

The Jewish Community Foundation of the West



ADVISED ENDOWMENT FUND AGREEMENT

This Agreement is made and entered into on _____ by and between The Jewish Community Foundation of the West ("Foundation"), and _____ ("Donors").

1. **Name of Fund.** Donor(s) transfer irrevocably to Foundation the sum of _____ Dollars (\$ _____) to establish in Foundation the _____ Endowment Fund (the "Fund"). Foundation may receive additional irrevocable gifts of property acceptable to Foundation from time to time from Donor(s) and from any other source to be added to the Fund, all subject to the provisions hereof.

2. **Purpose.**
Subject to the limitations of paragraph 4 below, the purpose of the Fund shall be to _____

[IF PURPOSE IS TO SUPPORT A SPECIFIC CHARITABLE ORGANIZATION. In the event that the Charitable Organization ("Organization") should (i) no longer be described in Sections 170 (c) (1) or (2) of the Internal Revenue Code, (ii) become subject to bankruptcy proceedings under state or federal law, or (iii) liquidate and dissolve or otherwise cease to exist then the assets of the Fund shall be applied as described in paragraph 6 below.]

It is the wish of Donors that _____ percent (%) of gifts to the Fund be made available for unrestricted grantmaking by the Board of Directors of the Jewish Community Foundation of the West.

3. **Investment of Funds.** Foundation shall have all powers necessary or desirable to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest and reinvest the Fund in any manner within the "prudent person" standard and the power to commingle the assets of the Fund with those of other funds for investment purposes, subject however, to the requirements of Section 5231 and 5240 of the California Corporations Code.

4. **Distribution Recipients.** Subject to paragraph 6, earnings allocated by Foundation to the Fund shall be distributed exclusively for charitable, scientific, literary or educational purposes or to organizations of the type to which an individual taxpayer may make deductible charitable contributions, gifts, and bequests under the income, gift and estate tax provisions of the Internal Revenue Code of 1986, as amended, and corresponding sections of applicable state laws. It is intended by the foregoing that at the time a distribution is made from the Fund, the distribution must be for a charitable, scientific, literary or educational purpose as described in, or to an organization which is described in Sections 170 (c)(1) or (2), of the Internal Revenue Code of 1986, as amended, and corresponding sections of applicable state laws. Distributions from the Fund shall be within the purposes and procedures of Foundation as contained in its Articles of Incorporation and its Bylaws.

5. **Distribution of Funds.**
 - 5.1. The Fund shall have an Advisory Committee, consisting of:
_____, _____
_____, _____
_____, _____
_____, and _____

 - 5.2. Upon the death or incapacity of the last surviving member of the Fund Advisory Committee, the Board of Directors of Foundation itself shall serve as the advisor of the Fund.

 - 5.3. The Fund Advisory Committee shall, from time to time, designate a Chair in a writing signed by its members and delivered to Foundation. The Chair shall be the only person who has the authority to communicate the desires of the Fund Advisory Committee to Foundation and shall be the "Fund Advisor." Upon the death or incapacity of any member of the Fund Advisory Committee, the remaining member(s)

shall serve as the Fund Advisory Committee. Upon the death or incapacity of the last surviving member of the Fund Advisory Committee, the Board of Directors of Foundation itself shall serve as the Fund Advisory Committee.

- 5.4. Distributions from the Fund may be made only from income consistent with the approved Endowment Spending Policy and shall be made at such time or times and in such amount or amounts as may be determined by the Board of Directors. There shall be no distribution from principal, except as provided in paragraph 6 or in the approved Endowment Spending Policy. There shall be no requirement that income be distributed each year; income may be accumulated and added to principal. Income which is accumulated and added to principal may, however, be distributed in the future unless prohibited by the approved Endowment Spending Policy. Distributions shall be made to such distributees of the type described in paragraph 4 as may be designated by Foundation, provided, however, that the Fund Advisor may from time to time submit to Foundation the names of distributees to which it is recommended that distributions be made, which distributees shall not be other than those described in paragraph 4. All recommendations from the Fund Advisor shall be solely advisory, and Foundation may accept or reject them, applying reasonable standards and guidelines with regard thereto.
6. **Continuity of the Fund.** The Fund shall continue so long as assets are available in the Fund and the purposes in the Fund can be served by its continuation. If the Fund is terminated for either of the above reasons, Foundation shall devote any remaining assets in the Fund exclusively for charitable purposes that:
- a) Are within the scope of the charitable purposes of Foundation's Articles of Incorporation, and;
 - b) Most nearly approximate, in the good faith opinion of the Board of Directors, the original purpose of the Fund.
7. **Not a Separate Trust.** The Fund shall be subject to the Articles of Incorporation and Bylaws of Foundation. All money and property in the Fund shall be assets of Foundation and not a separate trust and shall be subject only to the control of Foundation. Pursuant to Treasury Regulations, the Board of Directors of Foundation has the power "to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to any specified organization if, in the sole discretion of the Board of Directors, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served." Treasury Regulation §1.170A-9(e)(11)(v)(B) and (E).
8. **Costs of the Fund.** It is understood and agreed that the Fund shall share a fair portion of the total administrative costs of Foundation. The administrative cost charged against the Fund shall be determined in accordance with the then current Account Management

Policy identified by Foundation as the fee structure applicable to Funds of this type. Any costs to Foundation in accepting, transferring or managing property donated to Foundation for the Fund shall also be paid from the Fund.

9. **Accounting.** The Foundation shall provide the Donors with a statement of account at least quarterly. The statement of account shall relate only to the Fund.
10. **Charitable Deductions.** It is intended by Donors and by Foundation that federal gift, income and estate tax charitable deductions shall be allowed to Donors and to Donors' estate and that Foundation shall continue to qualify as an organization described in Sections 170(b)(1)(A)(vi), 170(c), 2055(a), and 2522(a) of the Internal Revenue Code of 1986.

This entire Agreement shall be construed and applied so as to comply with the requirements of federal tax law for allowances of such charitable deductions and for such qualifications.

IN WITNESS WHEREOF, we execute this Agreement on _____.

Donor(s): _____
Signature (s)

Print name (s)

Street Address

City, State, Zip

Phone

Approved by the Board of Directors of the Jewish Community Foundation of the West on

_____.

By: _____

Signature

Print name

President, Board of Directors.

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