



HAWAII COMMUNITY FOUNDATION

DONOR ADVISED FUND GIFT INSTRUMENT

Section One – Donor(s)

DONOR 1

DONOR 2

Full Name: \_\_\_\_\_
Birthdate: \_\_\_/\_\_\_/\_\_\_\_\_ Gender: \_\_\_\_\_
Address: \_\_\_\_\_
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
Primary Contact Number: o Home o Cell o Work
(H) \_\_\_\_\_ (C) \_\_\_\_\_ (W) \_\_\_\_\_
Email: \_\_\_\_\_

Full Name: \_\_\_\_\_
Birthdate: \_\_\_/\_\_\_/\_\_\_\_\_ Gender: \_\_\_\_\_
Address: \_\_\_\_\_
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
Primary Contact Number: o Home o Cell o Work
(H) \_\_\_\_\_ (C) \_\_\_\_\_ (W) \_\_\_\_\_
Email: \_\_\_\_\_

Section Two – Fund Name & Anonymity

The name of the Fund shall be: \_\_\_\_\_

Every grant made from a fund at the Foundation is coupled with a letter identifying the name of the fund and the name of the donor(s) recommending the grant, unless you request anonymity. Donor(s) and fund names are often listed in our written and electronic publications as well.

- o I/We would like to remain anonymous.
o I/We would like grants from the above fund to remain anonymous.
o I/We would like the above fund listed as anonymous in the Foundation’s publications.

Section Three – Fund Purpose

The Fund shall be held for general charitable purposes and shall be (choose one):

- o Endowed o Non-Endowed

o I/We have provided a charitable “guide” for our successor advisor(s) in the attached “Statement to Successor Advisors”.

Note that distributions from the Fund are subject to the Foundation’s “Terms and Conditions Applicable to Donor Advised Fund Gift Instruments”.

Section Four – Charitable Gift

I/We will contribute the following assets to establish my/our fund:

(May include cash, marketable securities, real estate, retirement accounts, business and/or partnership interests)

Table with 3 columns: Asset Type & Description, Ownership (Donor 1, Donor 2, Joint), Current Value (Approx.). Includes an example row: 100 shares of XYZ Company stock, held at ABC Bank, Donor 1, \$100,000.

Schedule of Charitable Gifts attached to this Instrument? Y N

**Section Five – Advisor Information**

**The initial advisor(s) is/are as follows (choose one):**

- I/We are the initial advisor(s)    The initial advisor(s) is/are as follows:

INITIAL ADVISOR 1	INITIAL ADVISOR 2
Full Name: _____	Full Name: _____
Birthdate: ___/___/_____      Gender: _____	Birthdate: ___/___/_____      Gender: _____
Address: _____	Address: _____
City: _____      State: _____      Zip: _____	City: _____      State: _____      Zip: _____
Primary Contact Number: <input type="radio"/> Home <input type="radio"/> Cell <input type="radio"/> Work (H) _____      (C) _____      (W) _____	Primary Contact Number: <input type="radio"/> Home <input type="radio"/> Cell <input type="radio"/> Work (H) _____      (C) _____      (W) _____
Email: _____	Email: _____
Relationship to Donor: _____	Relationship to Donor: _____

**The above-named initial advisor(s) shall make decisions (choose one):**

- jointly       jointly and separately       N/A – just one advisor

**I/We would like to have successor advisors.   Y      N**

**If yes, the successor advisor(s) shall be nominated as follows (choose one):**

- Each initial advisor has the right to nominate one (1) successor advisor. In the event the initial advisor does not nominate a successor advisor, the successor advisor(s) is/are as follows:
- An initial advisor does not have the right to nominate a successor advisor. Instead, the successor advisor(s) is/are as follows:

SUCCESSOR ADVISOR 1 (This advisor will serve as lead advisor for the fund.)	SUCCESSOR ADVISOR 2
Full Name: _____	Full Name: _____
Birthdate: ___/___/_____      Gender: _____	Birthdate: ___/___/_____      Gender: _____
Address: _____	Address: _____
City: _____      State: _____      Zip: _____	City: _____      State: _____      Zip: _____
Primary Contact Number: <input type="radio"/> Home <input type="radio"/> Cell <input type="radio"/> Work (H) _____      (C) _____      (W) _____	Primary Contact Number: <input type="radio"/> Home <input type="radio"/> Cell <input type="radio"/> Work (H) _____      (C) _____      (W) _____
Email: _____	Email: _____
Relationship to Donor: _____	Relationship to Donor: _____

*Please identify which advisor shall serve as the lead advisor and attach additional sheets as necessary to nominate more than two Successor Advisors. Note that the nomination of more than two is subject to prior approval by the Foundation.*

**The Successor Advisor(s) shall serve (choose one):**

- at the same time       successively as follows: \_\_\_\_\_

**Right of a successor advisor named above to nominate a successor advisor (choose one):**

- A successor advisor has the right to nominate a successor advisor.
- A successor advisor does not have the right to nominate a successor advisor.

**Section Six – Estate Plan**

You may name this fund as a beneficiary of your estate plan. Please indicate the type of planned gift you are considering or would like to learn more about:

- Bequest
- Charitable remainder trust
- Charitable gift annuity
- Other \_\_\_\_\_
- IRA/retirement plan assets
- Life insurance
- Charitable lead trust

**Section Seven – Future Planning**

You have the option of determining a future plan for your fund when the last advisor(s) to this fund dies, resigns or is otherwise unable to act as advisor. Please select an option below:

When the last Fund Advisor is unable to serve or ceases to act as advisor, I/we prefer that any amount remaining in the Fund shall be held as (choose one) [ an endowment or  a non-endowment] as follows (choose one):

**COMMUNITY NEEDS FUND:** For the unrestricted use of the Foundation to broadly support the improvement of the well-being and vitality of Hawaii and its residents.

**EXISTING FUND:** As an additional contribution to the \_\_\_\_\_ Fund in furtherance of the purpose(s) of said fund.

**NEW FUND:** To establish a fund in support of the following community needs:

- \_\_\_\_\_ % Arts & Culture
- \_\_\_\_\_ % Education (including scholarships)
- \_\_\_\_\_ % Environment
- \_\_\_\_\_ % Health and Human Services
- \_\_\_\_\_ % Other (please discuss this with a Foundation staff member before completing):
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_ %

**Fund Name:** If the remaining funds are to be held as (1) an “endowment”; and (2) assuming that the aggregate value of the remaining fund balance (including the value of any bequests to the fund) meets the then minimum balance requirements, please provide us with the name of your Community Needs or New Fund: \_\_\_\_\_

**Section Eight – Professional Advisor Information**

If you are working with a professional advisor, please provide the information requested below.

- Attorney
- CPA
- Financial Planner
- Other

Professional Advisor’s Full Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

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

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

Contact Number: \_\_\_\_\_ Email: \_\_\_\_\_

- I/We authorize the Foundation to share information about my gift and my fund with this advisor.
- Please keep our advisor’s name anonymous.

**Section Nine – Acknowledgement & Acceptance**

I/We make this charitable contribution for the purpose of forming a component fund, to be held and administered solely for charitable purposes in accordance with this Instrument and its "Governing Documents" (i.e., the Foundation's Terms and Conditions Applicable to Donor Advised Fund Gift Instruments (a copy of which has been provided to me/us), Articles of Incorporation and By-Laws), and any amendments to the Governing Documents. I/We expressly and specifically provide(s) that any contribution to the Fund shall not be subject to the Foundation's Declaration of Trust.

I/We expressly agree that the Fund and all matters relating to it are subject to the "variance power" provision which authorizes the Foundation to modify any restriction or condition on the distributions of a fund for any specified charitable purpose or organization if, in the sole judgment of the Foundation, such restriction or condition becomes unnecessary, incapable of fulfillment or inconsistent with the charitable needs served by the Foundation. In the event of any conflict between the Governing Documents and this Instrument, the Governing Documents shall control.

I/We expressly agree that matters involving Fund administration, including but not limited to additional contributions to the Fund, termination of small funds, fees and expenses of the Fund and governing law shall be administered pursuant to the Governing Documents. In the event of any conflict between the Governing Documents and this Instrument, the Governing Documents shall control.

I/We understand and agree that the Fund created by this Instrument, the initial contribution thereto, and any subsequent contributions, are absolute and irrevocable, and that after the execution of this Instrument, I/We shall have no rights, title or interest in the Fund or any right to alter, amend or terminate this Instrument.

I/We understand that the minimum balance required to direct and/or name a fund is subject to change without prior notice to me/us and that any such balance that is then below the minimum requirements will be applied towards the "Community Needs Fund" or similar fund (i.e., for the unrestricted use of the Foundation to broadly support the improvement of the well-being and vitality of Hawaii and its residents).

The Gift Instrument shall be governed by and construed in accordance with the laws of the State of Hawaii. The effective date for purposes of establishing a fund shall be the date on which the last party signs and the required minimum contribution is actually received by the Foundation.

\_\_\_\_\_  
DONOR'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DONOR'S SIGNATURE

\_\_\_\_\_  
DATE

HAWAII COMMUNITY FOUNDATION

\_\_\_\_\_  
Name:  
Its:

\_\_\_\_\_  
DATE



## HAWAII COMMUNITY FOUNDATION

### **TERMS AND CONDITIONS APPLICABLE TO DONOR ADVISED FUND GIFT INSTRUMENTS**

**Donor Advised Fund Characteristics:** Donors establishing a donor advised fund (“fund”) at the Hawai‘i Community Foundation (“Foundation”) may make recommendations regarding distributions from the fund to one or more qualified charitable organizations or for specific charitable purposes. Distribution recommendations from the fund must be consistent with the “Restrictions on Grants from Funds” section below and the Foundation’s “Donor Advised Fund Guide,” as amended.

#### ***Section One - Donor(s)***

**Donor:** The “donor” is the person(s) or organization who creates the fund by completing the Foundation’s gift instrument coupled with an initial contribution to start it. Others who subsequently contribute to the same fund or are advisors to the fund are not “donors” for purposes of deciding the fund parameters. Only the initial “donor” has that privilege.

#### ***Section Two - Fund Name & Anonymity***

**Fund Name:** The “fund name” is a special opportunity for the donor to associate the donor’s fund with his or her charitable vision. It could be as easy as the “Jane Aloha Fund” or as creative and meaningful as the donor wishes.

**Anonymity:** *If you request grants from the fund to remain anonymous*, a recipient will not know that the grant is from your fund. *If you request your fund to be listed as anonymous in our written and electronic publications*, this means your fund will not be listed publicly on the Foundation’s website and other publications nor will any photos or other media relevant to your fund be released for community recognition purposes.

#### ***Section Three - Fund Purpose***

**Fund Purpose:** Most donors choose to have the fund purpose be broadly stated for “general purposes” for greatest flexibility. If you would like to provide charitable preferences as a guide for your successor advisors, please work with a staff member to develop a “Statement to Successor Advisors” or similar document which memorializes your wishes.

**Endowed/Non-Endowed Funds:** See definitions below.

#### ***Section Five - Advisor Information***

**Initial Advisor(s) and Successor Advisors:** Donors establishing a fund may designate individuals who will serve as advisors to the fund and, as such, may make recommendations to the Foundation regarding grant distributions from the fund.

Donors may designate themselves as advisors, or may designate others in addition to or instead of themselves as advisors. Once designated, an advisor’s status can only be revoked in writing by the donor(s) who established the fund.

**Number of Advisors; Nomination of Successor Advisor(s):** The Foundation prefers that the number of initial advisors be limited to two (2) individuals and the number of successor advisors be limited to two (2) individuals. Individual donor(s) may authorize a successor advisor to nominate a successor advisor to succeed him or her. Thereafter, no other nominations are allowed. Organizational donors whose fund is tied to its organization may appoint successor advisors in perpetuity if the organizational donor wishes.

If you wish to nominate more than two initial and/or successor advisors, please request an exception to this general preference by contacting a staff member.

**How to Nominate Additional Advisors:** All requests to nominate additional advisors and successor advisors to a fund must be communicated to the Foundation in writing by the donor(s) establishing the fund or by the authorized successor advisor(s). If upon the death, resignation or incapacity of the fund’s donor(s) or initial advisor(s), the Foundation has not received in writing the names of additional advisor(s) or successor advisor(s) to the fund or a recommended future plan for the fund, the fund will terminate and the fund’s balance applied in a manner consistent with the donor’s direction as expressed in the gift instrument.

Donor advised funds established by organizations, rather than by individuals, may have its own process for selecting new advisors. Nonetheless, any changes in advisors to the fund must be made in writing by an officer or duly authorized representative of the organization that established the fund.

**Role of Advisors:** The Foundation welcomes the involvement and recommendations of its donors/advisors with respect to distributions from the fund, but such recommendations are advisory only and are in no way binding upon the Foundation. In evaluating

recommendations for distributions from the fund, the Foundation staff investigates all prospective grant recipients to ensure that they are organized and operated for charitable purposes typically as described in Section 170(b)(1)(A) of the Internal Revenue Code; reviews the recommended grantee's financial and program information; and evaluates the advice of donors against the standards and criteria established by the Foundation to ensure that such advice is consistent with specific charitable needs identified by the Foundation as deserving of support and complies with all applicable federal tax requirements.

In all cases of two or more advisors, the donor(s) or advisor(s) who are authorized to nominate successor advisors, as the case may be, shall appoint a lead advisor. All communications concerning grant recommendations to the Foundation will be through the lead advisor.

In any case where multiple advisors make conflicting recommendations regarding distributions from the fund that cannot be promptly resolved, the Foundation may independently initiate distributions from the fund.

In addition, if the advisor(s) fails to make a standing distribution recommendation, or fails to make any distribution recommendations for three (3) consecutive years, the Foundation will contact the advisor(s) to discuss this situation (see "Inactive Funds" section for more details).

### **Section Seven - Future Planning**

**What Happens to Fund at End of Fund Term?:** The initial donors have the option of determining a future plan for their fund when the last advisor(s) dies, resigns or is otherwise unable to act as advisor in three easy steps:

- First, please choose whether your remaining fund balance shall continue as an *endowed fund* or *non-endowed fund*. We'd encourage you to speak with our staff in order to assist you in making this decision.
- Second, please select whether you wish the remaining fund balance to go to: (1) the Foundation's Community Needs Fund; (2) an existing fund previously established by you or others; or (3) to a new fund, which you may establish in support of community needs.
- Third, for those who plan to have the remaining fund balance be held as an endowed fund, you may specify the name of the fund in the instrument. Note that the aggregate value of the remaining fund

balance plus the value of any bequests to the fund must meet the then minimum balance requirements for this option to be effective. Those who don't meet our fund minimums or plan on having the remaining fund balance held as a non-endowed fund are not able to name the fund.

**Inactive Funds:** In order to carry out its policy of consistently distributing charitable dollars to the community, the Foundation will review periodically the grantmaking activity of every fund. If a fund has failed to make distributions commensurate in size with the Foundation's spending policy over a three (3) year period, the Foundation will contact the advisor(s) to discuss this situation. At that time, the advisor(s) will be given the following options to continue the fund:

- *Provide a plan for funding a specific charitable project or organization that requires an accumulation of resources for more than a three-year period.*
- *Resume making ongoing grant recommendations.*

In the event that the advisor(s) cannot be located or is/are unresponsive, the fund will terminate and the fund's balance applied in a manner consistent with the donor's direction as expressed in the gift instrument.

### **GENERAL TERMS & CONDITIONS APPLICABLE TO ALL FUNDS (IN ALPHABETICAL ORDER)**

**Distributions:** To ensure that each fund is used to actively invest in the community and charitable causes, the Foundation prefers distribution from each fund at least every three years. Donors may, at the time they create a fund, recommend that the fund be managed as a permanent endowment and paid out in accordance with the Foundation's payout policy or paid out as a non-endowed fund over a specified period of time. Donors may also specify that no distributions be made until the fund reaches a certain dollar amount. All distributions from funds are subject to the Foundation's variance power, as noted below.

**Endowed Fund:** An endowed fund is established to exist in perpetuity. The corpus, or principal, of the initial gift to an endowed fund is left untouched and produces interest income for grantmaking today and beyond a donor's lifetime. Distributions are made in a manner that ensures a permanent endowment and is limited to the amount available for grantmaking in accordance with the Foundation's spending policy.

**Fees:** Funds established at the Foundation are subject to administrative and investment fees. A list of fees is available upon request. The Foundation reserves the

right to change its fee structure at any time without prior notice.

**Investment of Assets:** All assets contributed to an endowed fund established at the Foundation will be managed in the Foundation's combined investment fund ("CIF").

All assets contributed to a non-endowed fund will be invested in a very conservative manner, such as through a money-market account, *unless* the Foundation has agreed to invest the non-endowed funds as part of the CIF at the written request of the donor, the duly authorized advisors of the fund, or fund committee members. Assets may be managed by an independent trustee, custodian, investment advisor or other fiduciary (an "outside investment manager") apart from the Foundation's CIF as a "specialty account", *provided* that minimum fund values are met and all such assets are managed in accordance with the Foundation's investment policy. All outside investment managers shall be provided with a copy of and must agree to adhere to the Foundation's investment policy as a condition of continued service in such capacity, and the Foundation reserves the right to replace any outside investment manager in its sole discretion. For more information about the requirements for using an outside investment manager, please contact a staff member regarding "specialty accounts".

**Non-Endowed Fund:** A non-endowed fund is established to allow the entire gift to the fund to be available for grantmaking. Distributions can be made, without limit, over a term of years or upon triggering events as instructed by the donor in the gift instrument or as determined by the Foundation to be appropriate given the circumstances at the time

**Payout Policy:** Generally, the Foundation anticipates distributions from each endowed fund at least annually of an appropriate percentage of the fund's market value, as determined by the Foundation's Board of Governors ("Board"). In determining the annual distribution amount to be paid from endowed funds, the Board may consider the expected total return on the fund's investments, the desirability of maintaining the value of those funds and any other factors that it deems relevant. The Foundation reserves the right to spend the entire amount of any fund, if by the terms of the gift agreement the gift is subject to the Foundation's "Payout Policy" and the Foundation determines that such expenditures better satisfy the donor's intentions than a limitation on expenditures.

**Restrictions on Grants from Funds:** Distributions from funds established at the Foundation will be made only if they are consistent with the Foundation's charitable

purposes and satisfy community needs identified by the Foundation as deserving of its support. Fund distributions will not be made for memberships, pledges, sponsorships, tickets or for any purpose that would otherwise provide a benefit to donors, donor advisors or related parties. Distributions may not involve loans, compensation, expense reimbursements or similar payments to donors, donor advisors or related parties. Distributions from funds may not be made to any specific individual (other than from approved "scholarship funds" or "field of interest funds" with expenditure responsibility oversight) or to 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.

**Tax Status of Funds:** Funds established at the Foundation are component funds of the Foundation, a section 501(c)(3) public charity. All contributions to these funds are treated as gifts to a section 501(c)(3) public charity and are tax deductible to the extent allowed by law.

**Variance Power:** All funds established at the Foundation are subject to the Foundation's "variance power," as set forth in Section 3.1(1)(d) of its Articles of Incorporation. The variance power provides the Board with the authority to modify any donor restriction or condition on distributions of funds for any specified charitable purpose or to any specified charitable organization if, in the Board's sole judgment, such restriction or condition becomes unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community.