

*Your*  
**WHITEFISH**   
**COMMUNITY FOUNDATION**  
**Giving Together Creates Impact**

DONOR ADVISED FUND AGREEMENT

This Agreement is made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Whitefish Community Foundation, Inc. (“Community Foundation”) a nonprofit Montana corporation and a community foundation and \_\_\_\_\_ (“Donor”) to create a Donor Advised Fund. All contributions to this fund shall be governed by the terms of this Agreement.

WHEREAS, the Donor, in the furtherance of the Donor’s charitable purposes, deems it to be in the Donor’s best interest to create a Donor Advised Fund with the Community Foundation;

WHEREAS, the Community Foundation is a nonprofit Montana corporation exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, and is an appropriate entity within which to establish such Donor Advised Fund; and

WHEREAS, the Community Foundation is willing and able to create such Donor Advised Fund subject to the terms and conditions hereof.

NOW, THEREFORE, the parties agree to the following terms:

- 1. Name of Fund.** There is hereby established in the Community Foundation a fund designated as the \_\_\_\_\_ Donor Advised Fund (hereinafter referred to as the “Fund”).
- 2. Purpose of Fund.** The primary purpose of the Fund is to benefit certain qualified charitable organizations. The term “qualified charitable organization” as used herein shall mean an organization described in Section 501(c)(3) of the Internal Revenue Code, which is also described in Sections 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code (except for an organization that is Type III and not functionally integrated). The Fund is intended to further or carry out the nonprofit purposes of the qualified charitable organizations to the extent that those purposes are consistent with the general nonprofit purposes of the Community Foundation.
- 3. Initial Gift.** The Donor has made an irrevocable donation of \$ \_\_\_\_\_ in cash or other assets to initiate the Fund. The initial gift shall be equal to or greater than the fund minimum specified in the Donor Advised Fund Guidelines (the “Guidelines”) attached hereto as Exhibit A.
- 4. Additional Gifts.** Any individual, corporation, trust, estate, or other legally recognized entity may make a gift, bequest, devise, or other transfer to the Community Foundation for the purposes of the Fund by a transfer to the Community Foundation of cash or other assets acceptable to the Community Foundation for the benefit of the Fund. All additional

gifts, bequests, and devises made to the Community Foundation for the benefit of the Fund shall be irrevocable and subject to the terms and conditions of this Agreement. All additional gifts of cash shall be by check, certified check, or money order, payable to the Whitefish Community Foundation, Inc., and shall reference the Fund name on the check memo line. Except as provided herein, the Community Foundation does not solicit contributions to or otherwise provide marketing or fundraising services for the Fund.

- 5. Administrative Authority.** The Community Foundation shall have all powers necessary, or in its sole discretion, desirable to administer and carry out the purpose of the Fund, including, but not limited to, the powers to retain, manage, sell, invest, and reinvest the Fund assets and its income in any manner as authorized by law, and the power to co-mingle the assets of the Fund with those of other funds for investment purposes.
- 6. Distributions.** The amount, manner, and frequency of distributions from the Fund will be determined by the Community Foundation's Board of Directors ("Board") in compliance with the Guidelines in effect at the time of the proposed distribution. The named Advisor of the Donor (as defined herein at Section 12) may advise the Community Foundation with respect to distributions made pursuant to the terms of this Agreement. The Community Foundation shall be authorized to act upon said advice but the advice is solely advisory, and the Community Foundation may accept or reject the advice applying reasonable standards thereto. No distribution shall be made to any organization if such organization is dissolved or otherwise fails to be a qualified charitable organization.
- 7. Separate Accounting and Reporting.** The Fund shall be accounted for separately and apart from other funds of the Community Foundation, but may be co-mingled with other assets of the Community Foundation for investment purposes. The Community Foundation shall provide the Donor at least annually with a written report showing the Fund's contributions, earnings, distributions, and fees.
- 8. Substantiation and Acknowledgment:** Upon accepting transfers of cash or other assets to the Fund, the Community Foundation will send a letter to the donor acknowledging the contribution. The letter serves as a receipt for tax purposes. The Community Foundation will also notify the Advisor when contributions are received from third parties.
- 9. Other Reports:** The Community Foundation issues an Annual Report. The Report lists all Donor Advised Funds held by the Community Foundation. Copies of the Annual Report and information returns (IRS Form 990) are available upon request or on the web site at [www.whitefishcommunityfoundation.org](http://www.whitefishcommunityfoundation.org). The Annual Report includes the names of donors to the Community Foundation and the names of the Donor Advised Funds at the Community Foundation, but the report does not specifically identify the donors that contributed to each Donor Advised Fund. The Report may in the future, but does not currently list distributions from the Donor Advised Funds.
- 10. Community Foundation as Owner of the Fund.** The Fund shall be the property of the Community Foundation and owned by it in its corporate capacity. In such capacity, the Community Foundation shall have the ultimate authority and control of all assets in the Fund, and the income from the Fund for the charitable purposes of the Community

Foundation. The assets in the Fund, whether cash or other property, are not held in trust for the Donor.

**11. Compensation to Community Foundation and Other Expenses.** The Community Foundation carries out the distribution and financial reporting responsibilities necessary to maintain the Fund, and shall charge the Fund an administrative management fee. The fee is specified in the Guidelines, and the fee may be periodically modified by an amendment to the Guidelines adopted by the Board of Directors of the Community Foundation. Said fee shall be reasonable and in keeping with the fees that community foundations customarily charge.

**12. Advisors.** An Advisor is a named representative of the Donor who has been appointed by the Donor to advise the Community Foundation as to the desired reinvestment of Fund income, Fund expenditures, or grants/distributions from the Fund. The Donor may appoint successor Advisors upon written notification to the Community Foundation of the named successor Advisor. A Donor may name more than one Advisor, but in doing so must disclose if the Advisors must act jointly or may act individually on behalf of the Fund. A Donor may remove an Advisor or successor Advisor by providing written notice of the removal to the Community Foundation and if possible the acknowledgement or acceptance of the removal by the Advisor so named. Any Advisor or successor Advisor must provide written acknowledgement to the Community Foundation of his or her acceptance of the duties of Advisor. All Advisors, whether initial or successor, consent to and agree to be subject to the terms of this Agreement. The Community Foundation shall be entitled to rely upon the written appointment of an Advisor as conclusive evidence of the Advisor's authority to make distribution recommendations on behalf of the Donor. The initial Advisor(s) are identified in Exhibit B. If the Donor, Advisor, or successor Advisors are not available or able to act under the terms of this Agreement then (circle one):

- a. The Fund shall terminate and any funds remaining in the Fund shall be added to the permanent endowment fund of the Community Foundation.
- b. The Fund shall terminate and any funds remaining in the Fund shall be distributed to the \_\_\_\_\_ Legacy Fund, to be held and administered pursuant to the terms of the \_\_\_\_\_ Legacy Fund Agreement.

**13. Variance Power.** The Fund is subject to the variance power described in Treas. Reg. Sec. 1.170A-9(f)(11)(v)(B)(1), as amended from time to time. Pursuant to the variance power, the Board shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to specified organizations, if in their sole judgment (without the approval of any advisor, trustee, custodian or agent) such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community or area served by the Community Foundation.

**14. Continuity of the Fund and Default.** It is intended that the Fund continue in perpetuity, or until such time as the value of the assets in the Fund are depleted below the Fund

Minimum as set forth in the Guidelines, or distributed to another fund pursuant to Section 12 or Section 16.

- 15. Legal Compliance.** The Donor agrees and acknowledges that the establishment of the Fund is made subject to the terms and conditions of the Articles of Incorporation and Bylaws of the Community Foundation, as from time to time amended, and the Guidelines as have been adopted by the Board and thereafter amended from time to time. Notwithstanding anything herein to the contrary, the Community Foundation is subject to and shall hold and administer the Fund and all contributions to the Fund pursuant to the laws of the state of Montana including the Montana Nonprofit Corporation Act and the Montana Uniform Prudent Management of Institutional Funds Act, and shall further be subject to all federal law, including, but not limited to the United States Treasury Department Regulations and the Internal Revenue Code.
- 16. Dissolution.** If the Community Foundation ceases to be a qualified charitable organization, or if the Community Foundation proposes to dissolve, then the assets of the Fund, after payment or making provision for payment of any liabilities properly chargeable to the Fund, shall be distributed to such qualified charitable organization or organizations selected by the Board of Directors of the Community Foundation in its discretion, after consultation with the Donor and Advisor.
- 17. Privacy Policy.** The Community Foundation does not share its mailing list. This Agreement is subject to the Privacy Policy of the Community Foundation, a copy of which is available at the Community Foundation office.
- 18. Liability.** The Community Foundation, its officers, directors, employees, and agents shall not be liable to the Donor for any loss or damage to the Fund, including, but not limited to any depreciation in the value of the Fund.
- 19. Entire Agreement.** This Agreement and the Exhibits attached hereto are the entire Agreement between the parties, and supersede all previous negotiations, commitments, and writings.
- 20. Applicable Law.** This Agreement shall be governed by and construed under the laws of the state of Montana.
- 21. Binding Effect.** This Agreement shall be binding upon the parties, their successors and assigns.
- 22. Severability.** If any term or provision of this Agreement shall be held to be invalid or unenforceable for any reason, that term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining terms and provisions, and this Agreement shall be construed as if such invalid or unenforceable term or provisions had not been included. In the event that any term or provision is held to be valid or unenforceable, or in the event that any term or provision shall be found to be inconsistent with any policy of the Community Foundation, the Donor, Advisor, and the Community Foundation shall promptly meet to negotiate substitute terms and provisions for those found to be invalid, unenforceable, or inconsistent.

**23. Prohibited Transactions.**

- (a) No distribution from the Fund may be made to natural persons or to entities if such distributions result in a taxable distribution under IRC §4966;
- (b) No distribution of funds from the Fund may be used to directly or indirectly provide more than an incidental benefit to any donor, donor advisor, or related person;
- (c) No distribution shall be made from the Fund to satisfy a pledge or other commitment of the Donor, advisors, parties related to the Donor, or any other person with the right to advise the Foundation on distributions from the Fund;
- (d) No distributions from the Fund may be made to support any activity from which a Donor, Advisor, or related party will receive a benefit;
- (e) No distributions from the Fund may be made in the form of grants, loans, compensation, or other similar payments, including expense reimbursements, to the donor, donor advisor, a member of the donor or donor advisor’s family, or a 35% controlled entity of the aforementioned; and
- (f) The Fund shall not retain any excess business holdings as defined in subsection (c) of Section 4943 of the Code.

**24. Inactive Funds.**

The Fund shall be deemed inactive if no recommendations are made with respect to distributions from the fund for a period of two years. The Community Foundation shall give written notice to the Advisor. The Donor or Advisor shall have 90 days from the date of the written notice to make a recommendation with respect to a distribution from the Fund. If the Donor or Advisor fails to make a recommendation within the 90-day period, the Community Foundation shall terminate the Fund and assets of the Fund shall be distributed to the permanent endowment fund of the Community Foundation.

IN WITNESS WHEREOF, this Agreement is signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

DONOR

BY: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_

BY: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_

WHITEFISH COMMUNITY FOUNDATION, INC.

BY: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 TITLE: \_\_\_\_\_

## ***Donor Advised Fund Guidelines***

*These Guidelines are incorporated by reference in the Whitefish Community Foundation Donor Advised Fund Agreement, and they apply to all Donor Advised Funds. These Guidelines revoke and replace any prior Donor Advised Fund Guidelines.*

Any Donor Advised Fund (“Fund”) established with the Whitefish Community Foundation (the “Community Foundation”) shall be subject to the following terms and conditions:

1. ***Administrative Fees*** – The Community Foundation shall receive a fee for services based on the average quarterly balance in the Fund during any given calendar year. Fees are charged quarterly.
  - For funds that are \$500,000 or less the fee is .60% or \$100, whichever is higher.
  - For funds that are \$1,000,000 or less, the fee is .60% on the first \$500,000 and .40% on amounts in excess of \$500,000.
  - For funds that are more than \$1,000,000, the fee is .60% on the first \$500,000, .40% on the next \$500,000, .20% on amounts in excess of \$1,000,000.
  - For funds that are more than \$2,500,000, the fee is .60% on the first \$500,000, .40% on the next \$500,000, .20% on amounts in excess of \$1,500,000, and .10% on amounts in excess of \$2,500,000.
  - If any Donor has more than one fund established with the Community Foundation, the annual fee shall be established based on the aggregate value of all of the Donor’s funds.

2. ***Distributions*** –

Distributions from the Fund will be made upon written request from the Fund Advisor, subject to the following:

The amount of the distribution shall be determined by Community Foundation based on the following factors:

- (a) the duration and preservation of the Fund;
  - (b) the purposes of the Community Foundation and the Fund;
  - (c) general economic conditions;
  - (d) the possible effect of inflation or deflation;
  - (e) the expected total return from income and the appreciation of investments;
  - (f) other resources of the Community Foundation;
  - (g) the investment policy of the Community Foundation; and
  - (h) any other factors deemed relevant by the Community Foundation.
- Upon request of the Fund Advisor or at the discretion of the Community Foundation, any distribution may be reinvested

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- The minimum distribution that may be made from the Fund is \$250
3. ***Fund Minimum*** – A Fund may be opened with a \$5,000 minimum. A minimum balance of \$5,000 must be maintained. If the Fund balance at any time is less than \$5,000, the Community Foundation shall give written notice to the Advisor. The Donor or Advisor shall have 30 days from the date of the written notice to restore the Fund balance to the minimum amount of \$5,000. If the Donor or Advisor fails to restore the Fund balance to at least \$5,000 within the 30-day period, the Community Foundation shall terminate the Fund and assets of the Fund shall be distributed to the permanent endowment fund of the Community Foundation.
  4. **Amendment** - THESE GUIDELINES MAY BE SUPERSEDED, MODIFIED, REVOKED, REVISED, SUSPENDED, OR TERMINATED AT THE SOLE DISCRETION OF THE BOARD OF DIRECTORS OF THE COMMUNITY FOUNDATION AT ANY TIME WITH OR WITHOUT NOTICE.



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**Initial Advisor Information and Reporting Form**

Reports will be sent at least annually to the Fund Advisors. Reports will be sent to the advisor(s) at the following address(s). Advisor(s) of the Fund will notify the Foundation of any changes.

NAME OF FUND: .....

Advisor Name: .....

Address: .....

City, State, Zip: .....

**Telephone**

Business: ..... Home: .....

Email: .....

Advisor Name: .....

Address: .....

City, State, Zip: .....

**Telephone**

Business: ..... Home: .....

Email: .....

If two advisors (*Initial one*) \_\_\_\_\_ *Acting jointly* \_\_\_\_\_ Acting jointly or individually

*Additional Reports:*

Name: .....

Address: .....

City, State, Zip: .....

Signature: .....  
(Advisor) (Advisor)

Date ..... Date .....



## ***Successor Donor-Advised Fund Advisor Appointment***

I, \_\_\_\_\_, the current Donor/Advisor to the \_\_\_\_\_, appoint the following persons to become the joint successor Fund Advisors at such time as I/Initial Fund Advisor am no longer willing or able to be the Advisor. (An advisor is considered to be unable to act as an advisor if and while the advisor is an adjudicated incompetent or disabled person, a guardian or conservator has been appointed to act for the advisor, or the advisor is unable to give prompt and intelligent consideration to business matters as certified by a licensed physician.)

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

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

City, State ZIP: \_\_\_\_\_

Phone number: \_\_\_\_\_

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

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

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

City, State ZIP: \_\_\_\_\_

Phone number: \_\_\_\_\_

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

(Initial one) \_\_\_\_\_ Acting jointly \_\_\_\_\_ Acting jointly or individually

I understand that in the event a successor Advisor is not appointed it will become the responsibility of the Whitefish Community Foundation Board of Directors to make distributions according to the purpose stated in the Fund Agreement or act as a Successor Advisor and I understand I have the right to appoint a Successor Advisor so long as I am the Donor or Advisor, with authority to do so in accordance with the Donor-Advised Fund Agreement.

**Signed** ..... **Date**.....  
 (Donor/ Initial Advisor)

**Signed** ..... **Date**.....  
 (Successor Advisor)

**Signed** ..... **Date**.....  
 (Successor Advisor)



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**Notice of Change of Donor-Advised Fund Advisor  
(Corporate/LLC/Trust Donors)**

Please complete this form and return it to the Whitefish Community Foundation as soon as possible if there is a change of Advisor for your Fund. Thank you.

Name of Fund: .....

Address: .....

City, State, Zip: .....

Corporate/LLC Position(s) authorized to act as Advisor .....  
.....

Name of new Advisor(s).....

Address: .....

City, State, Zip: .....

Telephone: ..... Email: .....

Name of outgoing Corporate/LLC Advisor(s): .....

Signed ..... Date.....  
(Donor)

Signed ..... Date.....  
(Outgoing Advisor)

Signed ..... Date.....  
(New Advisor)



**Donor-Advised Fund**  
**Grant Disbursement Recommendation Form**

To: *Whitefish Community Foundation*  
*P.O. Box 1060, Whitefish MT 59937*  
*info@whitefishcommunityfoundation.org*  
*Tel: (406) 863-1781 Fax: (406) 863-2628*

From: \_\_\_\_\_ (Name of Fund) \_\_\_\_\_ (Authorized Advisor)  
\_\_\_\_\_ (Phone) \_\_\_\_\_ (Email)

As provided in the terms of the Donor-Advised Fund Agreement which I/we have established with the Whitefish Community Foundation, Inc., I/we hereby recommend that you pay out of the Fund the following amount(s) to the following organization(s):

Organization: \_\_\_\_\_ Contact Person: \_\_\_\_\_

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

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

Amount: of Gift: \$ \_\_\_\_\_

Intended Purpose:  Endowment Fund  Operations  Special Project/Other

Details: \_\_\_\_\_

The above suggested distribution does not represent the payment of any legally binding pledge or financial obligation, nor does the undersigned expect any personal benefit from this charitable contribution. I understand this is a recommendation only and not a directive.

**Whitefish Community Foundation Additional Gifts**

Amount of Gift \$ \_\_\_\_\_

Endowment Fund  Operations  Grants  Special Project/Other

Details: \_\_\_\_\_

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Date)

- Recognize our Fund  Our Donation is Anonymous
- Please Distribute ASAP  Please Distribute at the Annual Awards Ceremony

**OFFICE USE ONLY**

Date Received: \_\_\_\_\_ Confirmation to Advisor of receipt: Phone/Fax/E-mail Date: \_\_\_\_\_ WCF Approval: \_\_\_\_\_

Ck#: \_\_\_\_\_ Date Processed: \_\_\_\_\_ Confirmation to Advisor of distribution: Date: \_\_\_\_\_

**INVESTMENT ALLOCATION**

Please indicate your recommended investment allocation below.





**Name of Fund**

\_\_\_\_\_ Account # \_\_\_\_\_

Whitefish Community Foundation offers a variety of investment options, each of which is designed to meet a range of philanthropic goals and time horizons. Each of our investment pools are carefully designed to maximize return and minimize volatility. Investments are monitored regularly by the community foundation’s experienced investment committee, consultant, and staff.

As a fund advisor, you may allocate to one or more investment pools, and you may change the investment allocation once per year or upon a significant change in charitable goals and time horizon for depleting the fund. The community foundation will maintain your fund’s investment allocation through regular monthly rebalancing.

If no allocation choice is made, the Capital Preservation Pool will be selected by the Investment Committee.

_____% <b>Long-Term Growth Pool</b> time horizon 10 years or more		<b>Long Term Capital Growth</b> 77% equity, 22% fixed income, 1% cash
_____% <b>Balanced Pool</b> time horizon 5 years or more		<b>Balanced mixture of safety, income, and capital appreciation</b> 51.5% equity, 46.5% fixed income, 2% cash
_____% <b>Short Term Pool</b> time horizon 1 to 3 years		<b>Preservation of Principal</b> Combination of fixed income, cash, and cash equivalent
_____% <b>Capital Preservation Pool</b> time horizon 1 year or less		<b>Stability of Principal</b> Combination of money market, certificates of deposit, and other liquid short term securities

Future contributions will be invested according to the allocation specified above. Investment allocations can be changed through written instruction once per year or upon a significant change in charitable goals and time horizon for depleting the fund.

Please contact the community foundation at [linda@whitefishcommunityfoundation.org](mailto:linda@whitefishcommunityfoundation.org) or call 406-863-1781 if you have questions or need additional information.

Fund Advisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## DISCLOSURE STATEMENT

### **Foundation Staff**

Linda Engh-Grady, President

Daria Perez, Vice President of Finance and Operations

### **Foundation Board of Directors**

*Committee designations are indicated in parentheses: Executive Committee (EC), Governance (GV), Grants (GR), Investment (IV), Audit (AD), Foundation Development (FD), Advisory (AV)*

Kenneth Wessels, Chair (EC, GV, IV)

Linda Maetzold, Vice Chair/Secretary/Treasurer (EC, AD, GR)

David Dittman, Past Chair (EC, IV, AD)

Jeff Allen (IV)

Carol B. Atkinson (GR)

Betsy Bayne (EC, GR)

John Collins (IV)

Judah Gersh (GV)

Joe Gregory (GV)

Mike Jenson (GR, FD) Board of Directors Emeritus

John Kramer (FD) Board of Directors Emeritus

Jay Latimer (IV, GR)

Sherry Lesar (GR)

Lori Miller (GV, AV)

Monica Pastor (GR)

Thomas Quinn (GR)

Doug Reed (GR)

Jamie Shennan (EC, GV, IV, FD)

### **The following non-board members also serve on Foundation committees:**

Harry Brown (AV)

Janice Case (AV)

Ian Collins (AV)

Connie Heckathorn (AV)

Bill Howard (AV)

Dana McGowan (AV)

Misty Scurlock (AV)

Richard Solberg (AV)

Dave Stewart, Past President (IV)

Boots Barnett Warrick (AV)

Virginia Weldon (AV)

### **Investment Managers**

Mason Investment Advisory Services, Inc. 1130 Sunrise Valley Drive, Suite 200, Reston, VA 20191

**Administrative Fees** The Community Foundation charges a fee for services based on the average quarterly balance in the Fund during any given calendar year. Fees are charged quarterly.

- For funds that are \$500,000 or less the fee is .60% or \$100, whichever is higher.
- For funds that are \$1,000,000 or less, the fee is .60% on the first \$500,000 and .40% on amounts in excess of \$500,000.
- For funds that are more than \$1,000,000, the fee is .60% on the first \$500,000, .40% on the next \$500,000, .20% on amounts in excess of \$1,000,000.
- For funds that are more than \$2,500,000, the fee is .60% on the first \$500,000, .40% on the next \$500,000, .20% on amounts in excess of \$1,500,000, and .10% on amounts in excess of \$2,500,000.
- If any Donor has more than one fund established with the Community Foundation, the annual fee shall be established based on the aggregate value of all of the Donor's funds.

### **Auditor**

Tony Vanorny, JCCS, CPA's Kalispell, MT

### **Accountant**

Sallie Foley, JCCS, CPA's PC, Whitefish, MT