

DRAFT SAMPLE AGREEMENT

ADVISED FUND AGREEMENT The Community Foundation for Northeast Florida, a Florida not-for-profit corporation

THIS DONOR-ADVISED FUND AGREEMENT is made to establish an endowed advised fund to be known as the [**name of fund**] (the “Fund”) within The Community Foundation for Northeast Florida, a Florida not-for-profit corporation located in Jacksonville, Florida (the “Foundation”) by [**names of Donors**] (the “Donors”).

1. Purpose of the Fund

The Donors intend that the Fund will be established and maintained as a permanent endowed fund at the Foundation. The Foundation may use the Fund only for religious, charitable, scientific, literary and educational purposes in furtherance of the charitable initiatives of the Donors and the purposes of the Foundation as set forth in its Articles of Incorporation and By-Laws.

2. Contributions to the Fund

a. The Donors will transfer and deliver to the Foundation, as an irrevocable and unconditional gift, certain property to be used to create the Fund. After the Foundation has accepted such property and created the Fund, the Foundation will administer and use the Fund in accordance with this Agreement, including the Advised Fund Policies established and amended from time to time by the Board of Trustees.

b. The Donors and any other person or entity may make additional contributions to the Fund by making an outright gift or pursuant to a bequest or other deferred or planned gift. The Foundation’s Board of Trustees may, in its sole discretion, accept or refuse any gift. Each contribution to the Fund shall be an irrevocable, nonrefundable and unconditional gift to the Foundation.

c. The Fund will be the property of the Foundation and will not be deemed a separate trust fund held by it in a trustee capacity. The Fund will operate under, and all assets held in the Fund will be subject to, the governing instruments (including the Articles of Incorporation and Bylaws of the Foundation) and the Advised Fund Policies, as revised from time to time, provisions of applicable Federal and Florida law, and control of the Foundation through its Board of Trustees.

3. Advisory Function

a. The Donors may make distribution recommendations to the Foundation, but the Foundation shall have full discretion as to distributions from the Fund.

b. Upon the death of the Donors, or during their lifetimes, the advisory functions will be transferred to [_____](“Advisor”), for the purpose of making recommendations to the Foundation. The advisory function may not be transferred to further generations or to others. [modify as appropriate]

c. At such time as the Donors or their successor Advisor cease providing advisory functions, the assets of the Fund will become a [designated, field of interest or unrestricted] fund of the Foundation, for the purpose of [_____]. [modify as appropriate]

d. This Agreement shall be binding upon and operate for the benefit of the parties and shall be binding upon their respective successors.

4. Fund Administration by the Foundation

a. The Fund created under this Agreement is intended to be, and will be administered as, a component fund of the Foundation under applicable federal Treasury Regulations.

b. The Fund will be subject to the power reserved to the Foundation's Board of Trustees to modify any condition or restriction on the distribution of funds if in its sole judgment such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the area served by the Foundation.

c. The Foundation shall charge the Fund a fee in accordance with the then prevailing fee schedule. This fee is in addition to any investment fees, costs associated with acceptance of donated assets and expenses relating specifically to the Fund (e.g. special printing costs, supplies, legal services, and so forth), all of which will be paid by the Fund.

5. Distributions from Endowed Funds

The distributions the Foundation makes from permanent, endowed funds are limited each year to a distributable amount determined pursuant to a Spending Policy, as set forth and amended from time to time by the Board of Trustees. The Spending Policy is designed to protect the economic value of the principal of the Fund, help the principal grow over time, give grantees the benefit of a reasonably stable, consistent and predictable flow of funds, and smooth the effect of market volatility in earnings on the investment of endowment fund assets over a period of years.

6. Inactive Funds

a. If neither the Donors nor their successor Advisors advise the Foundation regarding grants from the Fund for three (3) consecutive years, the Foundation may send written notice to the last known address of the Donors and/or successor Advisor of its intention to terminate the right to recommend distributions from the Fund unless the Donor or Advisor gives other instructions within ninety (90) days of the notice.

b. At the end of the ninety (90) day notice period, the advisory rights granted under this Agreement will cease to apply, and the Fund will be used thereafter as described in the Advised Fund Policies and 3(c) above.

7. Publicity

The name of the Fund and the names of the Donors may be listed in the Foundation's annual report, newsletters, news releases, website or other informational venues unless the Donors have requested in writing not to be included in such publications.

8. Amendment

Except as specifically provided otherwise in this Agreement, this Agreement may be altered, modified or amended only by written agreement of the Foundation and the Donors.

9. Choice of Law; Venue

This Agreement will be governed by, and construed in accordance with the laws of the State of Florida, other than conflict of laws principles that would apply the laws of another jurisdiction. The parties agree that any legal proceeding will be brought only in courts having jurisdiction over Duval County, Florida and agree to submit to jurisdiction and venue in such courts.

10. Donor Acknowledgements

By signing this Agreement, the undersigned Donors hereby acknowledge and confirm to the Foundation that they have read and understand this Agreement and understand that:

- a. The Advised Fund Policies as amended from time to time, apply to the Fund;
- b. Neither the Donor nor Advisor may receive any economic or other tangible benefit in return for a distribution from the Fund;
- c. No person, including Donors, may use the Fund to discharge or satisfy a legally enforceable pledge or obligation of any person;
- d. No one, including Donors and any initial or successor advisor to the Fund, may subject the Fund, directly or indirectly, to any material restriction or condition;
- e. All grant recommendations to the Fund are solely advisory and shall not be binding upon the Foundation; and
- f. All gifts made to the Foundation for inclusion in the Fund are irrevocable.

By our respective signatures below, we indicate our agreement to the foregoing terms and conditions governing the Fund, effective as of the date on which the Agreement has been signed by all parties.

Donor(s):

The Community Foundation for Northeast Florida

[Donor name]

By: _____
Nina M. Waters, President

Date: _____

Date: _____

[Donor name]

Date: _____

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