

Donor-Advised Funds at East Texas Communities Foundation are some of the most flexible vehicles available for charitable giving. The Donor-Advised Fund Agreement establishes various boundaries which may limit certain uses of the fund, set spending limits, and provide certain individuals with advisory privileges with regard to a fund. This guide should help donors consider various operating parameters which should be documented in the fund agreement. Several examples will illustrate common choices made by donors in establishing their funds. Foundation staff members are eager to assist in this process by providing additional illustrations or customized language as desired.

The fund agreement decisions are presented in the order in which they appear in the standard donor-advised fund agreement. Some of the possible options for each parameter are listed below in italics. **There are many other options from which to choose.**

A. FUND AGREEMENT

1. DONOR – provide the name of the individual(s) or organization establishing the fund

- Individuals
 - *Mr. John Smith*
 - *John D. and Margaret A. Smith*
 - *The Estate of Mr. John Smith*
- Corporation or Organization
 - *East Texas Widget Company*
 - *Rescue Services of East Texas, Inc.*
 - *City of Cushing, Texas*

2. FUND NAME – determine the fund name (If a self-identifying fund name is selected, an advisor may still remain anonymous as desired when making specific grant recommendations after the establishment of the fund)

- Individuals
 - *John and Margaret Smith Donor Advised Fund*
 - *Smith Family Charitable Fund*
 - *Smith Family Foundation*
- Corporation or Organization
 - *East Texas Widget Company Charitable Fund*
 - *Rescue Services of East Texas, Inc. Donor Advised Fund*
- Anonymous
 - *Big Pine Donor Advised Fund*
 - *Hope Charitable Fund*

3. DISTRIBUTIONS

Donor must select “income only”, “income and principal” or modify the agreement to specify the annual amount available for distributions from the fund. Selecting “income only” defaults to the spending policy of the Foundation, which is currently 5% of the preceding December 31 balance of the fund, unless another option is detailed. A donor can predetermine that a life event will trigger a change in the distribution plan.

- *For purposes of this Fund, income is defined as ___% of the December 31 balance...*
- *For purposes of this Fund, income is defined as investment income less investment*

- and administrative fees.*
- *Following the resignation, incapacity, or death of the donor, distributions shall be limited to income only*

4. RECOMMENDATIONS

Donor must specify who may make recommendations regarding investments and distribution from the Fund. Recommendations regarding investments can be separated from recommendations regarding distributions during the life of the Donor or upon death.

5. SUCCESSION

The donor should contemplate his or her absence and give direction to the Foundation in Addendum II regarding changes that might be enacted upon his or her death or incapacity. Typically this includes naming successor advisors to continue making recommendations to the Foundation regarding investment of the fund and distributions from the fund, or describing a desirable succession plan in the absence of successor advisors.

6. REMAINDER

- This is sometimes known as the “Atom Bomb Clause” because it anticipates a failure of the succession plan, such as the absence of the Donor and all named successors.
- The default language in this section names the Unrestricted Charitable Fund at ETCF, an endowed fund which is currently used to support a variety of charities in Smith County or the East Texas area. If desired, Addendum II should include a detailed expression of the Donor’s charitable interests as an alternative to the Unrestricted Charitable Fund.

B. ADDENDUM I – Transfer of Assets and Initial Investment

1. INITIAL TRANSFER OF ASSETS

- *check #1001 in the amount of \$5,000*
- *100 shares of General Electric common stock*
- *A gift from the estate of Mr. John Smith*
- *Contributions may be made by any person at any time and in any amount to fulfill the purpose of the fund*

2. INITIAL INVESTMENT – Donor should select from among the available investment allocation options. If no selection is made, funds will be placed in the moderate fund. A Donor establishing a fund of \$500,000 or greater may want to recommend a trusted investment advisor instead of the Foundation’s pooled investment funds. The Foundation welcomes the opportunity to work with area professional advisors to help donors reach their charitable goals.

C. ADDENDUM II – Designation of Successor Advisors and Succession Plan

The donor should contemplate his or her absence and give direction to the Foundation regarding who should succeed the donor as advisor to the fund, or how the Foundation should proceed following his or her death, resignation or incapacity. Addendum II also provides instructions for the Foundation regarding the remainder of the fund, should the succession plan fail.

- The detailed succession plan in Addendum II may be updated periodically to reflect the donor’s current legacy plan and to express the donor’s charitable wishes.
- The default language in the first section of Addendum II contemplates the naming of individual successor advisors, but the donor may prefer to describe a specific permanent or non-permanent plan of distribution in lieu of naming successor advisors. This election can

be made by selecting and completing the appropriate sections of Addendum II.

Successor Donor Advisors

- An individual establishing a donor-advised fund may name his or her spouse as the immediate successor, then name their children
- A couple establishing a donor-advised fund may name one or more of their children in a particular order of succession, or they may name their children to act together as co-successor advisors to the fund
- Certain situations, such as including other adult advisors to assist minor children prior to their reaching a certain age, can also be included in this section.
 - *Until one of the named successors reach the age of 18, the donor recommends Mr. Frank Jones to serve as Co-Advisor with the successor advisor.*
- As an alternative to naming individual successor donor advisors, some donors prefer to provide a detailed charitable distribution plan for the Foundation to follow immediately upon their death, resignation or incapacity. To bypass naming successor advisors, a donor should leave this section blank and complete the next section detailing an alternative succession plan.

Succession Plan

- The succession plan is triggered by one or more events such as the death of the donor or the absence of all named successor advisors. The donor should select or describe which event triggers the succession plan. This set of instructions is sometimes known as the “Atom Bomb Clause” because it anticipates the absence of all named successor advisors and provides further charitable instructions for the Foundation.
- The default language in this section names the Unrestricted Charitable Fund at ETCF, an endowed fund which is currently used to support a variety of charities in Smith County or the East Texas area. If desired, this section should include a detailed expression of the Donor’s charitable interests as an alternative to the Unrestricted Charitable Fund.
- As examples, in lieu of the Unrestricted Charitable Fund, the donor may direct the remaining balance of the fund to be used in the following manner:
 - *Upon the Foundation’s receipt of notice of the resignation, incapacity, or death of the Donor, the balance of the Fund shall be used to create a permanent Fund which shall make annual distributions in keeping with the history of the Fund.*
 - *Upon the Foundation’s receipt of notice of the resignation, incapacity, or death of the Donor, the balance of the Fund shall be transferred to create the John and Margaret Smith Scholarship Fund at ETCF to be awarded to an outstanding graduating senior from John Tyler High School who plans to pursue a career in science.*
 - *Upon the Foundation’s receipt of notice of the resignation, incapacity, or death of the Donor, the balance of the Fund shall be distributed to create a separate donor-advised fund for each of the Donor’s surviving children.*
 - *Upon the Foundation’s receipt of notice of the resignation, incapacity, or death of the Donor, the balance of the Fund shall be distributed to the following list of charities.*

The Foundation’s staff is available to meet with interested donors to help them think through the various options available in the creation of a donor-advised fund. Significant modifications to the standard donor-advised fund language may require additional consideration and approval by the Foundation’s board of directors.