors are unwilling or unable to serve as such; 3) no recommendations are made with respect to grants for a period of three years, and during such period, the advisor or successor advisor does not reply to the Foundation’s attempts to contact them, the fund will be deemed inactive.

In the event a fund becomes inactive, the Foundation will deem the advisory period to have ended and will initiate distributions from the fund in accordance with the ultimate disposition provisions of the fund agreement.

### **Spending Policy**

Each year the Foundation calculates an amount available for distribution for all component funds, including Endowed Donor-Advised Funds. Currently, the spending policy is to distribute 4.5% of the average asset value over twelve trailing quarters, or the number of quarters since the Fund was established if less than twelve. The Foundation reviews this spending policy annually.

## **Distributions**

Advisor recommendations on grant distributions will be considered if offered through a completed Donor Recommendation Form submitted in writing, by fax, by e-mail or online through Fund Xpress. Grant recommendations should be of a minimum amount of \$250 per grantee organization. Unless otherwise requested on the Donor Recommendation Form or in the establishing agreement, any distribution from an Endowed Donor-Advised Fund will identify the grantee organization and the name of the Fund from which the distribution is made. Grants of \$25,000 or less to organizations described in Section 501(c)(3) and 170(b)(1)(A) of the Internal Revenue Code may be approved by the President/CEO of the Foundation. Recommendations for grants over \$25,000 may have to await board approval at the next regularly scheduled quarterly board meeting. Donors will receive a quarterly fund statement, generally within 30 days of the close of the quarter, which provides a summary of a fund's asset value and any activity in the fund.

## **Evaluation of Donor Recommendations**

In evaluating recommendations for distributions from Endowed Donor-Advised Funds, the Foundation staff investigates all prospective grant recipients. The Foundation also provides a list of charitable organizations that have been previously approved by the Board of Directors for distributions to facilitate grantmaking. All distributions from Endowed Donor-Advised Funds must be either approved or ratified by the Foundation's board of directors.

## **Restrictions on Distributions**

Fund distributions will not be made for any purpose or to any organizations that would provide more than an incidental benefit to the Donor, Advisor or any related party in exchange for, or in connection with, the recommended distribution. Distributions from Endowed Donor-Advised Funds may not be used to satisfy pledges made by Donors, Advisors or related parties. Distributions may not be made to the Donor, Advisors or related parties as grants, loans, compensation or similar payments. It is the Foundation's policy that distributions from Endowed Donor-Advised Funds may not be made to individuals, to organizations for the benefit of specific individuals or to certain supporting organizations described under Section 509(a)(3) of the Internal Revenue Code. Distributions to international organizations or agencies may require approval of the Foundation's Board of Directors before any distribution is made.

## **Additional Advisors**

The privilege of making recommendations shall be extended to those individuals listed in the agreement establishing the fund or thereafter named by the Donors. Donors with a starting balance of \$25,000 - \$500,000 can name one successive generation of Advisors. Donors with a starting balance of \$500,000 and up can name two successive generations of Advisors. All requests to change or add advisors must be communicated in writing by the Donor(s) establishing the fund.

## **Conflict of Terms**

In the event of inconsistency between these procedures and any procedures, terms, or conditions appearing elsewhere in connection with any fund, these procedures, as interpreted by the Foundation, shall govern, and the Foundation 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 or the Foundation.



## Policy on General Support from Component Funds

The Foundation depends on annual support from administrative fees assessed on component funds to provide general philanthropic services to the community and to support its community leadership activities. In keeping with the charitable purposes of the Foundation, our objective is to keep operating expenses at a moderate level and to provide a high quality service to all donors and charitable organizations.

Services provided by the Foundation to donors include administrative, audit, grantmaking, grantee accountability and reporting functions specific to each component fund. Foundation staff also research program models to assist donors in the design of a focused or special purpose grant program. In cases where special grant administrative services may be required, direct costs to the Foundation will be reimbursed by the fund in addition to the annual contribution made for general support.

Services provided by the Foundation to charitable organizations include information and referral and community workshops on Foundation programs and related matters.

Annual support from component funds is based on the type of fund established. The support contribution percentage shown below is applied to the trailing twelve-quarter average asset value or the number of quarters the fund has been in existence if fewer than twelve. Typically, the support contribution is calculated as of September 30 of the prior year; however, if the fund is received in the fourth quarter of a given year, the December 31 asset value will be used to calculate the support contribution of the fund for the first year.

Any direct costs incurred to evaluate, acquire or sell a complex gift asset, such as real estate, partnership interest, or closely held stock, will reduce the net proceeds credited to the beneficiary fund.

Fund Type	Fee
Unrestricted Fund	1.10%
Field-of-Interest Fund	1.10%
Designated Fund	1.00%
Permanent Organizational Fund	.75%
Scholarship Fund	1.50%
Current Use Fund*	2% of gifts plus investment earnings
Endowed Donor Advised Fund*	No minimum fee
Up to \$1 million	1.00%
\$1,000,001 - \$4,999,999	.65%
\$5 million +	.50%
Supporting Organizations	
\$2.5–10 million	.75% to .50% (plus direct costs)
\$10-25 million	.50% to .35% (plus direct costs)
\$25 million +	.35% to .15% (plus direct costs)

\*International Grant Recommendations: A fee to cover legal expenses will be assessed based on actual costs for determining charitable status of any recommended organizations outside the U.S. In addition, the Foundation charges the fund a \$50 fee per grant made to charitable organizations outside the United States.