Endaoment

# Donor Advised Fund Agreement (Altruist Custody)

THIS DONOR ADVISED FUND AGREEMENT (this "**Agreement**") is entered into as of [EFFECTIVE_DATE] (the "**Effective Date**") by and between:

**Endaoment**, a California Nonprofit Public Benefit Corporation and 501(c)(3) public charity, with its principal office at 40 Bernal Heights Blvd San Francisco, CA ("**Endaoment**"),

and

the individual or entity identified in the Intake and Joinder Form attached as Appendix A (the "**User**").

Endaoment and the User may each be referred to individually as a "**Party**" and collectively as the "**Parties**."

This Agreement governs the donor advised fund described herein (the "**Fund**") sponsored by Endaoment and custodied with Altruist Financial LLC ("**Altruist**") as provided in Section 10. By completing and assenting to the Intake and Joinder Form attached as Appendix A (including through the Altruist or Endaoment interface), the User agrees to this Agreement in the role(s) selected therein. The Donor must assent to this Agreement before the Fund may accept any contributions; until then the Fund remains a shell under Section 4(d).

**1. DEFINED TERMS.** In this Agreement, the following capitalized terms have the meanings set forth below. Other capitalized terms are defined where they first appear.

- "**Code**" means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

- "**Primary Advisor**" means the single Fund Advisor with the appointment and succession privileges described in Section 7. A Fund has exactly one Primary Advisor, who is either one natural person or one entity (for example, a spouses' trust); two natural persons may not serve as co-Primary Advisors. The Primary Advisor seat is an operating seat only; Fund assets remain the exclusive property of Endaoment.

- "**Collaborator**" means an additional Fund Advisor who is not the Primary Advisor.

- "**Donor**" means the single person or entity identified as the Donor in the Intake and Joinder Form attached as Appendix A and recorded as such by Endaoment, being the primary contribution source for the Fund, or a pass-through or proxy contributor acting for that source (including an estate, trust, or LLC), as further described in Section 2. A Fund has one Donor.

- "**Fund**" means the donor advised fund established under this Agreement, consisting of property transferred to Endaoment and accepted for inclusion in the Fund, and all income therefrom.

- "**Fund Advisors**" means, collectively, the Primary Advisor and all Collaborators with respect to the Fund (each, a "**Fund Advisor**"). Each Fund Advisor serves in such role in their individual capacity and not as agent of the Donor or any other person or entity.

- "**Fund Policies**" means Endaoment's Fund Policies & Procedures, as may be amended from time to time, together with any other Endaoment policies applicable to the Fund.

- "**Successor Advisor**" means a person designated in a written Successor Plan accepted by Endaoment to assume one or more Fund Advisor seats upon the trigger conditions stated in that plan, as further described in Section 7.

- "**Terms and Conditions**" means Endaoment's Terms and Conditions, as may be amended from time to time.

- "**PII**" means the identifying information collected in Appendix A (legal name, mailing address, and email).

- "**User**" means the individual or entity executing or assenting to this Agreement (or a Joinder under Section 8) in one or more roles.

## 2. DONOR REQUIREMENT; DEFAULT PRIMARY ADVISOR.

**a. Donor Required.** A majority of contributions to the Fund must come from the Donor or from a pass-through or proxy (including an estate, trust, or LLC) acting for or at the direction of the Donor. The Donor is determined at Fund intake and does not change by reason of any subsequent contribution to the Fund, including any contribution made without the Donor's knowledge. Updates to Donor contact information or other PII through the interface do not change the Donor identity recorded under Appendix A. Subsequent contributions do not, by themselves, change the Fund's characterization as a donor advised fund under this Agreement. If an arrangement never has a Donor meeting this majority-contribution rule, Endaoment may structure it as a Community Fund or other non-DAF product under Endaoment's then-current terms rather than under this Agreement.

b. **Default Seats.** Unless otherwise noted in the Intake and Joinder Form attached as Appendix A or Endaoment's records, the Donor is also the Primary Advisor. The Donor and Primary Advisor seats may be held by different persons when family, related parties, or a hired professional advise the Fund, subject to Section 3.

c. **Irrevocable Gift.** Delivery of property accepted by Endaoment for inclusion in the Fund constitutes an irrevocable charitable contribution to Endaoment. Endaoment has exclusive ownership, variance power, and legal control over all property in the Fund, and complete and sole discretion over all Fund assets and the income derived therefrom, dedicated to furthering Endaoment's charitable, educational, and scientific purposes. Except for the advisory privileges conferred through the Fund Advisor structure under this Agreement, the Donor has no additional rights as Donor with respect to the Fund once a contribution is accepted.

**3. ELIGIBILITY; PROFESSIONAL AUTHORITY.**

a. **Eligibility.** Each Fund Advisor must be either (i) a family member of, or otherwise related to, the Donor, or (ii) a hired professional acting for the Donor (for example, a registered investment adviser, attorney, or accountant). Endaoment determines relatedness in onboarding (including, where the Donor is an entity, affiliation with that Donor) and may refuse any Advisor. Hired professionals must satisfy the authority attestation in Section 3(b).

b. **Professional Authority Attestation.** Any Fund Advisor who is a hired professional for the Donor represents and warrants that the professional already holds a limited power of attorney (LPOA) or comparable discretionary authority for the Donor elsewhere (for example, at a brokerage or advisory firm). This Agreement does not create, and Endaoment does not issue, any LPOA or similar instrument. Nothing in this Section grants a Fund Advisor ownership or legal control over Fund assets.

**4. FUND STATUS; SHELL AND DONOR ASSENT.**

a. **Donor Advised Fund Status.** The Fund shall be a charitable donor advised fund as defined in Section 4966(d)(2) of the Code, administered under this Agreement and the Fund Policies.

b. **Tax Status.** Endaoment is a charitable organization described in Section 501(c)(3) and Section 509(a)(1) of the Code, and a sponsoring organization of donor advised funds described in Code Section 4966(d)(2).

c. **Establish Date.** The date on which the Fund is created in the Altruist or Endaoment interface constitutes the “establish date” of the Fund for operational purposes. A Fund may exist as a shell (including after establish date) before it is open for donations.

d. **Shell; Open Only After Donor Assent.** Until the Donor has assented to this Agreement (by checkbox assent and submission of required PII via Appendix A, in writing or through the Altruist or Endaoment interface), the Fund is a shell and is not open for donations. No contributions may be accepted into the Fund until Donor assent is complete. Appointment of a Primary Advisor or Collaborator before Donor assent does not authorize funding.

e. **Component Part.** The Fund shall be a component part of Endaoment and not a separate trust. Nothing in this Agreement shall affect Endaoment’s status as an organization described in Section 501(c)(3) of the Code that is not a private foundation within the meaning of Section 509(a) of the Code. Endaoment may amend this Agreement to conform to applicable law or regulation to carry out that intention. References to the Code include corresponding provisions of any future Internal Revenue Code.

f. **No Obligation to Contribute.** Nothing in this Agreement obligates the Donor or any Fund Advisor to make any contribution to the Fund.

## 5. OWNERSHIP AND CONTROL; CHARITABLE PURPOSE.

a. **Ownership.** The Fund is the property of Endaoment and is not a trust fund held by Endaoment in a trustee capacity. Endaoment has exclusive ownership, variance power, and legal control over all property in the Fund and the income derived therefrom, for Endaoment’s charitable, educational, and scientific purposes.

**b. Charitable Purpose.** Fund assets are dedicated to, and shall be used for, Endaoment's charitable, educational, or scientific purposes, either directly or by contributions to other organizations for such purposes. For the avoidance of doubt, grants to religious organizations described in Section 501(c)(3) of the Code shall be permissible for charitable, educational, or scientific purposes.

**c. Termination of Advisory Privileges.** Upon termination, by death or otherwise, of the privilege of all Fund Advisors to make recommendations, the Fund shall cease to be a donor advised fund.

## 6. ADVISORY PRIVILEGES.

**a. Recommend-Only.** Fund Advisors may recommend grants, recommend investments (subject to any applicable Investment Management Agreement and Endaoment's Investment Policy), and exercise other Fund administration advisory privileges consistent with this Agreement and the Fund Policies. All such recommendations are solely advisory. Endaoment is not bound by any recommendation and retains exclusive ownership, variance power, and legal control over all Fund assets.

**b. Multiple Fund Advisors.** If the Fund has more than one Fund Advisor, any Fund Advisor may individually exercise advisory privileges unless the Primary Advisor instructs Endaoment otherwise in writing or through the Altruist or Endaoment interface. Upon the death, resignation, or removal of a Collaborator, remaining Fund Advisors retain their privileges, subject to Section 7.

**c. Investment Managers.** Where Fund assets are managed by a registered investment adviser under a separate Investment Management Agreement with Endaoment, discretionary investment authority and related duties are governed by that Investment Management Agreement. For clarity, the Primary Advisor is distinct from a "Manager" appointed under an Investment Management Agreement, which means the registered investment adviser. Appointment as a Fund Advisor under this Agreement does not itself grant custody of Fund assets or authority to execute trades.

## 7. CONTROL MATRIX; SUCCESSOR PLAN.

**a. Primary Advisor Powers.** The Primary Advisor may appoint Collaborators, may appoint a replacement Primary Advisor who is eligible under Section 3 (upon which appointment the prior Primary Advisor ceases to be the Primary Advisor), and may establish, modify, or revoke a Successor plan for the Fund, in each case in writing or through the Altruist or Endaoment interface and subject to Endaoment's acceptance. The Primary Advisor may exercise these powers while the Donor is alive or in existence, including when the Donor is not the Primary Advisor, subject to Section 7(b).

b. **Donor Removal.** The Donor may remove any Fund Advisor (including the Primary Advisor or any Collaborator) at any time, with or without cause, by notice to Endaoment in writing or through the Altruist or Endaoment interface. If the Donor removes the Primary Advisor, the Donor becomes the Primary Advisor unless the Donor names a qualified successor Primary Advisor.

c. **Primary Vacancy.** If the Primary Advisor seat becomes vacant by death, resignation, or removal, the seat always falls back to the Donor (who becomes Primary Advisor), except as Section 7(e) provides upon a Donor Succession Event.

d. **Collaborator Exit.** Upon a Collaborator's death, resignation, or removal, that Collaborator's privileges end, and the Primary Advisor may appoint a replacement Collaborator.

e. **Donor Succession Event; Successor Plan.** A "Donor Succession Event" means the Donor's death or, if the Donor is not a natural person, the Donor's dissolution, termination, or other cessation of legal existence. Upon a Donor Succession Event:

(1) **If the Donor was also the Primary Advisor at the time of the Donor Succession** Event and a written Successor plan accepted by Endaoment (the "Successor Plan") is then in effect, any designated Successor Advisors shall have the authority of the Primary Advisor or Collaborator, as the case may be, subject to any proof Endaoment reasonably requires.

(2) **If the Donor was also the Primary Advisor at the time of the Donor Succession** Event and no such Successor Plan is then in effect, the advisory privileges of all Collaborators shall terminate, and Endaoment may administer or terminate the Fund in accordance with the Fund Policies and applicable law.

(3) **If the Donor was not the Primary Advisor at the time of the Donor Succession** Event, the Fund shall continue to be advised by the Primary Advisor and any Collaborators.

f. **Successor Plan Contents.** A Successor Plan must identify the Successor nominee, the Fund Advisor seat(s) to be assumed (Primary Advisor and/or Collaborator), and the trigger conditions. A Successor Plan may not designate a successor Donor. Only the Primary Advisor may establish, modify, or revoke a Successor Plan under Section 7(a). Successor fields may be captured at intake under Appendix A or later under Section 7(a). Unless Endaoment expressly accepts a further written plan, succession under a Successor Plan is limited to one generation of Successor Advisors, and any successor Primary Advisor shall not have the authority to designate other Successor Advisors. Requests to modify or appoint a Successor Advisor must be communicated to Endaoment in writing or through the Altruist or Endaoment interface.

**8. COLLABORATOR JOINDER.** A person appointed as a Collaborator after the Effective Date shall assent to this Agreement by a short Joinder (in writing or through the Altruist or Endaoment interface) that incorporates this Agreement by reference, using the Joinder fields in Appendix A. The Joinder must include the same checkbox assent and PII fields set forth in Appendix A (legal name, mailing address, email, role checkbox for Collaborator, and date). Upon acceptance of the Joinder by Endaoment, the Collaborator becomes a Fund Advisor bound by this Agreement. Notwithstanding anything herein to the contrary, until Joinder assent is complete, an appointed Collaborator has no advisory privileges.

**9. GRANTS; NO DONOR BENEFIT.**

a. **Grant Recommendations.** Grants from the Fund of income or principal or both, within the limitations of this Agreement, shall be made at such times, in such amounts, in such ways, and for such charitable, educational, or scientific purposes as Endaoment determines. Grant recommendations will be reviewed and evaluated under the then-current Fund Policies.

b. **No Donor Benefit.** Fund assets may not be used for purposes that would constitute a prohibited benefit to one or more Interested Parties under Section 4967 of the Code. Each recommending Fund Advisor must affirm the following statement (including within the Altruist or Endaoment interface) before a grant may be processed. Failure to adhere may result in termination of advisory privileges and may affect the recipient organization's tax status.

> The grant recommended does not represent the payment of any pledge or other financial obligation of any donor, donor advisor, member of the family of any donor or donor advisor, or 35% controlled entity ("**Interested Parties**"). No Interested Party

will receive, directly or indirectly, any benefits resulting from this grant, including goods and services (such as auction items), admission to charitable events, payment of dues or membership, or discounts to the foregoing.

**c. Prohibited Grants.** In compliance with the Code, grants are generally not permitted to individuals; for non-charitable purposes; for political contributions or to support political campaign intervention activities; or for any purpose that would provide a prohibited benefit to a Donor, Fund Advisor, or other related parties. A Fund Advisor may be subject to tax penalties if the Fund's Donor, Fund Advisor(s), or other related parties receive benefits, goods, or services in connection with a grant recommendation. This includes grants to satisfy pledges made by any person including a Fund Advisor, and non-deductible (or partially tax-deductible) memberships, event tickets, sponsorships, registration fees in tournaments, and cause-related marketing activities. Grants are not allowed to private non-operating foundations.

**10. ASSET CUSTODY; CONVERSION.**

**a. Custody.** While this Agreement applies, liquid assets in the Fund are generally held on the Altruist investment platform (or in a Partner account), except when in transit to a recipient organization or as Endaoment otherwise directs.

**b. Conversion to Standard Fund Agreement.** If the Primary Advisor desires at any time to convert the Fund from Altruist channel custody under Section 10(a), or if that channel custody ends, the Primary Advisor may request conversion in writing or through the Altruist or Endaoment interface. Upon Endaoment's acceptance of that request and completion of any required operational steps, this Agreement will terminate with respect to the Fund, and the Fund will thereafter be governed by Endaoment's then-current standard Donor Advised Fund Agreement (as amended from time to time), including that agreement's fee structure and custody terms. Endaoment may also initiate such conversion if Altruist custody is no longer available for the Fund.

**11. ADMINISTRATIVE FEES.** Intraorganizational administrative fees will be transferred from the Fund to Endaoment's general funds as follows:

**a. Partner-Custodied Administrative Fee.** While the Fund's liquid assets are custodied with Altruist Financial LLC under this Agreement, Endaoment will assess an intraorganizational administrative fee against the Fund on an assets-under-management basis in accordance with the **Altruist Financial LLC Fee Schedule** for Endaoment-sponsored donor advised funds (as updated from time to time). The Altruist

Financial LLC Fee Schedule is the disclosure location for the AUM-based administrative fee applicable to the Fund and is the sole AUM-based administrative fee disclosed to the Donor for this purpose. The administrative fee under this Section is in lieu of the tiered inbound fee and the outbound distribution fee assessed under Endaoment's standard Donor Advised Fund Agreement, and no inbound or outbound fee is assessed on the Fund while its liquid assets are custodied with Altruist Financial LLC under this Agreement. The fee is accrued daily and billed periodically in accordance with Endaoment's then-current operational practices. Any changes to Endaoment's administrative fee under this Section will be effective upon written notice to the Donor and the Primary Advisor, and will not become effective solely by posting or updating the Altruist Financial LLC Fee Schedule.

b. **Illiquid and Non-Publicly Traded Assets.** Non-publicly traded or illiquid asset donations will be subject to intraorganizational administrative fees at the discretion of Endaoment and must be agreed upon in writing via a separate gift agreement.

Upon conversion under Section 10(b) to Endaoment's then-current standard Donor Advised Fund Agreement, intraorganizational fees will be assessed under that standard Agreement rather than the Altruist Financial LLC Fee Schedule. Conversion of an illiquid or non-publicly traded asset into cash or another liquid asset does not, by itself, constitute conversion under Section 10(b), and liquid assets remain subject to Section 10(a) unless and until conversion under Section 10(b) occurs.

**12. INACTIVE FUNDS.** If a Fund has no or insufficient outgoing grant activity for one year or more, Endaoment may attempt to contact the Donor, the Primary Advisor, and Collaborators. For purposes of this Section, grant activity that is de minimis relative to the Fund's balance may not be considered sufficient to reset the inactivity period; Endaoment generally considers cumulative grants totaling at least 2.5% of the Fund's balance over any two-year period to constitute sufficient activity. If the Fund remains inactive for a total of two years plus one additional quarter, Fund assets may be distributed each quarter into Endaoment's Universal Impact Pool at 10% of the then-current fund balance, or the full remaining fund balance if under $5,000 or if funds have been inactive for more than four years, or, at Endaoment's sole discretion, up to and including the full remaining fund balance, until the Fund is drained. Once drained, Endaoment retains the right to close any inactive Fund. This process may be accelerated as needed by Endaoment at its sole discretion. Any transfer into the Universal Impact Pool is Endaoment's property under its variance power and such transferred property shall not be subject to any donor-advised restrictions or any advisory privileges.

**13. ZERO BALANCE FUNDS.** If a Fund has a zero balance, Endaoment may contact the Donor, the Primary Advisor, and Collaborators. If the zero balance persists more than three months after this contact, the Fund may be closed without further warning by Endaoment staff. Endaoment retains the right to close any zero-balance Fund at any time.

**14. REPRESENTATIONS AND WARRANTIES.** The User represents and warrants that:

a. **the information provided in the Intake and Joinder Form attached as Appendix A** (or Joinder) is true, accurate, and complete;

b. **the User has authority to enter into this Agreement in the role(s) selected;**

c. **if the User is a hired professional Fund Advisor, the professional-authority attestation in Section 3(b) is true; and**

d. **the User understands that recommendations are advisory only and that Endaoment** retains exclusive ownership and legal control over all Fund assets.

**15. GOVERNING LAW.** This Agreement shall be construed in accordance with, and governed in all respects by, the internal laws of the State of California, without giving effect to principles of conflicts of laws.

**16. COUNTERPARTS; ELECTRONIC ASSENT; AGREEMENT THROUGH USE.** This Agreement may be executed in one or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same agreement. Checkbox assent, electronic signature, and interface acceptance constitute valid execution for all purposes. Endaoment seeks affirmative assent under Appendix A in the ordinary course. In addition, any person who accesses or uses the Altruist or Endaoment interfaces, application programming interfaces, or services in connection with the Fund, including by exercising or purporting to exercise any advisory privilege, thereby agrees to be bound by this Agreement, the Fund Policies, and the Terms and Conditions in the role or roles in which that person acts, and confirms acceptance of this Agreement as then amended. This Section does not waive the Donor assent requirement in Section 4(d), and no contribution may be accepted into the Fund until Donor assent is complete.

**17. ENTIRE** AGREEMENT; AMENDMENT; CONFLICTS. This Agreement, together with the Fund Policies, the Terms and Conditions, Appendix A, and any accepted Joinder or Successor plan, constitutes the entire agreement between the Parties with respect to the Fund and supersedes prior discussions on the same subject. Endaoment may amend this Agreement upon written notice to the Donor and Fund Advisors; any such amendment applies prospectively from the effective date stated in that notice and does not become effective solely by posting. In the event of a conflict between this Agreement and the Fund Policies or the Terms and Conditions, this Agreement controls with respect to the Fund unless Endaoment determines that the Fund Policies must control to preserve tax-exempt status or comply with law. Donor is not a third-party beneficiary of any agreement or other arrangement between Endaoment and Altruist and has no rights or remedies under any such agreement or arrangement. Endaoment shall not be liable to Donor for any act or omission of Altruist or for any dispute, breach, termination, or other matter arising out of or relating to the relationship between Endaoment and Altruist. Donor acknowledges that any recommendations or other advice Donor may provide regarding investment or grant options are advisory only and do not confer on Donor any authority to direct or control Endaoment, Altruist, or any assets held or administered in connection with the Fund.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**ENDAOMENT, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

By: ______________________________________

Name: Robert Heeger

Title: President/CEO

Date: ______________________________________

**USER**

By: ______________________________________

Name: ______________________________________

Date: ______________________________________

Assent: [ ] I agree to this Agreement in the role(s) identified in Appendix A.

**APPENDIX A**

**INTAKE AND JOINDER FORM**

Complete the following at intake or, for a Collaborator appointed after the Effective Date, as a Joinder under Section 8. Fields may be completed in writing or through the Altruist or Endaoment interface. Successor-plan fields may be left blank if no Successor Advisor plan is designated at intake; any later plan must be submitted in writing or through the Altruist or Endaoment interface under Section 7.

| Field | Response | | |
|---|---|---|---|
| Legal Name | | | |
| Mailing Address | | | |
| Email | | | |
| Role(s) (check all that apply) | [ ] Donor | [ ] Primary Advisor | [ ] Collaborator |
| Successor Nominee (legal name) *(Primary Advisor only)* | | | |
| Successor Seat(s) (Primary Advisor and/or Collaborator) *(Primary Advisor only)* | | | |
| Successor Trigger Conditions *(Primary Advisor only)* | | | |
| Assent | [ ] I have read and agree to the attached Donor Advised Fund Agreement in the role(s) checked above, and the information I provided is accurate. | | |
| Date | | | |