

**Community Foundation Santa Cruz County
Donor-advised Fund Agreement
for the
Jane and Joe Donor Family Fund**

This Donor-advised Fund Agreement (this “Agreement”) is made effective as of May 13, 2020 (the “Effective Date”) by and between Jane and Joe Donor (“Donors”) and COMMUNITY FOUNDATION SANTA CRUZ COUNTY (“Foundation”), a California nonprofit public benefit corporation, to establish a charitable fund at the Foundation. This Agreement sets forth the terms and conditions that will apply to said Fund beginning on the date of the initial contribution to the Fund.

Agreement, Part A

1. Initial Contribution

The initial contribution must be a minimum of Twenty-five Thousand Dollars. The Donors hereby irrevocably transfer or will cause to be transferred to the Foundation for deposit in the Fund as the initial contribution to the Fund the following asset(s):

2. Fund Establishment and Fund Name

Upon acceptance of the initial contribution by the Foundation, a fund shall be established on the books of the Foundation, which shall be known as the “Jane and Joe Donor Family Fund” (the “Fund”).

3. Fund Purpose

The Fund’s general purpose is to promote and further the Foundation’s charitable purposes as set forth in the Foundation’s Articles of Incorporation and Bylaws.

4. Type of Fund

Nonendowed Donor-advised Fund. It is intended that the Fund will continue as long as the need for it exists and as long as assets continue to be held in the Fund for the charitable purposes described above. For the avoidance of doubt, the Fund is not an endowment fund, and the Foundation’s Board of Directors may, in its sole and absolute discretion and taking into consideration advice and recommendations by advisor(s) to the Fund, if any is appointed and serving as provided in Part A, Section 8 below (“Fund Advisors”), make distributions out of the Fund’s principal and income in any amount of \$250 or more.

5. Fund Investment Pool Selection

Donors wish the Fund Assets to be invested in the Socially Responsible Long-Term Pool as described in Part B, Section 1 of this Agreement.

6. Foundation Services Fee

The Foundation Services Fee helps to cover management services that the Foundation provides directly to the Fund. The Foundation Services Fee also supports the services of the Foundation which benefit our community. These include, but are not limited to programs 1) that assist donors, 2) educate and strengthen local nonprofits, and 3) build regional partnerships to address critical local issues.

The Foundation shall charge your Donor-advised Fund a monthly Foundation Services Fee, determined as follows:

The annualized Foundation Services Fee for this fund will be an amount equal to:

- (a) 1.50% of the Fund balance, if the balance is less than \$1,000,000; or
- (b) 1.25% of the Fund balance, if the balance is between \$1,000,000 and \$1,999,999;
or
- (c) 1.00% of the Fund balance, if the balance is between \$2,000,000 and \$4,999,999;
or
- (d) 0.75% of the Fund balance, if the balance is \$5,000,000 or more.

Based upon the foregoing annualized Foundation Services Fee formula, the monthly Foundation Services Fee for your donor-advised fund will equal (a) 0.125%, or (b) 0.104167%, or (c) 0.083333%, or (d) 0.0625% of the Fund balance as of the last day of the month. The Foundation Services Fee will be due and payable in arrears on a monthly basis.

In the event the aggregate amount of Foundation Services Fee paid out of the Assets for the year is less than \$450, the difference in the two amounts shall be due and payable and shall be deducted from the Assets.

7. Dissolution of the Foundation

If the Foundation is dissolved, or for any reason ceases to hold or administer the Fund or otherwise to carry out its obligations under this Agreement, the net assets of the Fund will be distributed to such charitable organization(s) as the Foundation's Board of Directors may select, giving consideration to advice offered by the Fund Advisor(s), if any. Such distributions will be subject to the provisions of the Foundation's Articles of Incorporation and Bylaws and applicable law.

8. Fund Advisors

a. The Donors will serve as initial Fund Advisors.

b. If the Donors serve as Fund Advisor(s), then the Donors may appoint an individual to serve as a successor Fund Advisor when no Donor is willing or able to serve as a Fund Advisor. The Donors may make such appointment at any time in a written notice to the Foundation. Notwithstanding any other provision of this Agreement, no person shall be entitled to serve as a Fund Advisor unless such person (i) has been appointed by the Donors in writing and such appointment has not been revoked, and (ii) shall have reached eighteen (18) years of age.

c. Fund Advisor(s) may consult with, advise and make recommendations to the Foundation with respect to the timing and amounts of distribution from the Fund. Recommended distributions shall be in amounts of at least Two Hundred Fifty Dollars (\$250). The Foundation may rely conclusively on any advice or recommendation communicated to the Foundation by any of the Fund Advisors. While applicable law requires the Foundation to retain sole and absolute discretion over distributions from the Fund, the Foundation will consider and evaluate all advice and recommendations by the Fund Advisor(s).

d. When there are no longer any Fund Advisor(s). If the Fund is inactive as described in the Foundation's Inactive Fund Policy or there are no longer any individuals named by a Donor to serve as Fund Advisor, there will be no further Fund Advisor, the Fund shall cease being a donor-advised fund, and the assets remaining in the Fund at such time shall be allocated among grantmaking funds at the Foundation which most closely align with the grantmaking from the Fund.

9. Prohibited Distributions

Consistent with applicable law, Fund assets shall not be used:

a. to satisfy any pledges made by the Donors, any Fund Advisor(s), or any of their respective family members and related parties (collectively, the "Related Parties");

b. to provide any grant, loan, compensation, or similar payments to any Related Party; or

c. to pay any membership dues, or to purchase any sponsorships, tickets, seats or tables at events, whether or not for charitable purposes, that would result in a benefit to any Related Party;

d. for any other purpose that would provide a benefit to any Related Party (other than an insubstantial benefit accruing to any such persons as members of the general public);

- e. to provide distributions to any individual;
- f. to provide distributions to any entity that would require the Foundation to exercise “expenditure responsibility” (as described in Internal Revenue Code Sections 4966(c) and 4945(h)) unless approved by the Foundation in the specific instance;
- g. to provide any distributions to any “disqualified supporting organization” (as defined in Internal Revenue Code Section 4966(d)(4)); or
- h. to provide distributions for any purposes other than those specified in Internal Revenue Code Section 170(c)(2)(B). By way of illustration, but not of limitation, no Fund assets shall be used for lobbying or to influence the outcome of any election for public office.

10. Inactive Donor-advised Fund Policy

In order to carry out its mandate of distributing charitable dollars to the community, the Foundation periodically reviews the grantmaking activity of all Donor-advised Funds. Currently, the Foundation’s Inactive Fund Policy, as approved by the Foundation’s Board of Directors is as follows.

- a. The Foundation contacts donor advisors at least annually and encourages them to retain an active role in their Donor-Advised Fund.
- b. If a Donor-Advised Fund has made no grants for two consecutive full calendar years, the Foundation will contact the donor advisor to encourage grantmaking and discuss intentions for the fund. They will be notified of our inactive fund policy.
- c. If the advisor is unresponsive and/or the fund does not make any grants for another year (three consecutive full calendar years with no grants) the advisor will be given written notice via registered letter encouraging grantmaking and notifying them of our inactive fund policy.
- d. In the event that the fund has made no grants and the advisor cannot be located or is unresponsive after another year, making the fund inactive for a total of four consecutive full calendar years, the fund will be considered as no longer having a donor advisor and will be terminated and administered as per the provisions stated in the fund agreement. Should there be no such provisions in the fund agreement, the fund will be transferred per the Foundation’s variance power to the Foundation’s Unrestricted Endowment Fund or to one of the Foundation’s endowed Field of Interest Funds taking into consideration the fund’s previous grant history.

End of Part A – No further text on this page.

**Agreement
for the
Jane and Joe Donor Family Fund**

Agreement, Part B

1. Asset Management and Investment Pool Descriptions

a. Asset Management. The Foundation will hold, manage, invest and reinvest the Assets as part of the Foundation's investment portfolio consistent with the Foundation's investment policy, a copy of which is available upon request. Although the Assets may be commingled with other assets of the Foundation, the Fund's separate identity will be maintained.

b. Choice of Investment Pool. The Assets will be managed in the investment pool set forth in Part A, Section 5 of this Agreement.

There are several choices available depending on the expected duration of the Fund and the Donors' risk tolerance. Nonendowed funds may be invested in any one of the Foundation's Investment pools described below.

Long-Term. Invested for long-term growth in accordance with the Foundation's investment policy.

Socially Responsible Long-Term. Invested with same target return and asset allocations as the Long-Term Pool, with a preference toward three areas:

- i. *Socially Responsible Investing (SRI).* An exclusionary approach that seeks to avoid investing in companies whose products or services are ethically and environmentally questionable or controversial.
- ii. *Environmental, Social, and Governance (ESG).* An integrative approach that seeks to include companies that have been identified as "best-in-class" when evaluated against key environmental, social, and governance metrics.

iii. *Impact Investing.* An approach that seeks investments that deliver social good within our community, as well as competitive financial returns.

Short Duration Fixed Income. Invested primarily in short-duration bonds.

Capital Preservation. Highly liquid cash and equivalents.

c. The Donors or Fund Advisor(s), may recommend once per calendar

year that the Fund Assets be moved into another investment pool by submitting its recommendation to the Foundation in writing, which recommendation will be considered and evaluated by the Foundation. Approved changes will be effective by the end of the month following the month the request is received (e.g., If the request is received in March, the fund will be moved no later than April 30).

2. No Guarantee of Investment Return

a. Rate of Return. The Foundation does not guarantee that the Fund will earn a particular rate of return with respect to the investment of the Assets; rather, the Assets shall be invested in the investment pool selected in accordance with Part A, Section 5 above and shall earn the identical return on those assets in said investment pool that the Foundation earns with respect to its other assets invested in that particular investment pool. All income and capital gains or losses of the investment pool in which the Assets are invested shall be allocated to the Fund on a monthly and pro rata basis, based upon the ratio that the value of the Assets invested in the investment pool bears to the aggregate value of all assets invested in said pool.

b. Diminution of Value. The Foundation will not be liable for any diminution in value of the Assets, including, but not limited to, losses directly or indirectly caused by acts of war, acts of terrorism, labor disputes, exchange or market decisions, including the suspension of trading, market volatility, trade volume, or by government restriction or otherwise.

3. Fees and Expenses Description

a. Foundation Services Fee. The Foundation Services Fee helps to cover management services that the Foundation provides directly to the Fund. The Foundation Services Fee also supports the services of the Foundation which benefit our community. These include, but are not limited to programs 1) that assist donors, 2) educate and strengthen local nonprofits, and 3) build regional partnerships to address critical local issues. The Fund shall be charged the Foundation Services Fee as determined in accordance with the formula set forth in Part A, Section 6 ("Foundation Services Fees Charged"). Said formula is subject to change from time to time on advance notice of such change to the Donors or Fund Advisor(s), if any.

b. Investment Management Fees. Investment management and other fees and costs charged by the investment managers managing the investment pool in which the Assets are invested shall be allocated and charged to the Fund on a pro rata basis, based upon the ratio that the value of the Assets invested in said investment pool bears to the aggregate value of all assets invested in said pool.

c. Direct Expenses. In addition to the Investment Management Fees described in Part B, Section 3(b) above, the Foundation may, from time to time, incur third-party expenses in connection with the administration of the Fund, including but not limited to legal, accounting, credit card fees and other professional fees and

related charges (collectively, the "Direct Expenses"). Such Direct Expenses shall be allocated and charged to the Fund. Where such Direct Expenses relate to one or more investment pools in which Assets were invested, they will be allocated and charged to the Fund on a pro rata basis, based upon the ratio that the value of the Assets invested in the applicable investment pool bears to the aggregate value of all assets invested in said investment pool.

d. Donors' Expenses. The Donors shall be responsible for payment of all fees to the Donors' own professional advisors (attorney, accountant, financial advisor, etc.) involved in the set-up of the Fund.

e. Payment of Fees and Expenses.

i. *Foundation Services Fee.* The Foundation Services Fee shall be due and payable in arrears and shall be deducted from the Assets on the last day of each month.

ii. *Investment Management Fees.* The Investment Management Fees shall be deducted from the Assets in accordance with agreements between the Foundation and the applicable investment managers for the pool or pools in which the Assets are invested.

iii. *Direct Expenses.* The Foundation shall be entitled to reimbursement for Direct Expenses out of the Assets. The Foundation shall deliver to the Donors or Fund Advisor(s), if any, a notice of its intent to be reimbursed within fifteen (15) days in advance of the applicable reimbursement.

4. **Additions to Fund**

a. It is anticipated by the Donors and the Foundation that, from time to time, other assets may be contributed to the Fund. Contributions of cash and marketable securities may be accepted and deposited into the Fund at any time. The Foundation will have the discretion to accept or refuse any non-cash contributions. All of the property transferred to the Foundation for deposit in the Fund, including additional contributions and any net income, minus any net losses derived from the investment of such property as provided herein shall be collectively referred to as the "Assets" and shall be administered and distributed in accordance to the provisions of this Agreement, including, without limitation, for the purpose set forth in Part A, Section 3 of this Agreement.

b. Any materials (including materials in written or electronic form or intended for broadcast) designed to raise money for or to otherwise publicize the Fund must be submitted in writing for review by the Foundation. No such materials shall be used without the Foundation's prior approval.

5. Ownership of Assets

All gifts and contributions made to the Fund are irrevocable and become the sole property of the Foundation. The assets of the Fund will, at all times, be the property of the Foundation, held by the Foundation in its corporate capacity as a component fund of the Foundation under Treasury Regulation Section 1.170A-9(e)(11), and the Fund will not be deemed a trust fund held by the Foundation in a trustee capacity. The assets of the Fund will be reported as assets of the Foundation for both tax reporting purposes and for purposes of the Foundation's financial statements.

6. Reports

The Foundation shall report to the Donors or Fund Advisor(s), if any the investment performance of the investment pool in which the Assets are invested. Reporting shall be made on a quarterly basis approximately thirty (30) days following the end of each calendar quarter during the term. Audited annual financial statements of the Foundation will be made available on our web site and upon request.

7. Compliance with Internal Revenue Code

Nothing in this Agreement shall affect the status of the Foundation as an organization described in Internal Revenue Code Section 501(c)(3), and as an organizations that is not a private foundation within the meaning of Section 509(a) of said Code. This Agreement shall be interpreted to conform to the requirements of the foregoing provisions of the Internal Revenue Code and any regulations issued pursuant thereto. The Foundation is authorized to amend this Agreement to conform to the provisions of any applicable law or government regulation.

8. Variance Power

The Donors acknowledge and agree that the Fund and all of the Assets will be administered by the Foundation in accordance with the terms and conditions of the Foundation's Articles of Incorporation and Bylaws, and applicable California and Federal statutes as may be amended from time to time. The Donors also acknowledges that, notwithstanding any provision contained in this Agreement to the contrary, the Foundation's Board of Directors has the sole variance power to modify any restrictions or conditions imposed upon the Fund or the Assets if, in the judgment of the Foundation's Board, such restriction becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable purposes or needs served by the Foundation.

9. Miscellaneous

a. The Fund assets shall be administered and this Agreement and the validity thereof shall be governed by and construed in accordance with the laws of the State of California, without regard for the conflicts of laws principle thereof, and the applicable provisions of the Internal Revenue Code, as the same may be amended from time to time.

b. The captions of this Agreement are included for convenience only and shall in no way define or limit any of the provisions hereof or otherwise affect their construction or effect.

c. Neither party may assign any of its rights or delegate any of its duties under this Agreement. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors.

d. If in any jurisdiction any provision of this Agreement or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of the restriction, prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction or its application to other parties or circumstances.

e. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were upon the same instrument.

f. This Agreement may not be modified except by written instrument signed by both the Foundation and the Donors and only as consistent with all applicable state and federal law; provided, however, that while restrictions, if any, imposed by the Donors upon the Fund may be removed by an amendment to this Agreement, no such restrictions may be changed and no new restrictions may be added by the Donors.

g. This Agreement, together with the exhibits and other documents referred to herein, contains the entire agreement of the Donors and the Foundation concerning the subject matter hereof and supersedes all prior and contemporaneous negotiations, correspondence, understanding, letters of intent, and agreements, whether verbal or written, between the parties regarding the subject matter hereof.

End of Part B, no further text on this page

**Agreement
for the
Jane and Joe Donor Family Fund
Signature Page**

IN WITNESS WHEREOF, the Donors and the Foundation have caused this Agreement to be executed as of the date written above on Part A, page 1.

DONOR

Jane Donor

Street Address

City, State, Zip

dschoeck@cfsc.org

**COMMUNITY FOUNDATION
SANTA CRUZ COUNTY**

DONOR

Joe Donor

Street Address

City, State, Zip

dschoeck@cfsc.org

Susan True

Chief Executive Officer

7807 Soquel Drive

Aptos, CA 95003

**Get more details on Donor-Advised Funds by contacting
Hilary Bryant, Donor Services Director
at 831.662.2065 or hbryant@cfsc.org
Or take the next step and fill out your agreement form today:
www.cfsc.orgDAFsignup**