

## Fund Agreement

The Dallas Foundation  
3963 Maple Avenue, Suite 390  
Dallas, Texas 75219-3209

### **Re: Donor Advised Fund Agreement**

Governors of the Foundation:

With this letter, the undersigned, whether one or more (the “Donors”) are delivering to The Dallas Foundation the property listed on Schedule A. This property constitutes an irrevocable gift to the Foundation upon your acceptance of the gift and the following terms and conditions:

1. Establishment of the Fund. A donor advised fund shall be established on the books of the Foundation that shall be known as the \_\_\_\_\_ **Fund** (the “Fund”).
2. Purpose of the Fund. The Fund shall be used only for charitable, educational, scientific, literary, or religious purposes (including any combination of such purposes and administrative purposes) within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code) and in furtherance of the purposes of the Foundation, either directly by the Foundation or by contributions to other organizations for such purpose or purposes.
3. Property of the Fund. The Fund shall include the property delivered with this letter, any other property which hereafter may be transferred to the Foundation for inclusion in the Fund and accepted by the Foundation for inclusion in the Fund, and all undistributed income from all such property.
4. Control of the Fund; Variance Power. The Fund shall be the property of the Foundation, held by it as a component fund of the Foundation, and shall not be deemed a trust fund held by it in a trustee capacity. The Foundation shall have the ultimate authority and control over all property in the Fund, and the income derived therefrom, in accordance with the Restated Certificate of Formation dated March 24, 2015 and Section 4.3 of the Bylaws dated June 15, 2015 (collectively the “Governing Instruments”), and all amendments and policies adopted by the Board of Governors of the Foundation under the authority of the Governing Instruments. This letter agreement is subject to the Foundation’s authority to vary the terms of the gift (the “Variance Power”) as described in the Foundation’s Governing Instruments. As stated in Section 4.3 of the Foundation’s Bylaws, any recommendations for distributions “are advisory only, and . . . must further the purpose and mission of the Foundation, as expressed in the Foundation’s Restated Certificate of Formation. The Board of Governors or its designee may in its absolute discretion accept or reject such recommendations. The Board of Governors shall have full and absolute discretion to exercise the power to distribute such contributions as the Board of Governors deems appropriate, notwithstanding any such recommendations.”

5. Distributions. Distributions from the Fund of the income or principal or both of the Fund, within the limitations provided for in Section 4 above, shall be made in such amounts, in such ways and for such charitable, educational, scientific, literary or religious purposes (or any combination of such purposes) as the Foundation shall determine.

6. Advisor Succession.

a. Subsection 6.b. shall become effective:

- At the death of both Donors; OR
- As of \_\_\_\_\_(date); OR
- When all Successor Advisors (as defined below) have reached majority age;  
OR
- When the following occurs:\_\_\_\_\_.

b. After the event specified in Subsection 6.a, then:

- Any assets remaining in the Fund shall become part of the Community Impact Fund of the Foundation to benefit the Dallas community at large. It enables The Dallas Foundation to respond to changing community needs and emergencies, to support innovative solutions to community problems and to enhance the quality of community life. No restrictions are placed on how this fund may be used, leaving the most effective charitable application to the expertise and discretion of the Foundation’s Board of Governors.; OR
- Any assets remaining in the Fund shall establish a Field of Interest Fund or Funds to support the following charitable cause or purposes:

\_\_\_\_\_  
OR

- The following person(s) (the “Successor Advisors”) shall succeed to the advisory rights under this agreement. These recommendations shall be solely advisory and the Foundation shall not be bound by these recommendations:

<i>Name</i>	<i>Relationship</i>
_____	_____
_____	_____
_____	_____

c. If there is more than one Successor Advisor, the Donors intend that the Successor Advisors exercise their advisory rights

Independently of each other; OR

Jointly

d. Amount available from the Fund for distribution by Successor Advisors:

The Successor Advisors may recommend grant distributions that fully expend the Fund; OR

The Fund shall become a permanent endowment upon the occurrence of the event in Subsection 6.a. and the Successor Advisors may recommend grant distributions up to the amount available for grants annually as calculated under the Foundation's spending policy as adopted by the Board of Governors.

e. Purpose of distributions by Successor Advisors:

The Successor Advisors may recommend grants for any charitable purpose; OR

The Successor Advisors may recommend grants only for the following causes or purposes:

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7. Investment and Administration. The Foundation shall cause the assets of the Fund to be invested and reinvested pursuant to its governing instruments and the investment policies, practices and procedures consonant therewith as adopted from time to time by the Board of Governors. The Foundation shall have all powers necessary or in its sole discretion desirable to carry out the purposes of the Fund including the power to invest and reinvest in such manner as it deems fit, without being subject to investment restrictions, statutory or judicial, which would otherwise be applicable to a fiduciary and the power to commingle the assets of the Fund with those of other funds for investment purposes so long as the Fund is allocated its appropriate shares of principal and income. Notwithstanding the foregoing, the Foundation shall make all reasonable efforts to ensure that the assets of the Foundation are not invested in a manner resulting in the Fund having excess business holdings within the meaning of Sections 4943(c) and 4943(e) of the Internal Revenue Code.

8. Assessments of the Fund. The Donors agree that the Foundation may charge the Fund regularly for a proper allocation of direct and indirect expenses attributable to the creation and maintenance of funds of this type.

9. No Benefit to Donor or Advisors. Neither the Donors nor anyone else holding advisory rights under this agreement, or any other disqualified persons with respect to the Fund within the meaning of Section 4958(f)(7) of the Internal Revenue Code, may receive any

tangible benefit or privilege in return for a distribution from the Fund. In particular, no distributions from the Fund will be used to discharge or satisfy a legally enforceable pledge or obligation of any person, including the Donors.

10. Construction. The Donors and the Foundation intend that the Fund shall be a component part of the Foundation and not a separate trust, and that nothing in this letter agreement shall affect the status of the Foundation as an organization described in Section 501(c)(3) of the Internal Revenue Code, and as an organization which is not a private foundation within the meaning of Section 509(a) of the Internal Revenue Code. This letter agreement shall be interpreted in a manner consistent with the foregoing intention and so as to conform to the requirements of the foregoing provisions of the federal tax laws and any regulations issued pursuant thereto. The Foundation is authorized, acting alone, to amend this letter agreement solely to conform to the provisions of any applicable law or government regulation in order to carry out the foregoing intention. References herein to provisions of the Internal Revenue Code, shall be deemed references to the corresponding provisions of any future Internal Revenue Code.
11. Change of Tax Exempt Status. Should the Foundation lose its tax-exempt status as an organization described in Section 501(c)(3) of the Internal Revenue Code, as amended, and as an organization that is not a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, or otherwise cease to exist, the Board of Governors of the Foundation shall cause all assets remaining in the Fund to be distributed to the legal successor in interest to the Foundation, so long as that successor is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code and is not a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, to be used for the purposes outlined in Section 2. Should the successor in interest lose such tax-exempt status or cease to exist, then all assets remaining in the Fund shall be distributed outright to charitable organizations qualified as Section 501(c)(3) organizations under the Code that have purposes as similar as possible to those purposes listed in Section 2. Nothing in this Section 11 shall diminish the Foundation's Variance Power.
12. Governing Law. This letter agreement shall be governed by and construed in accordance with the laws of the State of Texas, and applicable provisions of the Internal Revenue Code.

Please indicate below your acceptance of this gift and of the foregoing terms and conditions.

Very truly yours,

\_\_\_\_\_  
Donor  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Donor  
Printed Name: \_\_\_\_\_

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Receipt of the above-described property on this date is acknowledged.

THE DALLAS FOUNDATION

\_\_\_\_\_  
Mary M. Jalonick  
President & CEO

SCHEDULE A

Description of Property

Delivered to The Dallas Foundation  
Pursuant to Agreement

Dated \_\_\_\_\_, 20\_\_\_\_

(Check all that apply.)

- Check # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.
- Wire transfer in the amount of \$ \_\_\_\_\_.
- \_\_\_\_\_ shares of \_\_\_\_\_.
- Other (please describe): \_\_\_\_\_.