



**PROCEDURES FOR ESTABLISHMENT AND OPERATION
OF FUNDS AND AFFILIATED ORGANIZATIONS**

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**PROCEDURES FOR ESTABLISHMENT AND OPERATION
OF FUNDS AND AFFILIATED ORGANIZATIONS**

THE COMMUNITY FOUNDATION OF SARASOTA COUNTY, INC. has established the following procedures in order to carry out its purpose which is to receive assets from donors which are to be administered exclusively for charitable purposes, primarily in or for the benefit of Sarasota County, Florida and surrounding communities, in order to make a lasting impact in these communities. Our mission is:

Community Impact Powered By Philanthropy.

PART A. RULES GOVERNING ALL FUNDS AND AFFILIATED ORGANIZATIONS

Section 1. *Types of Donors, Funds, Affiliated Organizations and Split-Interest Arrangements*

A Donor may establish with the Community Foundation of Sarasota County, Inc. (“Community Foundation”), one or more Funds, Affiliated Organizations and Split-Interest Arrangements. A Fund is an integral part of the Community Foundation as grants are made from each Fund to carry out the charitable purposes specified by the Donor. Affiliated Organizations and Split-Interest Trusts are not Funds and constitute separate legal entities. Affiliated Organizations are generally grant-making charitable organizations and Split-Interest Arrangements are drafting techniques to make a deferred gift to establish a Fund. Included within these categories are:

- a. Eligible Donors: The Community Foundation will accept contributions from the following types of Donors:
 - 1. Individuals
 - 2. Business Organizations
 - 3. Nonprofit Organizations
 - 4. Private Foundations
 - 5. Various Branches of Government
 - 6. Collective private groups of concerned citizens and associations
 - 7. Bequests from estates and trusts

- b. Types of Funds
 - 1. Donor Advised Fund
 - 2. Designated Fund
 - 3. Nonprofit Organization Fund
 - 4. Field of Interest Fund
 - 5. Scholarship Fund
 - 6. Unrestricted Fund
 - 7. Future Fund

- c. Affiliated Organizations
 - 1. Supporting Organizations
 - 2. Private Foundations

d. Split-Interest Arrangements

1. Charitable Gift Annuities
2. Charitable Remainder Trusts
3. Charitable Lead Trusts
4. Retained Life Estate

Section 2. *Acceptance of Contributions*

- a. General Policies and Approval: Requests to establish Funds, Affiliated Organizations or Split-Interest Arrangements with the Community Foundation and to receive contributions, will be reviewed by the staff (and by the Board of Directors or a designated committee if the staff determines such a review is necessary) for consistency with the Community Foundation's charitable purposes. With respect to supporting organizations, the senior management officers have the authority to recommend approval of a particular supporting organization relationship to the Board of Directors, but the Board of Directors shall have the final authority to formally approve the relationship by appointing the requisite number of directors to a supporting organization's board.
- b. Review and Approval of Contributions: All contributions are subject to the review and approval by the Community Foundation prior to acceptance. The Community Foundation's staff generally has the authority to accept contributions of cash and marketable securities (those that are actively traded and sellable on the open market). Contributions of illiquid assets include but are not limited to closely held securities, limited liability corporations (LLC's), limited partnerships and tangible personal property, and require prior approval per gift acceptance policies as established and approved by the Board of Directors (or a designated committee). Contributions of real estate shall be handled by the CFSC Asset Company, LLC, a subsidiary of the Community Foundation, and are subject to the review and approval by the board of directors of the CFSC Asset Company, LLC. Contributions that would violate the excess business holdings rule for donor advised funds under the Pension Protection Act of 2006 are generally prohibited, but may be accepted in special circumstances if reviewed and approved by the Gift Acceptance Committee of the Community Foundation.
- c. Written Acknowledgment of Acceptance of Contributions: The Community Foundation will provide written confirmation at the time of acceptance of any contribution that is required by the IRS to be documented by an acknowledgment for the Donor's tax return. The Community Foundation, at its discretion, may also provide written confirmation of contributions that are not otherwise required by the IRS to be acknowledged. Contributions not accepted will be returned as soon as practicable. The confirmation will include the dollar amount of the contribution of any cash gifts and the high, low and average share price for marketable securities such as publicly traded stocks, bonds and mutual fund shares. Acknowledgement of private securities and other illiquid assets will only include a description of the gift unless the Donor provides the Community Foundation a qualified appraisal showing the current value of the donation. (The IRS generally requires a donor to obtain a qualified appraisal for illiquid assets no earlier than 60 days before the date of the gift and no later than the due date (including extensions) for the return where the donor first claims a deduction for the gift.)
- d. Donor's Counsel: The Community Foundation encourages each prospective Donor to have the terms of all proposed agreements reviewed by the Donor's legal, accounting and/or financial advisors. The Community Foundation does not provide legal, tax or financial advice. The Community Foundation's legal counsel solely represents the Community Foundation. The Donor is advised that it is the Donor's responsibility to obtain any necessary appraisals, file appropriate tax returns, and defend against any

challenges to claims of tax benefits.

- e. Minimum Initial Contributions. There is a \$10,000 minimum to establish a named Fund, other than a named Donor Advised Fund which the minimum is \$100. There is a \$100,000 minimum to establish a Charitable Gift Annuity. There is a \$50,000 minimum to establish an endowed named scholarship fund. The minimum amounts necessary to establish an Affiliated Organization or Supporting Organization will be determined by the Board of Directors (or its designated committee) on a case by case basis.
- f. Additional Contributions. Additional contributions of cash and actively traded marketable securities to an established Fund may be made in any amount at any time. Gifts of other assets (illiquid assets) require advanced approval per gift acceptance policies approved by the Board of Directors (or a designated committee). However, federal tax laws prohibit additional contributions to a charitable remainder annuity trust or a charitable gift annuity. In these cases, a new trust or annuity agreement will be necessary.
- g. Contributions are Irrevocable. Any contribution made to the Community Foundation, once accepted, represents an irrevocable charitable contribution to the Community Foundation of Sarasota County. The assets contributed to the Community Foundation are legally owned by the Community Foundation and are not refundable.
- h. Donor Restrictions on Use of Property. Federal tax laws provide that when Donor makes a gift to the Community Foundation the Donor may not impose any "material restriction" (a term defined in the Treasury Regulations), which prevents the Community Foundation from freely and effectively employing the contributed assets, or the income derived there from, in furtherance of its charitable purposes. Any restriction (beyond the specified charitable purposes stated in the instrument of transfer) sought to be imposed by a Donor is subject to review and approval by the Community Foundation.
- i. Policy to Sell Contributed Property. The general policy of the Community Foundation is to sell all contributed property as soon as practical after receipt so as to minimize market risk. For non-publicly traded securities or other assets for which no readily liquid market exists, the Community Foundation will exercise discretion as to the timing and price of sales. Closely held stock or other assets for which no readily liquid market exists that are retained for any reason and that are valued in excess of \$1,000,000 (or, in the aggregate, are of material value compared to the other assets of the Community Foundation), shall be revalued using a qualified appraisal every three (3) years from the date of the gift to the Community Foundation. The cost of the qualified appraisal shall be an expense of the Fund, Affiliated Organization or Split-Interest Arrangement holding such asset. Any costs incurred by the Community Foundation necessary for the acceptance and the disposition of securities and other assets (i.e., legal and appraisal fees) and for the management of such assets prior to disposition will be an expense of the Fund.
- j. Tax Deduction vs. Net Proceeds from Sale of Contributed Property. An individual for income tax purposes can deduct a charitable contribution in the year in which the contribution is actually paid or ownership has transferred. Tax laws provide rules on how the value of the contribution deduction is to be determined. Gifts to the Community Foundation of Sarasota County are deductible at the highest "public charity" level allowed by law. The value of the contribution for tax deduction purposes may vary from the net proceeds realized by the Community Foundation upon the sale of the contributed property. Donors should consult with their professional tax advisors to determine the appropriate value for tax deduction purposes.

- k. Confidentiality: All agreements with Donors and all personal information concerning Donors and prospective Donors shall be held in strict confidence by the Community Foundation, subject to legally authorized and enforceable requests for information by government agencies and courts. All other requests for or releases of information concerning a Donor will be honored or allowed only if permission is obtained from the Donor prior to release of such information. In the case of memorial or honorary gifts, the Community Foundation will generally provide the names and addresses of Donors to the honoree or members of the immediate family unless Donor has requested anonymity.

Section 3. *Investment Policies*

The Community Foundation's investment program shall seek to provide competitive market returns with reasonable levels of risk. The Investment Committee shall direct the investments of the Funds consistent with this objective. Copies of the Community Foundation's Investment Policy Statement are available to any interested party upon request.

Donors may make recommendations, however, such recommendations are advisory, and the Community Foundation will exercise independent authority over the investments of the principal and income of each Fund. Individually managed accounts may be permitted, with advanced approval. The Fund holding such accounts shall pay the direct costs of such arrangements, including additional administrative costs.

Section 4. *Administrative Expenses/ Costs of Fund*

Each Fund, Affiliated Organization and Split-Interest Arrangement will be charged its equitable share of the Community Foundation's expenses in accordance with the current administrative fee schedule as approved by the Board of Directors (or a designated committee). If an expense is directly associated with a specific Fund, Affiliated Organization or Split-Interest Arrangement, then the expense will generally be directly charged to the applicable Fund. The current administrative fee schedule is available to any interested party upon request. Any costs and/or expenses incurred by the Community Foundation in accepting, transferring or managing property/assets contributed to the Community Foundation will be assessed to the Fund.

Section 5. *Charitable Purpose*

For purposes of these Procedures, a "charitable purpose" is an educational, religious, scientific, literary, public or other purpose permitted to be carried on by organizations described in Sections 170(c)(1) and 170(c)(2)(B) of the Internal Revenue Code of 1986, as amended.

Section 6. *Amendments*

The Procedures for Establishment and Operation of Funds and Affiliated Organizations may be amended by a majority vote of the Board of Directors.

Fund documents are subject to a limited power to modify the Fund document at the sole discretion of the Community Foundation as provided in the Bylaws of the Community Foundation and to the extent permitted by the Florida Uniform Prudent Management of Institutional Funds Act s.617.2104, F.S. and the Federal Tax Code.

PART B. FUNDS

Section 1. *Types of Funds*

Funds are categorized by their charitable purpose and by how the assets are administered.

a. Categorization by Charitable Purpose

1. *Donor Advised Fund*: the Donor, Donor Advisor(s) or Advisory Committee may recommend charitable grant recipients.
2. *Designated Fund*: this type of Fund is created to ensure that support will be provided to one or more specific charitable organizations named by the Donor(s).
3. *Nonprofit Organization or Agency Fund*: this type of Fund is established by a nonprofit charitable organization to support and benefit such nonprofit organization.
4. *Field of Interest Fund*: this type of Fund allows the Donor(s) to support an area of charitable interest, defined broadly (such as education) or narrowly (such as advanced vocal music training). A Donor(s) can also select a defined geographic area or specific community to benefit from grant distributions.
5. *Scholarship Fund*: A Donor(s) can support worthy students at an institution (high school, college, technical), students in a particular field of study, students from a particular geographic area, or students who have attended a specific high school or school district, provided that the students are selected through an objective and non-discriminatory competitive selection process.
6. *Unrestricted Fund*: A Donor(s) may choose an unrestricted Fund that allows the Community Foundation to determine where grant distributions will make the most impact.
7. *Future Fund*: Any of the type of Funds mentioned above may be established by a Donor(s) currently and funded at a future date. These Funds are referred to as Future Funds.

Section 2. General Policies

Each Fund, whether administered directly by the Community Foundation, CFSC LLC or through a separate trust, custodial account or agency agreement, shall be considered an asset of and legally owned by the Community Foundation and shall be governed by its Articles of Incorporation, Bylaws and by these Procedures. Funds will be administered directly by the Community Foundation and the Community Foundation is vested with ultimate authority and control over the principal and income of each Fund.

Section 3. Donor May Select Name of Fund

Each Fund will be named as the Donor wishes. However, the Community Foundation reserves the right to reject names it finds objectionable.

Section 4. Distributions

- a. Endowed Funds: Distributions from a Fund established by a Donor as an endowed Fund shall be limited for grants not to exceed the Distribution Policy (as defined in Section 5 below) adopted by the Community Foundation which may be amended from time to time. An endowed Fund is a permanent fund and may only be modified to the extent permitted by the Florida Uniform Prudent Management of Institutional Funds Act s.617.2104, F.S. and the Federal Tax Code. If an endowed Fund balance falls below \$10,000 with no expectation of receiving additional gifts, then the Community Foundation maintains the right to grant the

entire Fund balance in accordance with the Donor's charitable intent for the Fund and to close the Fund.

- b. Non-Endowed Funds: Funds established by a Donor as a non-endowed Fund shall have unrestricted access to principal and income for granting purposes.
- c. Grants Shall Follow Donor's Intent: Grants will be made from each Fund consistent with the recommendations given by the Donor at the time that the Fund is established. If, however, the Donor's recommendations are contrary to the Articles of Incorporation, Bylaws or Procedures, then the Donor's recommendations shall be modified to the degree that is necessary for compliance with these Procedures. To the extent practicable or feasible, the Board of Directors shall distribute amounts for purposes that are consistent with the Donor's charitable interests. The Community Foundation is vested with ultimate authority and control over the principal and income of each Fund regardless of selection of Fund as endowed or non-endowed.
- d. Grants Will Normally Identify the Name of the Fund: Unless otherwise requested by the Donor/Advisor to the Fund, any distribution shall identify the name of the Fund from which it is made.
- e. Grants Must Not Provide a Financial Benefit to Donor: The Community Foundation will not make a grant that provides a financial benefit to a Donor, Donor Advisor, Advisory Committee member, any person in whose honor a Fund is created or named, or any related party to such a person. A "related party" shall include (i) any family member of such person (i.e., such person's spouse, ancestors, children, grandchildren, great-grandchildren, brothers, sisters and any of their spouses) and (ii) any entity in which such a person or a combination of such persons owns more than 35% of the combined voting power, profits interest or beneficial interest. (The preceding sentence does not apply to grants made from a Nonprofit Organization Fund to the Nonprofit Organization for which the Fund was established.)

Distributions from the Community Foundation may not be used in whole or in part for any private benefit such as dues, membership fees, benefit tickets or tables at fund-raising dinners, or goods and services bought at charitable auctions. All grant distribution checks shall be delivered by the Community Foundation to the nonprofit organization.

The Community Foundation may make grants that provide a Donor, Donor Advisor(s), Advisory Committee member or related party with name recognition and such other benefits that the Internal Revenue Service has recognized as not providing the Donor with a financial benefit.

- f. Other Limits on Distributions: Additional rules apply to Funds classified as "donor advised funds" under the Pension Protection Act of 2006. The legal definition of a donor advised fund under this law is a fund or account that (i) is separately identified by reference to contributions of a donor or donors; (ii) is owned and controlled by a "sponsoring organization" (i.e., the Community Foundation); and (iii) the donor (or any person appointed or designated by the donor – a "donor advisor") has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in the fund or account by reason of the donor's status as a donor. This definition could include funds that the Community Foundation has classified as Donor Advised Funds, Designated Funds, Field of Interest Funds, or Scholarship Funds. The Community Foundation will not make any grant, loan, compensation or similar payment (including expense reimbursement) to a Donor, Donor Advisor, Advisory Committee member, any person in whose honor a Fund is created or named or any related party from any fund that is classified as a donor advised fund under the law.

The Community Foundation will not make any grant to an individual from any Fund that is classified as a

donor advised fund under the law.

Also, if a distribution is proposed from any fund that is classified as a donor advised fund under the law to a non-charitable entity or to a Type III supporting organization that is not “functionally integrated” with the Community Foundation as defined by law, then such distribution will not be allowed until it has been reviewed by a senior management officer of the Community Foundation (i.e., President, Senior Vice President, or Corporate Counsel) and, if required by law, procedures are in place so that the Community Foundation can exercise “expenditure responsibility” over such distribution. Expenditure responsibility generally requires the Community Foundation to exert all reasonable efforts and establish adequate procedures to (i) see that the distribution is spent solely for the charitable purpose for which it is made, (ii) obtain full and complete reports from the grantee regarding the use of such distribution, and (iii) make full and detailed reports regarding such distribution to the Secretary of the Treasury.

g. Donor Generally Cannot Control Timing of Grants: As is required by federal tax regulations, a Donor may not reserve the right to direct the timing of distributions from a Fund.

Section 5. *Distribution Policy*

Distribution Policy of the Community Foundation: The Community Foundation shall determine from time to time an amount which it may deem appropriate for distribution from its Funds for the uses, benefits, and purposes of a Fund, subject to the intent of the Donor as expressed in the gift instrument. The Foundation will at all time act in good faith regarding its distribution policy, as it may be determined from time to time. Directions in a gift instrument which imply restrictions to the contrary will not limit the Foundation’s authority to appropriate funds for distribution according to its policy, including any Funds with directions to use only “income”, “interest”, or “dividends” or “preserve principal” as provided by the Florida Uniform Prudent Management of Institutional Funds Act and the Florida Statutes Institutional Investment of Funds Act §617.

Section 6. *Variance Power and Monitoring Function*

- a. Community Foundation to Follow General Donor Intent if Variance Power is Exercised: If the Board of Directors determines that the original purpose of a Fund is no longer able to be met, and finds it necessary to exercise the variance power provided by law, the Board of Directors shall, to the extent practicable or feasible, distribute charitable grants from the Fund for purposes that are consistent with the original Donor's charitable interests, and if necessary convert the Fund into an Unrestricted Fund or a Field of Interest Fund, retaining the name of the Donor or the Fund name given by the Donor.
- b. Community Foundation to Monitor Beneficiary's Performance of Terms of Grant: The Board of Directors may periodically review the effectiveness with which agencies that receive grants from Funds are performing their responsibilities in the utilization of these grants toward attainment of the Community Foundation's and the Donor's objectives. Where necessary, the Board shall initiate corrective action.

Section 7. *Advisory Committees of Funds*

- a. General Rules: The Community Foundation may appoint an Advisory Committee for a Donor Advised Fund, Designated Fund, Field of Interest Fund, Nonprofit Organization or Agency Fund, Unrestricted Fund or Scholarship Fund. The Donor may recommend an Advisory Committee (which may include the Donor) to be appointed by the Community Foundation in which case the senior management officers of the Community Foundation shall have the authority to appoint the Advisory Committee on behalf of the Board of Directors of the Community Foundation. Special rules governing an Advisory Committee

for a Scholarship Fund are set forth at Part B, Section 12 below. All Advisory Committees are accountable to the Board of Directors of the Community Foundation.

The Advisory Committee may make written recommendations to the Community Foundation concerning grants from the Fund and any other matters that it deems of importance. Each Advisory Committee shall select one person to act as chairperson who will have the authority to transmit the Advisory Committee's recommendations to the Community Foundation.

- b. Generally Majority Vote Is Required: Unless contrary instructions have been made by the Donor or by the Community Foundation, whenever two persons are designated to make recommendations they shall act by unanimous consent; whenever more than two persons are so designated, then a recommendation by a majority of such persons shall constitute an effective recommendation for consideration by the Community Foundation.
- c. Authority to Act as Agent of Community Foundation Restricted: The Community Foundation generally encourages Donors to solicit contributions to the Community Foundation and its Funds. However, no person has the authority to act as an agent of the Community Foundation unless he or she has received express written authority from the Community Foundation. In particular, the Community Foundation does not authorize any volunteer or advisor to accept contributions on its behalf, to commit Community Foundation resources to any activity, or to engage in fundraising activities in the name of the Community Foundation or on behalf of any of its Funds without written permission from the Community Foundation.

The Community Foundation is generally supportive of charitable activities that benefit the residents of this region. The restrictions in this section are necessitated, in part, because of compliance with tax and other laws that require disclosure of benefits associated with charitable contributions as well as contemporaneous written acknowledgements to certain Donors of contributions (the failure for which could subject the Community Foundation and its Funds to fines and penalties). The Community Foundation needs to be informed about activities being done in the name of a Fund held at the Community Foundation and to monitor any obligations associated with those activities.

- d. Fundraising: The Community Foundation will not sponsor any fundraising or other events for any Fund, and will not be responsible for the collection of any amounts from any benefit, gala, banquet or athletic event but will only be responsible for the proper disbursement of funds actually received. Any advertising, promotional or other materials must be consistent with the Donor-Initiated Fundraising Policy of the Community Foundation which is available upon request.
- e. Disassociation of Multiple Current Donor Advisors: This policy generally will only affect current Funds having multiple current Donor Advisors where more than one party may request grant distributions from a Fund. In the event multiple parties serve jointly as the members of an Advisory Committee to a Fund, and a disassociation of the parties occurs or is pending, either for business or personal reasons (i.e. a dissolution of marriage), the Community Foundation may, upon receiving notice of such action or event:
 - 1. suspend processing of any grant distribution recommendation for such Fund(s) unless and until the parties agree in writing to approve the grant distribution recommendation, or
 - 2. suspend processing of any grant distribution recommendation for such Fund(s) unless and until the parties have jointly agreed in writing to an alternative procedure, acceptable to the Community Foundation, to provide for the future administration of such Fund(s). Subject to the approval of the Community Foundation, the parties may jointly authorize the Community Foundation to bifurcate

any Fund(s), designating each party individually, or such other successor Advisor as a party may designate, to serve as the individual Advisor to his or her own individual successor Fund(s) created as a result of bifurcation.

In the event that the parties cannot jointly agree as provided above and no agreement of the parties or other legal order has been entered or approved which would otherwise resolve the issue to the satisfaction of the Community Foundation, the Community Foundation may, in its sole discretion, bifurcate any Fund(s) so affected into equal shares and designate each party individually, or such other successor Advisor as a party may designate, to serve as the individual Advisor to his or her own individual successor Fund(s) created as a result of bifurcation. The Community Foundation shall have the sole discretion to make grants in the name of the Fund per the terms of these Procedures, as amended from time to time.

Section 8. *Special Rules for Donor Advised Funds*

- a. Establishment and Purpose: A Donor may establish a Donor Advised Fund whereby the individual Donor(s) and/or designated Advisors, retain a lifetime privilege to recommend charitable grant recipients to the Community Foundation. Corporate Donor Advised Funds may continue to advise on charitable distributions as long as the Corporation continues to operate.
- b. Distributions from Donor Advised Funds: Donors and/or Donor Advisors may make written recommendations of grants to tax exempt charitable organizations described in Section 501(c)(3) of the Internal Revenue Code, other than private non-operating foundations. Charitable organizations must be public charities as described in Sections 509(a)(1) or 509(a)(2) of the Internal Revenue Code, supporting organizations described in Sections 509(a)(3) of the Internal Revenue Code or operating private foundations. As provided in the Internal Revenue Code and Regulations, the Board of Directors of the Community Foundation has the absolute right to direct all distributions of income and/or principal from Donor Advised Funds.
- c. Minimum Grant Amount from Donor Advised Funds: The Board of Directors may designate a minimum grant amount for Donor Advised Funds.
- d. Eligible Advisors During the Donor(s)' Lifetime: Recommendations for distributions shall be subject to the following rules:
 1. The Donor(s) may designate any adult (age 18 or older) person(s) to have the privilege of making recommendations throughout the lifetime of the Donor or his or her spouse, unless earlier terminated by resignation or incapacity. Donor(s) may designate additional and/or alternative Advisors at any time during the Donor(s)'s lifetime.
 2. A Donor other than an individual, such as a corporation, partnership or trust, will not be subject to a time limit for its privilege to make recommendations.
- e. Successor Advisors After the Death of Donor(s)
 1. The Donor(s) may designate one or more adult (age 18 or older) person(s) to have the subsequent privilege of making recommendations throughout their lifetimes, unless earlier terminated by resignation or incapacity. If more than one person is named, then the successor Advisors shall operate under the rules governing Advisory Committees described above in Section 7.

2. Subject to the terms of the instrument of transfer, each successor Advisor to the Fund who was designated by the Donor may likewise designate a successor Advisor to act in his or her place. In no event shall successor Advisors be named past two generations after the original Donor to the Fund (i.e., Donor, Child, Grandchild.)
 3. After the Donor's death (or Donors' deaths), the Community Foundation will contact the successor Advisors in writing to inform them that they have been named as successor Advisors to the Fund.
- f. Option to Split Funds for Successor Advisors: If a Donor has designated successor Advisors and if the charitable interests of the successor Advisors are sufficiently diverse, the Community Foundation may, with the consent of the successor Advisors and subject to the terms of the Donor's instrument of transfer, divide the Donor Advised Fund into multiple Donor Advised Funds and limit each successor Advisor's advisory privilege to a separate Fund.
 - g. Conversion of Donor Advised Fund After Advisory Privilege Ends: Upon termination of the advisory privilege and when the Donor(s) has not created a future Fund, a Donor Advised Fund will be converted to a fund at the discretion of the Community Foundation which most closely follows the intent of the Donor, such as a Designated Fund, Field of Interest Fund or Unrestricted Fund, retaining the name of the Donor.
 - h. Termination of Advisement: At such time as the period of advisement terminates which is either upon the death or incapacity of the Advisor(s) or if for a period of two (2) years, the Advisor(s) has made no contribution to the Fund or recommendations for distributions of grants from the Fund, and if the Donor has not designated that this Fund shall roll into a Future Fund at the Community Foundation, then the Community Foundation shall have the sole discretion to make grants in the name of the Fund per the terms of these Procedures as amended from time to time.

Section 9. *Special Rules for Designated Funds*

- a. Establishment and Purpose: A Donor may establish a Designated Fund to support and benefit one or more public charities described in Sections 509(a)(1) or (a)(2) of the Internal Revenue Code or supporting organizations described in Sections 509(a)(3) of the Internal Revenue Code. Examples include a school, not-for-profit hospital, social service agency, performing arts organization, or a religious organization. If in the unlikely event that the beneficiary organization ceases to exist as a qualified tax exempt organization, the Community Foundation will continue to distribute income to another organization that most closely resembles the beneficiary organization in charitable purpose.
- b. Monitoring Function and Variance Power: See Part B., Section 6.

Section 10. *Special Rules for Nonprofit Organization or Agency Funds*

- a. Establishment and Purpose: The Donor is a Nonprofit Organization ("NPO") as described in Sections 509(a)(1) or (a)(2) of the Internal Revenue Code. A Nonprofit Organization or Agency Fund (the "Agency Fund") specifies the establishing NPO as the only donor and grant recipient of the Fund. The NPO may request to receive the annual distribution policy amount from the Fund. The Agency Fund also allows access to principal with NPO Board approval and appropriate board minutes and with Community Foundation Board approval. An NPO may also establish a Nonprofit Organization Designated Endowment Fund (the "Endowment Fund") for itself. The Endowment Fund is a permanent fund and allows third party donors to

make contributions to the Nonprofit Organization's Endowment Fund. Annually the NPO may receive the distribution policy amount from the Fund. The Endowment Fund does not allow access to Principal except under extreme circumstances to be determined in the sole discretion of the Community Foundation's Board. Appropriate minutes from the NPO's Board and a detailed written explanation of the request must be provided for consideration for access to principal by the Community Foundation's Board. The Endowed Fund is considered a permanent fund.

b. Monitoring Function and Variance Power: See Part B., Section 6.

Section 11. *Special Rules for Field of Interest Funds*

a. Establishment and Purpose: A Donor or the Community Foundation may establish a Field of Interest Fund from which payments are made for a specific charitable purpose (field of interest). The specified purpose may be broad, such as support of education, health care or arts and humanities; or narrow, such as the prevention of child abuse. Field of Interest Funds may also be established for specific geographic areas such as a neighborhood, section of city, county or metropolitan area. Any proposed Field of Interest Fund that is intended to provide aid to individuals who have suffered loss as a result of a catastrophic disaster shall be reviewed and approved in advance by the Community Foundation's senior management officers to ensure compliance with additional Internal Revenue Service rules governing disaster relief Funds. In short, disaster relief Funds must have a sufficiently large or indefinite pool of grantees and recipients must be selected based on a written and objective determination of need that is reviewed and approved by the Community Foundation's Board of Directors.

b. Monitoring Function and Variance Power: See Part B., Section 6.

Section 12. *Special Rules for Scholarship Funds*

a. Establishment and Purpose: A Donor or the Community Foundation may establish a Scholarship Fund from which grants are made for education, travel, professional development, or other similar purposes to support one or more worthy recipients, provided that the recipients are selected through an objective and non-discriminatory competitive selection process. Scholarships must be awarded in accordance with a selection process that is consistent with the Community Foundation's tax-exempt status and consistent with the allowance of tax deductions for individuals making contributions to the Community Foundation. In addition, the selection process must include the following:

1. A sufficiently broad pool of potential grantees: The pool of scholarship applicants must be sufficiently broad so that the making of grants to the members of the group will be considered as furthering a charitable purpose and not merely benefiting private interests. However, if the scholarship program requires the selection of an exceptionally qualified individual to carry out its purposes and the pool of such individuals is small, the Fund shall include documentation of the efforts made to determine qualified members of the class of potential recipients. Any proposed limitation on the pool of grantees that is based on race or any other characteristic that the Internal Revenue Service might deem to be counter to public policy and is inconsistent with the Community Foundation's tax exempt status shall be reviewed by the Community Foundation's Corporate Counsel.
2. Objective and non-discriminatory selection criteria: The criteria used in selecting scholarship recipients shall be objectively related to the purpose of the scholarship and applied equally to all applicants. Criteria might include, but not limited to: prior academic performance,

recommendations from teachers, financial need, or evidence of an applicant's motivation, character, ability and potential. The specified criteria may be broad, such as attending any institution of higher learning at the discretion of the student, or narrow, such as a specific major at a specified named institution. Scholarship Funds may also be established for specific geographic areas such as a neighborhood, section of city, county or metropolitan area. Scholarships may be awarded for students to attend a specific institution (elementary through high school, college, vocational, technical); students in a particular field of study or major; students from a particular geographic area; or students who have attended a specific high school or school district.

3. A sufficiently independent selection committee (Advisory or Selection Committee): The Community Foundation will designate individuals (which may include the Donor(s)) to serve as a Selection Committee to review scholarship applications and select recipients. The Selection Committee will include the Manager of Scholarship Funds for the Community Foundation who shall control the Selection Committee by having the equivalent of a supermajority vote on the Selection Committee. The Manager of Scholarship Funds for the Community Foundation shall have the ultimate authority to select the scholarship recipients and the Donor, Donor Advisor(s) and any persons related to the Donor or Donor Advisor(s) shall not directly or indirectly control the Selection Committee. Donors who recommend Selection Committee members for Scholarship Funds shall strive to recommend individuals who are familiar with the community and who have expertise relevant to the selection process. All Selection Committee members are accountable to the Board of Directors of the Community Foundation. If there are no persons on the Selection Committee who are available to advise and consult with the Community Foundation due to death, resignation, or incapacity to serve and no Successor Advisors have been appointed by the Community Foundation, then the Community Foundation, through its duly authorized committees, shall review all eligible scholarship applications and make the selection(s) independently.
- b. Employer-Sponsored Scholarship Funds: Any proposed Scholarship Fund that will be sponsored by an employer and awarding scholarships to employees or family members of employees shall be reviewed and approved in advance by the Community Foundation's Corporate Counsel to ensure compliance with additional Internal Revenue Service rules governing such scholarship programs.
- c. Other Permitted Grants to Individuals: In addition to scholarship grants for study at an educational institution described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code (i.e., an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students at the institution), Scholarship Funds may also provide for (i) grants to individuals that constitute a prize or award if the recipient is chosen from the general public and without any action on the recipient's part, the recipient is not required to render substantial services as a condition of receiving the prize or award and the prize or award otherwise complies with Section 4945(g)(2) of the Internal Revenue Code; or (ii) grants to individuals that are made for the purpose of achieving a specific objective, producing a report or other similar product, or improving or enhancing a literary, artistic, musical, scientific, teaching or other similar capacity, skill or talent of the recipient as provided in Section 4945(g)(3) of the Internal Revenue Code.
- d. Monitoring Function and Variance Power: The Community Foundation Board of Directors shall periodically evaluate all Scholarship Funds. If the Board determines that continued payments for the specified charitable purpose have become unnecessary, obsolete, incapable of fulfillment, impractical, or inconsistent with the community's charitable needs, the Board in its discretion, may change the scholarship criteria of eligibility or convert it to an Unrestricted Fund. The Fund shall then continue in accordance with the provisions of Part B. Section 6.

- e. Conflict of Interest: No scholarship award shall be made to a Donor's family member including direct ancestors and direct lineal descendants, spouse, and other relatives including brothers, sisters, nieces, nephews, aunts, uncles, cousins, and their respective spouses and children. Non-donor Selection Committee members shall also adhere to the same policy regarding scholarship recipients awarded to Selection Committee family members.

Section 13. *Special Rules for Unrestricted Funds*

- a. Establishment and Purpose: A Donor may choose to make an unrestricted gift to the Community Foundation as follows: (i) A Donor may establish an Unrestricted Named Fund at the Community Foundation. The Donor does not retain a power to advise on grants and instead allows the Community Foundation to determine where grants will make the most impact; or (ii) Alternatively, a Donor may choose to make a gift to the Community Foundation's Unrestricted Fund. In this event, a separate fund is not established and the gift is placed directly into the Community Foundation's Unrestricted Fund from which grants are made as determined by the Community Foundation where they will make the most impact.
- b. Monitoring Function and Variance Power: See Part B. Section 6.

Section 14. *Future Funds*

- a. Establishment and Purpose: A Donor may choose to document his/her wishes to establish a Fund in the future (i.e., as part of his/her estate plan) that will become active upon the happening of a specific funding event in the future. A Future Fund documents the Donor's wishes in the form of an agreement to establish one of the Funds named herein at a date in the future. The Fund is not activated at the Community Foundation until assets are contributed to the Fund. Prior to the Future Fund becoming active, modifications may be made by written agreement between the Community Foundation and the Donor. The Future Fund Agreement gives the Donor peace of mind that his/her philanthropic wishes have been documented and shall be followed upon funding. Establishing a Future Fund admits a Donor into the Community Foundation's Legacy Society.
- b. Monitoring Function and Variance Power: See Part B. Section 6.

Section 15. *Component Trust Funds*

IRS tax regulations provide that in order for a trust to be treated as a component part of a community foundation (rather than a separate trust), the following requirements must be met:

- a. The terms of the trust instrument and the Donor's instrument of transfer must subject the trust to the operation of the Articles of Incorporation and Bylaws of the Community Foundation;
- b. The Community Foundation Board of Directors must have the power to modify any restriction or condition on the distribution of assets for any specified charitable purpose or to any specified organization if, in the sole judgment of the Board of Directors, such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served;
- c. The Community Foundation must have the power to replace the trustee for breach of fiduciary duty

- under state law;
- d. The Community Foundation must have the power to replace any participating trustee for failure to produce a reasonable return of net income over a reasonable period of time;
 - e. The Donor may not impose any "material restriction" (as that term is defined in the Treasury regulations) with respect to the transferred assets; and
 - f. The Community Foundation must accept the contribution.

PART C. AFFILIATED ORGANIZATIONS (OTHER THAN SUPPORTING ORGANIZATIONS)

Section 1. *Establishment and Purpose*

- a. Definition and Tax Status: A trust, foundation, corporation or fund may become an Affiliated Organization by receiving services from the Community Foundation that further its charitable interests. Unless it becomes a Supporting Organization of the Community Foundation (described below in Part D), it will retain its independent tax status (for example, as a private foundation or as a public charity).
- b. Process for Affiliation: A trust, foundation, corporation or fund may become an Affiliated Organization by applying to the Board of Directors. The Board, or its designated committee, will review the application to assure that the organization's purposes are consistent with the charitable purposes of the Community Foundation and its specific charitable needs. Specific details of the Affiliation are negotiable between the Board of Directors of the Community Foundation and the fiduciary(ies) of the organization or trust seeking to affiliate with the Community Foundation. Once accepted, the Affiliated Organization will continue to retain control over charitable disbursements.

Section 2. *Services Available*

The scope of services shall be mutually agreed upon by the Board of Directors of the Community Foundation and the Trustees, Directors or Advisors (hereafter Fiduciary) of the Affiliated Organization or Trust of the Community Foundation. These services may include reviewing and investigating requests for funding, recommending a course of action on such requests, originating programs for consideration by the Fiduciary, making disbursements, monitoring and evaluating grants, and preparing financial reports.

Section 3. *Termination of Affiliation*

Either the Board of Directors of the Community Foundation or the Fiduciary of the Affiliated Organization may terminate the affiliation relationship upon such notice as is prescribed in the affiliation agreement, as agreed to by both parties. .

PART D. SUPPORTING ORGANIZATIONS

Section 1. *Establishment and Purpose*

- a. Definition and Tax Status: A supporting organization is a charitable corporation or trust classified by the IRS as a 501(c)(3) public charity because it supports a publicly supported charity, such as a community foundation. Tax laws provide that a supporting organization will be a public charity, even if all contributions have come from related parties or even if it has not received any contributions over a period of years (either situation would normally cause a charity to be a private foundation).

- b. Technical Requirements Under The Tax Laws: To be a supporting organization of the Community Foundation under Section 509(a)(3) of the Internal Revenue Code, the establishing Donor seeking supporting organization status must prove to the IRS that it:
1. Is organized to support the Community Foundation,
 2. Is not controlled by "disqualified persons". Disqualified persons include substantial contributors to the supporting organization (Donor(s) who gave more than 2% of the organization's total contributions), members of that person's family and businesses controlled by the person. By law, the Donor(s) cannot have 50% or more of the voting power of the governing body or a veto power over the actions of the organization since that would constitute "control."
 3. Is operated, supervised, or controlled "by" or "in connection with" the Community Foundation whereby the Community Foundation will appoint a simple majority of the governing body of the supporting organization.
- c. Tax Advantages of Supporting Organization
1. Eliminating its private foundation status, a supporting organization is free from private foundation excise taxes and administrative requirements of a non-operating private foundation.
 2. Greater Tax Benefits for Donors. A donor to a supporting organization can frequently claim greater tax benefits than if the same property was given to a private non-operating foundation:
 - i. A larger tax deduction for gifts of real estate or closely held stock (fair market value vs. cost basis).
 - ii. A larger tax deduction can be claimed each year, if the donor is subject to the annual charitable deduction limitation.

Section 2. *Policies Applicable to a Supporting Organization*

The terms of the relationship to become a supporting organization of the Community Foundation and the benefits and services that one organization may provide to the other shall be mutually agreed upon by the governing bodies of both organizations. In general, this relationship requires the active oversight and involvement of the Community Foundation. Consequently, the following information must be obtained from the supporting organization:

1. Copies of the organization's articles of incorporation and bylaws, if in corporate form, or trust instrument, if in trust form, and tax exemption letter from the Internal Revenue Service.
2. A staff member of the Community Foundation will attend all of the supporting organization's board meetings. Copies of all board meeting notices and minutes of the board meetings shall be provided to the Community Foundation;
3. Notification when any board member appointed by the Community Foundation finishes his or her term, resigns or otherwise ceases to serve;
4. Financial reports at least quarterly (unless all of the supporting organization's assets are already held at the Community Foundation);
5. Copies of all account statements upon request by the Community Foundation (if the supporting organization's assets are not all held at the Community Foundation);
6. Copies of the annual 990 reports to the Internal Revenue Service; and
7. Information concerning all grants so that the grants can be processed through the Community

Foundation, if applicable.

In return, the Community Foundation's role is to generally provide the supporting organization with the following primary services (additional services may be separately negotiated):

1. Appointment of the requisite number of members to the supporting organization's board as required by the organization's governing document(s);
2. Periodic financial statements;
3. Access to on-line tools provided to Donors by the Community Foundation;
4. Information upon request regarding grant-making opportunities;
5. The processing of all grants, if applicable;
6. Preparation of the annual 990 reports to the Internal Revenue Service;
7. Provide annual Audit Reports which include the supporting organization's financials; and
8. Review and manage all investments if elected by the supporting organization.

The tax laws require that organizational documents (articles of incorporation or trust instrument) of the supporting organization must (1) specify that the Community Foundation will be the supported organization and (2) specify charitable purposes that are supportive of, and not broader than, those of the Community Foundation. In addition, the supporting organization's activities must support the Community Foundation. This does not mean that the supporting organization must pay all (or any) of its income to the Community Foundation. It may, instead, make grants to other charities and for charitable programs that are in furtherance of the Community Foundation's charitable purposes. However, as discussed above, the Community Foundation generally requires a supporting organization to process all grants through the Community Foundation.

Section 3. *Termination of Relationship*

Either the Board of Directors or the Governing Body of the supporting organization may terminate the relationship upon such notice as is prescribed in the Supporting Organization Agreement between the Community Foundation and the supporting organization. Termination may cause the supporting organization to lose its public charity tax status and be reclassified as a non-operating private foundation.

PART E. SPLIT-INTEREST ARRANGEMENTS

Section 1. *Establishment and Purpose*

- a. Overview of Advantages To Donors: Split-interest arrangements are sometimes referred to as "deferred gifts". These gift arrangements generally pay income to a Donor (or someone else who is named by the Donor) over the person's life and thereafter pay the remaining balance of principal to the Community Foundation or other charity upon death. Such gifts produce estate tax savings when made as part of an estate plan. Lifetime gifts provide several tax benefits that make them very attractive to Donors who have appreciated property:
 1. Estate tax savings, if the property is not included in the Donor's taxable estate at the time of death (if it is, then there is an offsetting charitable deduction).
 2. An income tax deduction for the present value of the charitable remainder interest passing to charity after the income interest has expired.
 3. Annual income flow to the Donor during the Donor's lifetime that is not reduced by any capital gain tax that would have been imposed had the Donor sold the property.
 4. No capital gains tax liability is incurred upon the transfer of appreciated property to the deferred gift vehicle.
 5. The Donor can diversify investments without incurring current capital gains tax liability.

6. Provides great asset protection for the Donor and spouse.

b. Definitions

1. Charitable Gift Annuities (Immediate or Deferred): A contract with the Community Foundation to receive a fixed dollar amount each year over a person's life; the annuity contract must meet the tax requirements of Section 514(c)(5) of the Internal Revenue Code. Payments are generally based upon the American Council on Gift Annuities approved rate in effect at the time that the gift is made.

The rate of return the Donor(s) receives depends upon the age (and, if applicable, the age of the second annuitant) at the time of the gift. The older the Donor, the higher the rate of return will be. Payments may be made annually or in more frequent intervals. The remaining proceeds are distributed to a named endowed charitable Fund established by the Donor at the Community Foundation. (See Part B, Section 1)

2. Charitable Remainder Annuity Trust: A trust that pays a fixed dollar amount (an amount equal to no less than 5% of the value of the property contributed to the trust). Payments are made annually (or more frequently) to one or more income beneficiaries for life (or for a fixed term of years - maximum 20). The remaining proceeds are distributed to a named charitable Fund established by the Donor at the Community Foundation. (See Part B, Section 1)

3. Charitable Remainder Unitrust: A trust that pays a fixed percentage (at least 5%) of the value of the trust's assets each year (as valued at the beginning of each year) to one or more income beneficiaries for life (or for a fixed term of years - maximum 20). The remaining proceeds are distributed to a named charitable Fund established by the Donor at the Community Foundation.

4. Charitable Lead Trust: This is the inverse of a charitable remainder unitrust. Income is distributed to the Community Foundation into a named charitable Fund established by the Donor (over a period of years or the lifetime of the Donor) and the remainder is usually distributed to members of the Donor's family. Such a trust can be a useful part of an estate plan to keep a rapidly appreciating asset (such as real estate or stock) within a family. The Community Foundation does not serve as trustee of charitable lead trusts. However, the Community Foundation will be pleased to work with the Donor to help find an appropriate trustee.

5. Retained Life Estate: Donors may leave their principal residence, vacation home or farm, to the Community Foundation, and retain the right to live there at Donor's expense for the Donor's lifetime (the life of a surviving spouse can also be added). The Donor receives a sizable charitable income tax deduction the year the property is donated through the Retained Life Estate. The amount of the tax deduction is dependent on the age(s) of the Donor and the value of the property. A gift of a personal residence now, with retained life residency for the Donor and/or spouse, gives the Donor the same estate tax benefits as a gift by will plus an immediate income tax deduction. After the death of the Donor (and spouse), the property is sold and the proceeds create or are added to the Donor's Fund at the Community Foundation. Donor is responsible for all expenses incurred during Donor's life estate.

6. Testamentary Trust Transfer: Any of the above gift plans can be placed in a testamentary plan as provided in a living trust, will, or other testamentary device.

Section 2. *Community Foundation as Trustee; Other Conditions*

a. Community Foundation Acting As Trustee: It is the policy of the Community Foundation to not act as

Trustee for any charitable trust created by a Donor.

b. Other Conditions

1. Charitable Gift Annuities: Under the tax laws, the entire remainder interest of a charitable gift annuity must be distributed to the Community Foundation. A Donor may recommend that the proceeds be used to establish an endowed Donor-Advised, Designated, Field-of-Interest, Scholarship, or Unrestricted Fund(s), or be added to any existing Fund held at the Community Foundation. In the absence of such a recommendation, the proceeds will generally be used to establish (or be added to) a named Unrestricted Fund.
2. Charitable Remainder Trusts: A Donor may establish or add to a Donor-Advised, Designated, Field-of-Interest, Scholarship, or Unrestricted Fund(s) held at the Community Foundation. In the absence of such a designation, the proceeds will generally be used to establish (or be added to) a named Unrestricted Fund.
3. Policies Concerning Contributions: The general rules described in Part A (concerning contributions to the Community Foundation) generally apply to contributions to split-interest arrangements (particularly Section A.2 which gives the Community Foundation the authority to reject assets that are hard to sell or carry potential liabilities).
4. Independent Review by Legal Counsel: A Donor is advised to consult independent legal counsel concerning contributions to Split-Interest Arrangements including the drafting and review of all documents establishing the split-interest gift.