

PART I: GENERAL TERMS

1. TAX STATUS OF FUNDS

Donor funds established at the Kirkland Parks & Community Foundation (the "Foundation") are component funds of the Foundation, a Section 501(c)(3) charity. Accordingly, all contributions to the Foundation's donor funds are treated for tax purposes as gifts to a Section 501(c)(3) public charity and generally are tax deductible, subject to individual and corporate limitations. Contributions are irrevocable, permanent gifts to the Foundation and cannot be returned nor withdrawn.

2. VARIANCE POWER

All donor funds established at the Foundation are subject to the Foundation's "variance power." The variance power gives the Foundation the authority to modify any donor recommendation or condition on distributions from a fund for any specified charitable purpose or to any specified charitable organization if, in the sole judgment of the Foundation, such recommendation or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community.

3. SPENDING POLICY

The Foundation anticipates distributions from each fund at least annually of an appropriate percentage of the fund's market value, as determined by the Foundation's Board of Trustees. In determining the annual distribution amount, the Foundation's Board of Trustees may consider the expected total return on the investments of the Foundation's permanent funds, the desirability of maintaining the value of the Foundation's permanent funds, and any other factors that it deems relevant. The Foundation reserves the right to spend up to the entire amount of any fund, if by the terms of the donor gift and Foundation's policies, the Foundation determines that such expenditures better satisfy the donor's intentions than a limitation on expenditures.

4. DISTRIBUTIONS

The annual minimum grant distribution from a fund can be found in the Supporting Fee Schedule.

5. RESTRICTIONS ON GRANTS FROM FUNDS

- Distributions from donor funds established at the Foundation will be made only if they are consistent with the Foundation's charitable purposes, satisfy community needs identified by the Foundation as deserving of its support, and are compliant with applicable law. Fund distributions will not be made for memberships, sponsorships, tickets, or for any purpose that would otherwise provide a private benefit to the donor or advisors recommending the distribution.
- Fund distributions may not include loans, compensation, expense reimbursements or similar payments to donors or advisors.
 - Donors and advisors include the donor and any person appointed or designated by the donor who reasonably expects to have advisory privileges with respect to the distribution.
 - The prohibition on private benefit covers the donor family members: the donor, the donor's spouse, ancestors, children, grandchildren, great grandchildren, brothers, sisters, and any of their spouses, as well as thirty-five percent (35%) controlled entities.
- It is the Foundation's policy that distributions from donor funds may not be made to any specific individual or to organizations that are not described in Section 170(b)(1)(A) or that would result in a taxable distribution.
- Distributions from donor funds will not be made for political campaign or legislative activities.

6. INVESTMENT OF ASSETS

All assets contributed to funds established at the Foundation will be managed by the Foundation. The Foundation funds may be pooled for investment purposes. The Foundation's Investment Committee makes investment decisions for all assets of the Foundation. The Foundation's Board of Trustees approves the recommendations made by the Investment Committee. IRS and Treasury regulations prevent fund donors (those who establish a fund) from making specific investment decisions. Refer to the Foundation's Investment Policy for more details on investment objectives.

7. FEES

Donor funds established at the Foundation are subject to administrative and investment fees. The Foundation reserves the right to change its fee structure at any time. See Supporting Fee Schedule.

8. MINIMUM ANNUAL ADMINISTRATIVE FEE

Donor funds will be charged a minimum annual administrative support charge. Funds that have not been assessed this minimum (or a prorated equivalent for funds opening mid-year) by the end of the calendar year will be charged the difference in January of the following year. See Supporting Fee Schedule.

9. MINIMUM FUND BALANCE

The donor agrees to maintain a minimum asset balance in the fund. If the fund does not maintain a minimum balance for more than one quarter, the Foundation will contact the donor to obtain additional contributions to raise the asset value above the minimum. If the fund does not achieve and maintain a balance for three consecutive quarters, the Foundation may transfer the fund balance to its unrestricted Operating Fund and terminate the fund. See "Termination of Fund" below. See Supporting Fee Schedule.

10. INACTIVE FUNDS

In order to carry out its policy of consistently distributing charitable dollars to the community, the Foundation will review periodically the grantmaking activity of every advised fund. If a fund has failed to make distributions commensurate in size with the Foundation's spending policy over a two-year period, the Foundation will contact the advisor(s) to discuss this situation. At that time, the advisor(s) will be given the following options:

- Recommend that the balance of the fund be granted to one or more Section 501(c)(3) public charities of their choice.
- Recommend that the balance of the fund be used to support the community grant making program, where funds will be distributed by the Foundation to meet the most pressing needs of the community. The advisor may also indicate an area of interest, which can also be benefited through the community grant making program.
- Provide a plan for funding a specific charitable project that requires an accumulation of resources for more than a two- year period.

In the event that the advisor(s) cannot be located or is unresponsive, the balance of the fund will be used to support the Foundation's unrestricted operating fund or other purpose per the discretion of the Foundation's Board of Trustees.

11. TERMINATION OF A FUND

If the Foundation is unable to generate grant recommendations and/or obtain additional contributions from the donor when the fund is inactive and/or the fund drops below the minimum balance for three (3) consecutive quarters, the Foundation may transfer the fund balance to its unrestricted Operating Fund, and will terminate the fund. The Foundation will send the donor a 90-day notice of termination of the fund. Individual donors may also assign one generation of successor to advise the fund after the original donors are deceased. After the death of the successor advisors, the fund automatically reverts to the Foundation.

12. SOLICITATION POLICY

Donors who wish to solicit contributions for a fund at the Foundation must receive advance approval from the Foundation and are required to use the following language in any solicitation: "Funds raised at this event (or for this cause) will be added to the [insert name] Fund at the Kirkland Parks & Community Foundation, a Section 501(c)(3) organization (the "Foundation"). The Foundation may disburse grants from the fund as recommended by [insert name] Fund (the "Fund") advisors or as community needs dictate. All checks should be made payable to the Kirkland Parks & Community Foundation/[insert name] Fund. The Kirkland Parks & Community Foundation will not provide any goods or services to you in exchange for a contribution to the [insert name] Fund. As a component fund of the Foundation, the Foundation has the authority to redirect distributions from the Fund if it becomes necessary to protect donor intent or otherwise comply with the terms and conditions of the Fund."

13. CONFLICT OF TERMS

In the event of an inconsistency between these terms and conditions, and any terms and conditions appearing elsewhere in connection with any fund, these terms and conditions as interpreted by the Foundation shall govern, and the Foundation reserves the right to take any actions at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any fund or the Foundation.

14. DISPUTES

Exclusive jurisdiction over and venue of any suit arising out of or relating to these Fund Terms and Conditions will be in the Superior Court of King County, Washington, or the Federal District Court for the Western District of Washington. Notwithstanding the foregoing, unless provided otherwise by applicable law, the parties agree that any dispute arising from these Fund Terms and Conditions, any terms and conditions appearing elsewhere in connection with any fund, or related agreements shall be resolved through good faith discussions between the parties over a period of thirty (30) days. If the dispute is not resolved through good faith discussions between the parties, the dispute will be subject to binding arbitration in King County, Washington, or, if agreed to by the parties, mediation in King County, Washington, within seventy- five (75) days of the date one party gives notice to the other of a claim.

Any party may submit the matter for final determination to binding arbitration. The arbitration shall be conducted by a single arbitrator experienced in the matters at issue and selected by the parties in accordance with the rules and procedures required by such arbitrator. If the parties cannot agree upon a single arbitrator, the Foundation shall select three (3) arbitrators who are then practicing in King County, Washington, and the other party shall select a single arbitrator from that list of three (3) arbitrators, who shall be the arbitrator to resolve the

dispute. The fees and costs of the arbitrator shall be borne equally by the parties hereto. The arbitrator shall make his or her award in writing and the award will be binding on all parties. Any judgment upon any award, which may include an award of damages, may be entered in any court having jurisdiction thereof. In any dispute between the parties arising out of or under this Agreement, whether or not arbitration or litigation is commenced, the substantially non-prevailing party shall pay the substantially prevailing party's reasonable attorneys' fees, accounting fees and other costs.

In the event of a dispute between the parties arising from this Agreement, each party foregoes and expressly waives any right to a trial by jury or the right to bring a claim in court, individually or as a member of a class or collective action, against the other party. This provision is mandatory.

PART II: TERMS APPLICABLE TO SPECIFIC FUNDS

1. DONOR ADVISED FUNDS

- A. **Characteristics of Donor Advised Funds:** Donors establishing advised funds are encouraged to make recommendations regarding distributions from the fund for specific charitable purposes or to one or more charitable organizations. Donor advice will be considered only if offered in writing (including facsimile transmission or electronic correspondence) by the donor(s), or by an advisor(s) or successor advisor(s) to the fund, as designated in writing by the donor(s).

- B. **Role of Advisors**
The Foundation welcomes the involvement and recommendations of its donors with respect to distributions from advised funds, but such recommendations are advisory only and are in no way binding upon the Foundation. In evaluating recommendations for distributions from advised funds, the Foundation staff investigates all prospective grant recipients to ensure that they are organized and operated for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code; reviews the recommended grantee's financial and program information; and evaluates the advice of donors against the standards and criteria set forth in the Foundation's operating guidelines to ensure that such advice is consistent with specific charitable needs identified by the Foundation as deserving of support and complies with applicable law.

In all cases of two or more advisors, the advisors shall appoint one Primary Advisor and all communications to and from the Foundation will be through the Primary Advisor. In addition, if the advisor(s) fails to make a standing distribution recommendation or fails to make any distribution recommendations for two (2) consecutive years, the Foundation will contact the advisor(s) to discuss this situation (see *"Inactive Funds"* section for more details).

- C. **Appointment of Additional Advisors**
All requests to appoint additional advisors and successor advisors to an advised fund must be communicated to the Foundation in writing by the donor(s) establishing the fund. If upon the death, resignation, or incapacity of an advised fund's donor(s), the Foundation has not received in writing the names of an additional advisor(s) or successor advisor(s) to the fund, the Foundation will use the fund's balance to support the Community Grantmaking Program to address the most pressing needs in the community or other purpose per the discretion of the Foundation's Board of Trustees.

Donor advised funds established by private foundations, trusts, corporations, and nonprofit organizations, rather than by individuals, are often advised by an appointed committee with a process for selecting new members. Any changes in advisors to the fund must be made in writing by an officer or authorized representative of the corporation or nonprofit organization that established the fund.