

## Attachment 2

### Terms and Conditions for Component Funds of the Greater Washington Community Foundation

The Community Foundation has developed the following Terms and Conditions pertaining to the administration of Funds. These guidelines may be amended or replaced from time to time when deemed necessary by The Community Foundation's Board of Trustees and as needed to comply with changes in applicable tax laws and regulations and other legal changes. The guidelines in effect at any given time will govern the administration of all component funds of the Greater Washington Community Foundation. These Terms and Conditions are part of the Fund Agreement ("Agreement") to which they are attached.

#### **I. The Fund as a Component of the Foundation**

The Fund shall be a component part of The Community Foundation and not a separate trust, and nothing in this Agreement shall affect the status of The Community Foundation as an organization described in Section 501(c) (3) of the Internal Revenue Code of 1986, as amended ("Code"), and as an organization which is not a private foundation within the meaning of Section 509(a) of the Code. This Agreement shall be interpreted to conform to the requirements of the foregoing provisions of the federal tax laws and any regulations issued pursuant thereto. The Community Foundation is authorized to administer the Fund and this Agreement to conform to the provisions of any applicable law or government regulation in order to assure continued compliance with Section 501(c)(3) and section 509(a) of the Code. References herein to provisions of the Internal Revenue Code of 1986, as amended, shall be deemed references to the corresponding provisions of any future Internal Revenue Code.

#### **II. Donor Tax Benefits**

The Community Foundation is a section 501(c)(3) public charity and contributions to the Community Foundation are generally tax deductible, subject to Code limitations. In order for a donor to take advantage of the tax benefits, the donor must part with control over the donated assets, in accordance with the *Gift Acceptance* section below. The Community Foundation does not provide tax or legal advice. We recommend consulting your own professional advisor if you have questions about the tax deductibility of a gift to The Community Foundation.

#### **III. Gift Acceptance**

The Code and IRS regulations require that all contributions to The Community Foundation are irrevocable. As a result, The Community Foundation legally owns contributed assets after acceptance and holds discretion and control over the use of the assets. Cash and publicly traded securities are deemed accepted after the assets are delivered to The Community Foundation. All other types of assets are deemed accepted upon execution of the Gift Acceptance Agreement by The Community Foundation. Please see our Gifts Acceptance Policy for more information. **Questions?** Please contact the development department by telephone, (202) 955-5890, or by email at [professionalservices@thecommunityfoundation.org](mailto:professionalservices@thecommunityfoundation.org).

#### IV. **Variance Power**

All Funds established with the Greater Washington Community Foundation are subject to The Community Foundation's variance power, which provides The Community Foundation Board of Trustees the power to modify any restriction or condition on the distribution of a Fund for any specified charitable purposes or to specified organizations, if, in the sole judgment of The Community Foundation's Board of Trustees, such restriction or condition becomes obsolete, incapable of fulfillment, or inconsistent with the charitable needs of the community or the requirements of The Community Foundation's continued section 501(c)(3) tax-exempt public charity status.

#### V. **Appointment of Concurrent and Successor Advisors**

All requests to modify or appoint additional Concurrent or Successor Advisors must be communicated via email or other writing, by the donor.

#### VI. **Continuity of Funds**

For Donor Advised Funds, after the initial Fund Advisor is no longer serving, The Community Foundation will honor the Donor's wishes for Successor Advisor(s). A Donor may designate a Successor Advisor in writing to take effect upon their death. Upon the death or termination of the recommendation privileges of all Donors, Concurrent Advisors, and Successor Advisor, Funds of less than \$10,000 become part of The Fund for Greater Washington. Funds of \$10,000 or more become named endowment Funds of The Community Foundation. If the Donor has designated a particular charitable field, preference will be given to that field in distributions from that Fund unless the Fund is a Designated Fund type.

##### **A. Fund Inactivity**

In accordance with accepted community foundation standards, unless defined alternatively in a Fund Agreement, a Fund is classified as inactive after two years of inactivity. If a Fund receives no gifts and no grant recommendations are made for two years, The Community Foundation staff will attempt to contact the Fund Advisor at least three times, by telephone and/or certified mail. If contact cannot be made, the Board of Trustees will recommend an annual payout from the Fund in accordance with The Community Foundation's spending policy. If an additional year passes and the Fund Advisor is not in contact with The Community Foundation, the Fund balance will be transferred to The Community Foundation's endowment fund.

##### **B. Fund Closure**

A Fund Advisor may recommend the closure of a Fund by submitting a grant recommendation of up to 100% of the Fund balance, after payment of all final applicable fees, to a qualified non-profit organization or to The Community Foundation's discretionary endowments. If approved, the Fund Advisor and The Community Foundation will execute a *Termination of Fund Agreement* and the Fund will be closed and distributed. An Endowed Fund is a permanent Fund and cannot be closed, however, it can be transferred to The Community Foundation's discretionary endowment fund.

## **VII. Fund Spending Policy – Endowed Funds Only**

The Community Foundation’s Board of Trustees may adjust the spending policy rate from time to time. In determining the spending policy rate, the Board of Trustees may consider the expected total return on the investments of The Community Foundation’s permanent Funds, the desirability of maintaining the value of The Community Foundation’s permanent Funds, and other relevant factors pursuant to applicable law.

## **VIII. Grant Recommendation Policies**

### **A. Grant Disbursements**

Grants may be paid to organizations defined as tax exempt public charities under Sections 501(c)(3) and 509(a) of the Internal Revenue Code. Although The Community Foundation encourages donors to invest in the metropolitan Washington region, Fund Advisor(s) may suggest a grant to any public charity located in the United States. The minimum grant amount allowed is \$250. There is no limit to the number of grants allowed each year. As confirmed in the Agreement, while The Community Foundation intends to follow Donor and other Fund Advisor recommendations as closely as possible, the Community Foundation has full discretion whether to make a grant to a particular organization recommended by a Fund Advisor.

### **B. Due Diligence**

It is the responsibility of The Community Foundation staff to review each grant recommendation to determine the following:

- 1) The organization is a non-profit public charity, school, religious institution, or government program that is recognized as a 501(c) (3) tax exempt organization.
- 2) The organization is not listed on the Office of Foreign Assets Control Specially Designated Nationals list to ensure The Community Foundation is in compliance with the Patriot Act.
- 3) The grant recommendation does not fall under The Community Foundation’s Grant Restrictions (see Grant Restrictions section below for further information)

### **C. Grant Restrictions**

Current tax laws prohibit Funds from making grants for the following purposes:

- 1) To pay for event tickets, membership or any portion of tickets, to fundraisers or benefits that include material benefit such as a meal, a seat at an event or other goods and services for the Fund Advisor, Donor or any related party
- 2) To purchase or fulfill memberships having any tangible economic benefit
- 3) To support an individual
- 4) To support political campaigns or for lobbying purposes
- 5) To private, non-operating foundations
- 6) To fulfill a pledge in a Donor or Fund Advisor’s own name

**NOTE: A Fund Advisor is subject to IRS penalties if the Donor, Fund Advisor or other related parties receive benefits, goods or services relating to a grant recommendation.**

Important information on pledges: *Many nonprofit organizations urge donors to make pledges of financial support. When an individual makes an irrevocable commitment in his/her own name to a*

*charity, the commitment cannot be satisfied with a grant from a foundation.*

**D. Grant Recommendations to International Charities**

Grants to international organizations that meet the same qualifications as 501(c) (3) organizations are permitted and must be for a minimum of \$500.00. However, Homeland Security restrictions require The Community Foundation to complete additional enhanced due diligence review before the grant may be made. The grant processing time will be approximately 2-4 weeks and any fees assessed by financial institutions due to the international grant status will be borne by the Fund and not the Community Foundation. In addition, non-U.S. charities are required to execute a written Grant agreement, submit a final report and financial narrative.

**E. Grant Recommendations from Funds established with Public Monies**

In order to maintain its commitment to transparency regarding the use of governmental or other public monies, the Community Foundation reserves the right to disclose information regarding grants recommended from Funds established with governmental or other public monies or established by contractual agreement with a government entity. Information disclosed may include the grant amounts and the recipients of the grants.

**IX. Fundraising**

Fundraising for a Fund is permitted but subject to pre-approval by The Community Foundation, including all uses of The Community Foundation's name and branding in advertising and promotional material. The fundraising policies are outlined in The Community Foundation's *Fundraising Policy*. The Fundraising proposal form must be submitted and approved before any fundraising begins.

**X. Investment Management**

**A. Four Investment Options**

Upon making a gift to The Community Foundation, donors give up all right, title and interests to the contributed assets. Donors cannot choose investments, investment managers or brokers, however, donors are allowed advisory privileges with respect to Fund investments. The Community Foundation currently offers the following options (see Schedule B):

1) **Central Investment Account**

Consists of 100% cash and cash equivalents. This vehicle can be used for 100% of a Fund's assets, usually in cases when immediate or near-term grant recommendations will be incurred, or in conjunction with either of the following options. A minimum of 10% of each Fund must be allocated to the Central Investment Account.

2) **Combined Investment Fund**

Most of the investable assets of The Community Foundation's component Funds are combined to create an 'investment pool.' Through this aggregation, The Community Foundation has created a highly diversified, low-cost investment vehicle that retains top quartile asset managers by asset class to ensure the financial resources held by The Community Foundation are managed to grow over time for increased philanthropic impact. The Fund's investments are overseen and directed by The Community Foundation's Investment Committee with the assistance of a third-party advisor. The Investment Committee (composed of Board Trustees and outside experts) meets

quarterly to review results, analyze trends, review individual manager performance and decide if any changes are to be made to the Combined Investment Fund.

3) **Index Funds**

Offering two index funds, with one representing an equity component and one representing a fixed income component. Based on the Donor's grant making time horizon and knowledge of mutual funds, the Donor may suggest the percentage of investment in each index fund. These funds are publicly traded funds. (see Schedule B – Disclosures).

4) **Separately Invested Account**

For Funds with a balance of \$500,000 or more, the Donor, or Fund Advisor if granted such rights, may recommend the assets of the Fund be invested in a standalone account of an investment advisory firm subject to Investment Committee approval. In these instances, the assets of the Fund are transferred into an account that The Community Foundation opens with the financial institution, in The Community Foundation's name and tax identification number. After the account is created and funded, The Community Foundation will work with the Financial Advisor to maintain a reasonable asset allocation, manage cash flow needs and approve changes to the investments within the account.

**B. Quarterly Financial Reporting**

Donors are sent a financial report with a Statement of Financial Positions, Statement of Activities and a detailed list of all gifts to and distributions from the Fund each quarter. Fund Statements are delivered via email unless printed copies are specifically requested at the time the Fund is established. The quarterly mailing also contains investment performance returns for the Combined Investment Fund and other timely information about the Foundation and its activities in the region. The Community Foundation performs all administrative, legal and tax reporting for each of the component Funds and maintains a complete history of all transactions in The Community Foundation's database.

**XI. Administrative Fees**

There is no cost to open a Fund at The Community Foundation, but there are minimum initial contributions that must be met which vary by Fund type as well as an administrative management fee paid to The Community Foundation. The minimum annual administrative management fee is \$500. *The Community Foundation reserves the right to change its fee schedule or minimum policies at any time.*

**A. Community Foundation Administrative Fee**

All Funds are charged a fee to help defray the Community Foundation's direct and indirect expenses attributable to the administration of component Funds as well as to further the mission of The Community Foundation. The standard fee schedule is shown in the "Annual Fee" table below.

Annual Fee (ladder)	
First \$3,000,000	1.1%
Assets over \$3,000,000 and up to \$5,000,000	.6%
Assets over \$5,000,000	.35%

If the Fund Advisor would like to receive extended philanthropic services beyond those outlined, customized fees may be assessed for the services as agreed upon by The Community Foundation and the Donor prior to service execution and described in the “Customized Fee Arrangement” box below. If this box is empty or the Terms and Conditions are not returned to The Community Foundation, the standard administrative fee schedule will apply.

*Customized Fee Arrangement*

**Investment Fee** – An investment manager fee is assessed on the Fund assets of each Fund invested in the Combined Investment Fund (CIF) and forwarded to the investment managers within the CIF. The investment fee rate may vary from time to time depending on the composition of investment managers and asset classes used to construct the CIF. All investment return reporting is net of fees. Separately invested Funds are charged the investment fee assessed by the investment manager used for the fund.