

Funds established at Silicon Valley Community Foundation ("SVCF") are component funds of SVCF, a Section 501(c)(3) public benefit corporation. Contributions other than cash or marketable securities must first be approved by SVCF. All contributions to SVCF's funds are treated as gifts to a public charity and are generally eligible for a tax receipt, subject to individual limitations. SVCF does not provide tax or legal advice; we recommend consulting a professional advisor with questions about a gift to SVCF.

## Variance Power

As required by law, all assets contributed to funds become irrevocable gifts to SVCF, and legal control and responsibility for the funds rest with SVCF. All funds established at SVCF are subject to SVCF's variance power, as set forth in SVCF's bylaws. Variance power gives SVCF the authority to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if, in the sole judgment of SVCF's board of directors, such restriction or condition becomes unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community served.

## Investment of Assets

In making a gift to SVCF, donors give up all right, title and interest to the assets contributed. All assets in employee engagement funds will be held in cash and will not be invested in any of the community foundation's investment pools.

## Fees and Minimums

There is no set-up fee to open an employee engagement fund, an advised fund, at SVCF. Processing grants through SVCF will incur fees as outlined in Exhibit D of the Statement of Work between the client and YourCause. The minimum gift to SVCF is \$1 and the minimum grant from SVCF is \$1. Each client may set its own gift and grant minimums as documented in its program guidelines, to which SVCF will adhere. SVCF reserves the right to change its fee or minimum policies at any time.

## Role of Advisors

Donors establishing an advised fund may designate any person over 18 years of age to be an advisor on the fund. A fund can have more than one fund advisor but preferably

no more than three. If a fund is advised jointly, upon the departure of one fund advisor, the remaining fund advisor(s) retains the privileges associated with the fund. All requests to modify or appoint additional advisors to a fund must be communicated to SVCF in writing. In addition, a written acknowledgement must be received from SVCF confirming that the request has been granted. If there are no fund advisors named for the fund and SVCF does not receive the name(s) of an additional advisor(s) to the fund, or other special instructions, in writing, SVCF will use the fund's balance to support SVCF's Community Endowment Fund.

The following Fund Advisory Privileges and Fund Relationship Definitions further explain the role of advisors and other interested parties to funds at SVCF. These terms correlate to the Employee Engagement Fund Set-up Form and will determine the fund's contacts and advisors.

## Fund Relationship and Fund Advisory Privileges Definitions:

- **Primary Contact/Fund Advisor:** Individual has full advisory privileges over a fund, including grant recommendations, and appointment of other fund advisors. (This is the highest level of authority.)
- **Secondary Advisor:** Individual also has full advisory privileges over grant recommendations but has no other fund administration advisory privileges. (This is an intermediate level of authority.)

## Grant Disbursement

Grants must be for charitable purposes, and those grants may be recommended to any 501(c)(3) organization or verified charitable entity (e.g., schools, religious institutions) located in the United States or any nongovernmental organization outside of the United States having a verifiable charitable purpose. All grants directed outside of the United States must comply with federal government regulations, and the prospective grantee must be verified as the equivalent of a public benefit organization within the United States and must otherwise conform to all relevant U.S. federal and state laws. Clients may designate a list of approved organization types, to which SVCF will adhere, which will further narrow the number of organizations eligible for grants from the employee engagement fund.

Grants given to all 501(c)(3) public charities within the United States must be for a minimum of \$1. Grants given outside the United States must be for a minimum of \$1. Grant checks sent to organizations are accompanied by a check stub featuring language from SVCF specifying the name of the fund. Mail which SVCF receives for the fund will not be forwarded. If a grant is paid by check, the check will display the SVCF name and may also display its logo. The check may also display the logo of the client if it is provided to SVCF during the fund set-up process. SVCF shall assume responsibility for check writing, bookkeeping, tax reporting, auditing, and for making available to the fund advisors and fund representatives reports of fund income, expenses and grantmaking, as appropriate.

## Restrictions on Grants

In compliance with the Internal Revenue Code, grants are not permitted to individuals for non-charitable purposes, for political contributions or to support political campaign activities, or for any purpose that would provide benefits, goods or services to a donor to the fund, the fund's advisor(s) or other related parties. A fund advisor is subject to IRS penalties if the client's donor(s), 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. Please contact SVCF if you have questions about the exclusion of benefits from grant recommendations.

## Payments from an Advised Fund

SVCF does not permit expense reimbursements, loans, compensation or other similar payments from an advised fund to any donor, fund advisor or related party. All expenses must be paid by SVCF directly after appropriate review of the expenses and their payees, and all expenditures must be preapproved by SVCF prior to being incurred. The expense submitted for review must be charitable in nature or support a charitable purpose.

## Fund Inactivity

If a fund advisor is no longer willing or able to advise the fund's distribution, and no successor advisor is named, SVCF's board of directors will assume responsibility for grantmaking. Inactivity is when no grant recommendations or gifts are received for a period of two consecutive years and the fund advisor(s) cannot be contacted. SVCF's staff will attempt to contact the fund advisor(s) and client at least three times via certified mail and allow 30 days for a response. If contact cannot be made, SVCF's board of directors will advise an annual payout to support SVCF's program in accordance with SVCF's spending policies. If two more years pass with no contact from the advisor, the fund in its entirety will be transferred to SVCF's Community Endowment Fund. A fund must have inactivity for a total of four years before being transferred to SVCF's Community Endowment Fund.

## Fund Closure

A fund advisor may recommend closing a fund by providing written notice to SVCF three months in advance, and upon granting the full fund balance to a qualified charitable organization, including any of SVCF's funds (e.g., field of interest funds, endowment funds, operating funds).

## Conflict of Terms

In the event of an inconsistency between these terms and conditions and any terms and conditions appearing elsewhere in connection with employee engagement funds, these terms and conditions, as interpreted by SVCF, shall govern, and SVCF 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 at SVCF or to comply with applicable law.

## Frequently Asked Questions

**What is a donor advised fund?** A donor advised fund is not a separate legal entity like a trust or a corporation. It is a fund defined by the IRS that a sponsoring charity, like SVCF, creates through a written agreement with a donor. The donor contributes assets to SVCF which agrees to treat those assets as a separate fund on its books, while the donor retains the privilege of recommending charitable grants from the fund.

**Who owns the assets once the gift is made and the fund is opened?** The law requires SVCF to make clear in the agreement, and to obtain the donor's written acknowledgement, that the assets in a donor advised fund are the property of SVCF and that SVCF has discretion and control over the use and investment of the donor advised fund's assets.

**Why is discretion and control an issue?** In order for a donor to take advantage of the tax benefits that flow from a charitable gift, the gift has to be complete—that is, the donor has to part with control over the donated assets. The appearance of donor control could put the donor's tax deduction in jeopardy. Therefore, fund advisors cannot make pledges on behalf of the fund and can only make non-binding recommendations about grants; they cannot control when and how SVCF will make grants nor control decisions about which grantees will receive funding.

**What are the limits on donor benefits in connection with donor advised fund grants?** Donors, fund advisors and related parties (such as family members or business interests) may receive only "incidental" benefits from a grant or investment of a donor advised fund. If a donor, fund advisor or related party receives more than an incidental benefit in connection with a donor advised grant, the IRS will assess a penalty of 125% of the amount of the improper benefit. The penalty may be assessed against either the person who recommended the grant or the person who received the benefit. (There is a separate penalty if a donor, fund advisor or related party receives a direct distribution from the donor advised fund, such compensation or an expense reimbursement.)

Please contact SVCF at [donate@siliconvalleycf.org](mailto:donate@siliconvalleycf.org) or 650.450.5444 if you have questions about these terms and conditions.