



# Community Foundation Plymouth

*For good. For ever.*

## TERMS AND CONDITIONS FOR DONOR FUNDS

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### **Welcome to the Community Foundation of Plymouth**

Governed by an independent Board of Directors responsible for all aspects of its operations, the Community Foundation of Plymouth is committed to responsible and prudent grant-making with clear goals and procedures, legal knowledge and compliance, and internal and external accountability and controls. The following describes the terms and conditions for establishing and maintaining a donor fund at the Canton Community Foundation, along with answers to frequently asked questions. These funds afford donors the opportunity to support cherished causes and local needs in an informed, active way without incurring the paperwork and expenses of maintaining a private foundation. Our fund donors are important members of our Community Foundation family, as grants from these funds are a significant source of support to the vital nonprofits serving our community, state and nation.

### **Definition and Tax Status of a Public Charity**

The Community Foundation of Plymouth, (“the Community Foundation”), a tax-exempt 501(c)3 public charity that administers donor-advised, designated and other types of charitable funds, exists exclusively for charitable purposes. Since 1989, the Canton Community Foundation has strived to improve the quality of life in the greater Canton region by promoting and facilitating effective philanthropy. One of the ways this goal is accomplished is through the provision of charitable tools, resources, programs, and support that make giving simple and effective for donors.

Contributions to a donor fund (“the fund”) at the Community Foundation are immediately tax deductible to the fullest extent allowed by law, subject to individual limitations. Contributions may be made at any time, while grants, if the fund is donor-advised, may be recommended to IRS-qualified charities on a separate timetable in keeping with the donor’s charitable goals.

Assets in the fund are professionally managed and have the potential to grow over time, providing greater support to cherished causes and critical community needs.

Funds established at the Community Foundation are funds of the Foundation and not separate trusts. Nothing in the fund agreement will affect the status of the Community Foundation as an organization described in Section 501(c)3 of the Internal Revenue Code (“the Code”) of 1986, as amended as an organization which is not a private foundation within the meaning of Section 509(a) of the Code.

### **Donor Fund Basics**

Donor funds are convenient, flexible tools for individuals, families, nonprofit organizations, and businesses wishing to be involved in their philanthropy.

The fund allows the donor to:

- Make irrevocable contributions to the fund.
- Take an immediate federal income tax deduction to the extent allowed by law, subject to individual limitations (if applicable).
- Recommend grants to IRS-qualified charities at any time (if donor advised).

### **Establishing a Donor Fund**

Individuals, families, corporations, nonprofit organizations, and businesses may establish a donor fund by completing the Donor Fund Application and making an irrevocable gift to the Community Foundation of Plymouth.

The following fund durations are available:

**Endowed Funds:** These funds are intended to be help in perpetuity. They are generally established with an initial contribution of \$10,000 or more. Funds established with an initial contribution of \$10,000 or more have granting privileges in accordance with the Community Foundation’s spending policy, earn investment income as part of the endowed investment pool, and are charged administrative fees. Endowed funds that are established with less than \$10,000 do not have granting privileges, do not earn investment income, and are not charged administrative fees. It is expected that those funds will reach \$10,000 within five years. At its discretion, the Community Foundation may distribute grants from the funds that have not reached \$10,000 in five years, in accordance with the charitable purpose stated in the fund agreement.

**Spendable/Invested Funds:** These funds are intended to be held long term, though not necessarily in perpetuity. They are generally established with an initial contribution of \$5000 or more, and may make grants for any amount not exceeding the fund value at the time of the grant request. Spendable invested funds earn investment income as part of the spendable invested pool and are charged administrative fees.

**Short-term Pool Funds:** These funds are for granting within 0-2 years and offer minimal growth. They are established with a minimum of \$1000. They are charged administrative fees.

### ***Naming a Donor Fund***

Each fund of the Community Foundation has a unique name. Typically, the fund is named for the donor or the donor's family, a nonprofit organization, or to memorialize someone special (e.g. "Smith Family Fund"). Or the donor may choose anonymity by selecting a name to his or her personal liking or in keeping with the fund's purpose (e.g. "Bike Trail Fund"). The Community Foundation reserves the right not to approve a name for a donor fund.

### ***Naming a Primary Fund Contact***

The Primary Fund Contact is typically the donor making the gift (fund founder), or an individual appointed by the donor or his/her estate to establish the fund (fund adviser). The Primary Fund Contact will receive correspondence regarding the fund including quarterly fund activity statements, announcements, emails and letters. Secondary fund contacts and successor advisers may also be named. Their roles and privileges are defined in the Donor Fund Application and in this document.

### ***Contributions***

Contributions may be made to a donor fund at any time and are irrevocable. Contributions may be in the form of cash equivalents (checks and credit card), real estate, marketable securities or business interests. Contributions other than cash equivalents or marketable securities may be subject to approval by the Community Foundation's Gift Acceptance Committee in accordance with the Foundation's Gift Acceptance Policy. The cost of accepting a gift may be charged against the fund.

### ***Testamentary Gifts & Beneficiary Designations***

Contributions to a donor fund may be made as part of your estate plan. The fund may be named as a beneficiary of cash equivalents, securities, life insurance policies, retirement plans, charitable remainder trusts, charitable gift annuities, charitable lead trusts and/or brokerage accounts. The Community Foundation can provide sample bequest language allowing the donor to designate all or a portion of his/her estate to benefit a fund at the Community Foundation.

Completion of a Donor Fund Application allows the donor to instruct the Community Foundation regarding the fund's name and purpose after the donor's lifetime, name successor advisers (if applicable), and specify charitable organizations or field of interest that may benefit from the fund in perpetuity. Community Foundation staff can assist you and your legal or tax adviser on the many ways charitable giving can fit into your estate plan.

### ***Tax Considerations***

Contributions to the Community Foundation's funds are treated as gifts to a public charity and are generally tax deductible as allowed by law and subject to individual limitations. Under the Internal Revenue Code, deductions for charitable contributions are subject to certain percentage limitations that limit the deductions that can be taken to a stated percentage of adjusted gross income (AGI), in the year the deduction is taken. Contributions in excess of these percentage limitations may be carried forward up to five subsequent years. Because the Community Foundation is a 60 percent type public charity, the applicable percentage limitations are generally the most favorable charitable deductions under the Internal Revenue Code.

Additional rules or limitations may apply with respect to an individual's tax treatment or specific circumstances. Please consult with your tax adviser.

### ***Fundraising Policy & Memorial Funds***

Donors may make additional contributions to funds they create, and the Community Foundation may, at its discretion, accept additional contributions to named funds of others. Third-party contributors have no access to information about the fund and no grant recommendation privileges, nor may they receive anything in exchange for or in consideration of their contributions, under IRS rules.

Neither the fund founder, adviser(s), or any other person may guarantee to contributors that intended grant recommendations or distributions will be approved. Funds established in memory of someone who has passed away may also accept donations. Checks should be made payable to the Community Foundation of Plymouth with the fund name written in the memo line. The following language is suggested for death notices or solicitations:

"Funds raised will be added to the [insert fund name] Fund at the Community Foundation of Plymouth, a 501(c)3 organization. Please make checks payable to the Community Foundation of Plymouth. Please write the fund name in the memo line of your check."

The Community Foundation is unable to assist event organizers with fundraising events to benefit a donor fund. Please refer to the Community Foundation's Donor-Initiated Fundraising Policy for more information.

## **Variance Power**

All assets contributed to a donor fund at the Community Foundation become irrevocable gifts to the Community Foundation; and legal control and responsibility for the funds rest with the Community Foundation, under IRS regulations. All funds established at the Community Foundation are subject to the Community Foundation's "variance power," as set forth in the Community Foundation's governing documents.

The Board of Directors of the Community Foundation shall administer and distribute the property held by the Foundation in the manner that best serves charitable, educational, literary, religious, and scientific needs; and shall have the power in carrying out such duty to modify any restriction or condition on the distribution of funds for any specified charitable, educational, literary, religious, or scientific purposes or to specified organization if, in the sole judgment of the Board of Directors (without the necessity of the approval of any participating trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with charitable, educational, literary, religious or scientific needs.

The Community Foundation reserves the right to take any actions at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of the fund of the Community Foundation, or to comply with applicable law.

## **Investment of Assets**

Assets of the Community Foundation are professionally managed to safeguard principal and achieve a competitive rate of return. Endowed funds managed by the Community Foundation are typically managed in the Community Foundation's long-term pool.

Fund advisers of spendable funds managed by the Community Foundation may recommend the fund be placed in one of the following investment pools based on the fund's grant-making strategy:

- Spendable/Invested Pool
- Short-term Pool

Recommended changes to investment pools may be made only once per calendar year, unless a significant change to grant making or fund balance occurs and prudence requires a change.

Fund founders may request that the fund's assets be managed by an external investment manager or broker within a set of guidelines prescribed by the Community Foundation. External asset management is available for funds with an initial contribution of \$50,000 or more. The Board and Investment Committee of the Community Foundation, or the external asset manager, with approval from the Community Foundation, have the authority to make any or all investment decisions for the assets in the fund.

The fund founders may provide the Community Foundation with their perspective on investment management, but may not choose investments or veto investment choices made by the Community Foundation. The Foundation will vet all recommended investment managers and may, at its sole discretion, decline to engage an investment manager or terminate an existing engagement with the investment manager at any time.

Donor-recommended investment managers will be given a questionnaire to complete. The questionnaire must be returned in writing or via email within 45 days of receipt. Accounts must be set up and ready for funding within 90 days from the date the questionnaire is sent to the prospective manager. Donor-recommended investment managers must comply with the Community Foundation's investment and reporting policies.

Investment fees are charged to funds, and investment returns are posted to the funds net of that fee. Investment management fees vary over time and by investment pool, and are available upon request.

Income, investment gains or losses, and fees are posted to the fund on a quarterly basis. A fund's specific performance is measured by the fund's fractional interest in the investment activities of the investment pool.

## **Fund Activity Reporting**

Hard-copy fund activity statements are mailed quarterly via U.S. mail or may be emailed to the Primary Fund Contact.

## **Spending Policy**

For endowed funds, the Community Foundation's Board of Directors sets and monitors the annual distribution rate that is calculated as a percentage of fund assets, known as the Spending Policy. The current Spending Policy is to take out for grant-making purposes 4.5% of the average fund balance over the past 12 quarters (or the number of quarters the fund has existed, if less). The Spending Policy may be amended and restated at any time at the discretion of the Community Foundation's Board of Directors. Quarterly fund activity statements show the annual amount available for granting from the donor fund, also known as the annual grant-making target. Spendable funds are not subject to the Community Foundation's Spending Policy, although fund statements may show the annual grant-making target purely as a guide for the fund founder/adviser.

## **Donor Services**

The Community Foundation is responsible for administration of the fund's check writing, bookkeeping, investment management, tax reporting, auditing and evaluation, and makes available to the founder/adviser reports of fund income, expenses and grant making, as appropriate. Administrative fees support these services consistent with the Foundation's role as a philanthropic leader in the community.

In addition to these financial and administrative services, the Community Foundation's staff provides personalized services to donor fund founders/adviser(s). Donor Relations staff can provide guidance on grant making, researching community needs, helping to craft a charitable mission for the fund, answering questions and resolving issues that may arise. Donors are encouraged to take advantage of these personalized services in order to achieve their charitable goals. Upon request, donors may receive copies of mail received relating to the fund.

### **Fees**

A start-up fee of 1% of the initial donation is charged to new funds. The current fee schedule provides for an annual administrative fee charged to all donor funds (whether endowed or spendable). This fee is determined at the time the fund is established (based on complexity of the fund) generally not to exceed 2% of the fund's asset value (declining as assets exceed \$3 million). The fee schedule is subject to change at the sole discretion of the Community Foundation. The Foundation reserves the right to charge extraordinary fees for special additional services. Fund founders/adviser(s) will be notified in writing in advance of any fee changes.

### **Role of Fund Advisers**

Donors establishing an advised fund may designate themselves or any person to be an adviser to the fund. Ideally, fund advisers are at least 18 years of age; however, if a fund adviser is a minor, the Community Foundation will work with the minor's guardian to facilitate fund advisory privileges. Individuals named as "fund advisers" may recommend grants to be issued from the fund. If a fund is advised jointly, upon the death of one adviser, the remaining adviser(s) retains advisory privileges.

### **Successor Advisers**

The initial fund founder may designate any person to be a "successor adviser" by notifying the Foundation in writing to exercise the privileges and duties of an adviser upon an adviser's death, incapacitation or resignation. Successor advisers may assume the privilege to advise the fund only after the death, incapacitation or resignation of the fund founder and all initial fund advisers. Successor advisers may appoint further successor advisers by notifying the Foundation in writing.

If there are no further Successor Advisers appointed, the fund will support the donor's named fields of interest as set forth in the Donor Advised Agreement or, if no charitable fields of interest are specified, to support a wide range of charitable purposes at the discretion of the Community Foundation.

The following Fund Advisory/Privileges and Fund Relationship definitions further explain the role of advisers and other interested parties to funds at the Community Foundation. These terms correlate to the Donor Fund Application and will help you to determine your fund contacts and advisers.

### **Fund Advisory Privileges Definitions:**

**Fund Founder:** The donor(s) making the gift that established the fund. Individuals have full advisory privileges with regard to the fund, including grant recommendations, investment pool recommendations, naming of successor advisers, and other fund advisory privileges.

**Fund Adviser:** Individual who advises the fund through grant recommendations only.

**Fund Representative:** Individual who has access to fund information, but no advisory privileges.

### **Fund Relationship Definitions:**

**Primary Contact:** One person per fund who should be contacted first for anything concerning the fund. This individual may or may not have full fund advisory privileges.

**Founder:** The first generation fund adviser. This may be an establishing donor, but not always.

**Establishing Donor:** The individual who gave the first or endowment gift to the fund. This may be a founder but not always; and may or may not have advisory privileges over a fund.

**Successor Adviser:** Named by the fund founder, this individual obtains fund advisory privileges upon the cessation to act of the fund founder and all initial fund advisers.

**Professional Adviser:** Financial or other advisers, such as certified public accountants, attorneys or investment managers. These individuals may or may not have fund-advisory privileges, depending on their status as a fund adviser, fund representative or the primary contact.

### **Grant Making**

Fund advisers have grant recommendation privileges. Grants may be recommended by email or by submitting a Grant Recommendation Form. All grants are made for charitable, religious, scientific, literary, or educational purposes (collectively, "charitable purposes"). Recommendations may be made for grants to any organization that is described in Code Section 170(c)(2), 501(c)3, 2055(a)(2) or 2522(a)(2) (except for private foundations as defined by Code Section 509(a) a "qualified organization"). Qualified organizations include schools, religious institutions, tribes or government agencies located in the United States.

Grant recommendations will only be considered if they are a minimum of \$100. Grant checks sent to organizations are accompanied by a custom grant letter from the Community Foundation specifying the name of the fund and the founder/adviser(s) name(s), unless otherwise requested by the founder/adviser, and as approved by the Community Foundation. In the Donor Fund Application, the founder/adviser may indicate a preference regarding the inclusion of personal contact information in the custom grant letter.

Donor-advised, agency and designated fund grant recommendations are reviewed by the Community Foundation and, if approved, grants are typically sent within one to three weeks of receipt of the recommendation. Grants made from funds at the Community Foundation are issued on checks with the name and logo of the Community Foundation.

### **Restrictions on Grants**

The Community Foundation can only approve grant recommendations that are used exclusively in furtherance of charitable purposes. All grants are subject to the Community Foundation's Grant Making Policy. The Community Foundation reserves the right to perform additional due diligence and decline to make a recommended grant to an organization, including, with limitation:

- (i) Where the grant will confer a more than incidental benefit on the fund founder or adviser(s), other person with grant recommendation privileges, or other third party;
- (ii) Where the grant will be used for lobbying, for political contributions, or to support political campaign activities;
- (iii) Where the grant will be used for improper purposes;
- (iv) Where fund founder/adviser(s) and related persons control the organization (with exception of agency and designated funds);
- (v) Where the Community Foundation provides a substantial portion of the organization's public support; and
- (vi) For other reasons in accordance with Community Foundation policies. Remedial actions may include but are not limited to requiring that the grant be returned or that the fund founder/adviser make an additional nondeductible contribution.

Grants may not confer more than an incidental benefit to the fund founder/adviser(s). Improper benefits include loans, compensation or similar payments, school tuition, scholarships sent directly to individuals (without being processed through the Community Foundation's official Scholarship Program), certain dues and membership fees, all or a portion of the cost to attend a charitable or other event, goods bought at charitable auctions, raffle tickets, or certain other goods and services. In addition, grants may not satisfy a financial obligation of any individual or entity, including pledges.

Please contact the Community Foundation if you have questions about the exclusion of benefits from grant recommendations and/or multiple-year payments.

### **Expense Reimbursement**

Under IRS rules, the Community Foundation does not permit expense reimbursements from an advised fund to any fund founder, adviser or related party. Further, a donor-advised fund may not pay expenses directly to any vendor, etc. All other expenses must be paid by the

Community Foundation directly after appropriate review of the expenses and their payees; and must be pre-approved by an officer of the Community Foundation prior to being incurred.

### **Fund Inactivity**

The Community Foundation strongly encourages fund advisers to maintain an active advisory relationship and to make grant recommendations at least annually. Fund advisers who wish to delay recommendations for grant making in order to recommend a significant grant at a later date should notify the Community Foundation via letter or email.

Generally, if the fund founder/adviser(s) has made no contributions to the fund and no grant recommendations for three years, the Community Foundation may distribute grants from the fund in accordance with its Spending Policy at the discretion of its Board of Directors. Attempts are made to reach the fund founder/adviser before such action is taken.

### **Fund Closure**

Endowed funds are permanent and cannot be closed. A fund founder/adviser may recommend closing a spendable fund by granting up to 100 percent of the available fund balance to a qualified organization, including any of the Community Foundation's funds (e.g., field of interest funds, unrestricted funds, operating fund). Such recommendations must be received in writing and, if approved, funds will be disbursed in accordance with the Community Foundation's articles of incorporation, bylaws, current agreements, laws and regulations.

Once closing of a spendable fund is approved by the Community Foundation and the qualified organization status of the recipient is verified, 80 percent of the current balance will be granted within 10 business days of the approval date. The remaining balance of the fund, including any residual net earnings, will be granted as time and circumstances allow — typically within 60 days.

### **How can I get more information?**

For more information, please contact the Foundation staff at 734-495-1200 or visit [LocallImpactAlliance.org](http://LocallImpactAlliance.org).

### **Disclaimer**

*The information in these Terms and Conditions is provided for informational purposes only and is not intended as legal advice or tax advice. The information is not intended to create an attorney-client or other relationship with the Community Foundation. The Community Foundation makes no representations, warranties, or assurances as to the accuracy, currency or completeness of the information contained herein. Tax rules and legal rules can change frequently and the information contained in these Terms and Conditions may not be accurate or current. The information contained in these Terms and Conditions is also not intended or written to be used, and should not be used, for the purpose of determining state or federal tax liability, tax penalty protection or legal obligations. Nothing contained in these Terms and Conditions should be viewed as a substitute for legal or tax advice from a competent attorney or other professional. The Community Foundation is not liable or responsible for any course of action or decision made based on or as a result of information in these Terms and Conditions.*