

A GUIDE TO BUILDING A LEGACY SOCIETY





CMF Member - \$20
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A GUIDE TO BUILDING A LEGACY SOCIETY

A legacy society is a marketing tool and a donor service that formally recognizes donors who have made plans to leave a gift to a community foundation. This publication provides a guide for developing a successful legacy society.

ii

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TABLE OF CONTENTS

OVERVIEW: COUNCIL OF MICHIGAN FOUNDATIONS'

COMMUNITY FOUNDATION PROJECT	1
PROJECT OBJECTIVES	1
TECHNICAL ASSISTANCE ACTIVITIES	2
PUBLICATIONS	3

SECTION I: A GUIDE TO BUILDING A LEGACY SOCIETY

BUILDING A LEGACY SOCIETY	7
Background	7
What is a Legacy Society?	7
Role of a Legacy Society	8
How Must We Prepare to Implement a Successful Legacy Society?	8
How Do We Begin our Legacy Society?	9
Conclusion	11
WILLS AND BEQUESTS	13
Types of Bequests	13
PLANNED OR DEFERRED GIFTS	15
TYPES OF PLANNED OR DEFERRED GIFTS	17
Life Insurance	17
Charitable Remainder Annuity Trust	18
Charitable Remainder Unitrust	18
Charitable Lead Trust	19
Charitable Gift Annuity	20

SECTION II: SAMPLE LANGUAGE FOR CHARITABLE REMAINDER TRUSTS, CHARITABLE GIFT ANNUITIES, AND BEQUESTS TO

COMMUNITY FOUNDATIONS	23
INTRODUCTION	23

General Comments on Charitable	
Remainder Trust Samples	24
Relevant Tax Law	25
INTER VIVOS CHARITABLE REMAINDER UNITRUST, SINGLE LIFE	29
INTER VIVOS CHARITABLE REMAINDER UNITRUST, TERM OF YEARS	35
INTER VIVOS CHARITABLE REMAINDER ANNUITY TRUST, SINGLE LIFE	42
INTER VIVOS CHARITABLE REMAINDER ANNUITY TRUST,	
TERMS OF YEARS	49
CHARITABLE GIFT ANNUITY AGREEMENT	57
DEFERRED CHARITABLE GIFT ANNUITY AGREEMENT	60
WILL PROVISIONS	63
 SECTION III: SAMPLE POLICY GUIDELINES FOR THE SOLICITATION,	
ACCEPTANCE AND ADMINISTRATION OF GIFTS	65
MUSKEGON COUNTY COMMUNITY FOUNDATION POLICY FOR	
THE ACCEPTANCE OF CONTRIBUTIONS	67
FUND DEVELOPMENT POLICIES OF THE BATTLE CREEK	
COMMUNITY FOUNDATION	84

OVERVIEW:

COUNCIL OF MICHIGAN FOUNDATIONS' COMMUNITY FOUNDATION PROJECT

The Council of Michigan Foundations (CMF) serves over 350 grantmaking organizations in the state. As a regional association of grantmakers representing private foundations, corporate foundations, bank trust departments, and community foundations, CMF seeks to increase, enhance, and improve the philanthropic resources of Michigan.

In 1988, the community foundations in Michigan worked together through CMF's leadership to plan for the future of community foundation development in the state. Three major strategies were initiated: a challenge grant to raise endowment dollars; the involvement of youth in philanthropy; and technical assistance delivered on a statewide basis. These strategies received support from the W. K. Kellogg Foundation and the Charles Stewart Mott Foundation.

A three-year pilot project (1988 - 1991) proved so successful in assisting the growth of community foundations and the building of a statewide network of organizations that CMF pursued continuing and more substantial funding.

In 1991 CMF, on behalf of the community foundations of Michigan, received a \$35 million challenge grant from the W. K. Kellogg Foundation. The grant provides for each community foundation member to receive up to a \$1 million challenge grant over five years (1991 - 1996) and provides for technical assistance. A companion grant of \$350,000 from the Charles Stewart Mott Foundation also supports an array of technical assistance services.

In 1995, the W. K. Kellogg Foundation provided a \$12 million companion grant to complete the challenges and ensure that a strong and viable base of community foundations is in place at the end of the total project.

PROJECT OBJECTIVES

The objectives of the program are as follows:

1. Assist community foundations in building their unrestricted and field of interest endowments,
2. Expand and extend community foundation services to cover the State so that every donor has access to a community foundation,

3. Provide a permanent youth field of interest fund for communities across Michigan from which grants can be made to meet local youth needs;
4. Involve youth in the process of philanthropy by assessing local needs, raising funds, and advising on youth grantmaking,
5. Stimulate youth volunteerism across the state.

TECHNICAL ASSISTANCE ACTIVITIES

The 1991 challenge grant requires a 2:1 local funding match by the community foundations, which will generate almost \$100 million of new assets for Michigan communities.

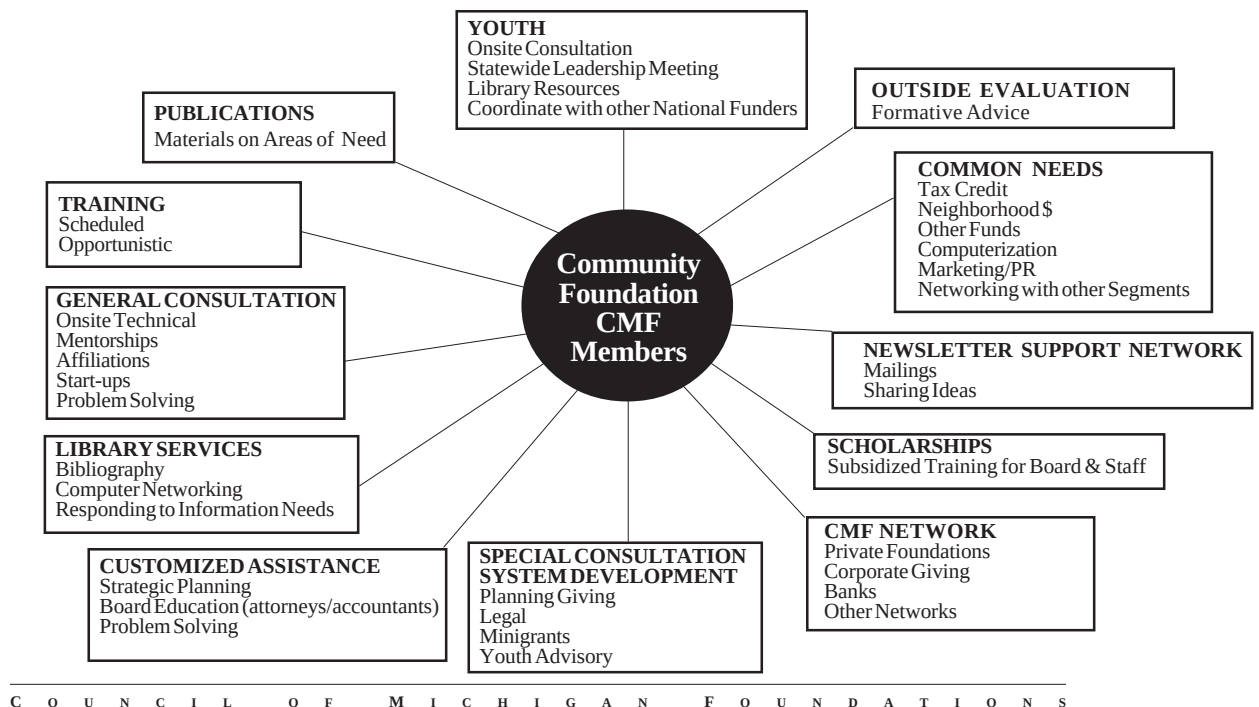
The community foundation initiative receives enthusiastic support from CMF's private and corporate foundations in Michigan. Their sustained involvement helps to build this critical network of strong independent community resources.

For the continuing enthusiasm and generous assistance of the W. K. Kellogg Foundation and Charles Stewart Mott Foundation, Michigan community foundations extend a deep and public thanks.

The array of services offered by CMF to its community foundation members is displayed in Figure 1.

PUBLICATIONS

Figure 1. Technical Assistance Activities



This is the ninth in a series of publications that are tangible products of many related efforts to build the capacity of community foundations in service to Michigan communities. Other titles in the series are as follows:

- 1. *The Michigan Community Foundation Legal Reference***
- 2. *How To Help Your Community Foundation
Develop An Effective Strategic Plan***
- 3. *Raising Dollars For Community Foundations
through Modern Marketing Techniques***
- 4. *Community Foundation Primer***
- 5. *A Guide to Managing Change for Foundations***
- 6. *Community Foundation Scholarship Guidelines for
Membership Clubs, Corporations, and Associations***
- 7. *Sample Language for Gifts and Bequests to
Community Foundations***
- 8. *Identifying the Patterns, Prospects, and Pitfalls in
Community Foundation Growth and Development***

Copies of these publications can be ordered from

Council of Michigan Foundations
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SECTION I
A GUIDE TO BUILDING
A LEGACY SOCIETY

BUILDING A LEGACY SOCIETY

Background

Over the next 20 years Americans will witness the greatest generational transfer of wealth in history—\$10 to 12 trillion.

Yet studies show that up to 70 percent of Americans have not made provisions for their estates; they do not even have wills!

This provides a unique opportunity. The establishment of legacy societies for Michigan's community foundations will enhance the community foundations' role as a community leader—providing a means for people to make final arrangements that will benefit their heirs, charity, and the community forever.

An effective legacy society provides a means to recognize today the future good of the donor's gift.

What Is a Legacy Society?

A legacy society is a marketing tool and a donor service that formally recognizes donors who have made plans to leave a gift through the community foundation. While a legacy gift may take different forms—bequest, insurance, trust, or annuity—the result is the same: providing for the future needs and opportunities of the community.

The society formally provides for the “development of the donor” and the recognition of the charitable act.

A legacy society is similar to a club, where membership is determined by a donor's gift or plans to leave a gift to the community foundation. The donor's benefit is the formal recognition of his or her generosity. This recognition may include the announcement of the gift in the community foundation newsletter and annual report or a special invitation to an “annual event” for legacy society members or friends of the foundation.

Some Michigan community foundations already have cornerstone societies or ambassador groups. Principles introduced in legacy societies are complimentary to those efforts, and can be used to enhance their development.

Role of a Legacy Society

The purpose of a legacy society is synonymous with the mission of the community foundation. It is a means of securing the community's future.

The legacy society provides for the opportunity to thank donors for their future contributions during their lifetimes. This public acknowledgment may also stimulate the interest of other potential donors.

It is important to recognize that a successful legacy society builds on strong asset development and public relations programs. An effective legacy society can strengthen a good development program or serve as a springboard for future growth of younger foundations. A legacy society requires the commitment of the time and resources of the community foundation trustees and staff.

This guide will provide you with a model for a successful legacy society that you may implement in its entirety or modify to address needs unique to your community.

How Must We Prepare to Implement a Successful Legacy Society?

Successful legacy societies implemented by community foundations and other organizations are the products of the cultivation of donors, their awareness of the community foundation, and their charitable intentions.

- Is the community foundation recognized by the community for its charitable outreach and leadership?
- Is the community aware of the community foundation's activities? Its purpose? Its vision?
- Has the foundation established itself as an accountable and credible charity?

The issues of credibility, accountability, and need awareness are paramount to the successful implementation of a legacy society. Deficiencies need to be addressed not solely for the successful implementation of the society, but for the overall health and effectiveness of the organization in all aspects of operation.

There are a number of opportunities to build awareness of the community foundation and establish its presence as an accountable charitable organization addressing the needs of the community. Potential outreach tools that can enhance a community foundation's visibility include the following:

1. Develop and distribute a brochure, annual report, and newsletter describing the role of the foundation.
2. Utilize the local media to announce grants, to share important human interest stories resulting from grants, and to show collaboration with other charities and organizations.
3. Speak at community forums and service club meetings.

4. Communicate with and work with other local charities (share your successes and resources with the entire community).
5. Sponsor and produce special events.
6. Physically award grant checks to recipients.
7. Cultivate relationships with professional advisors.

How Do We Begin Our Legacy Society?

1. **Pass a resolution by the board of trustees establishing the legacy society.**

The organization's full support is mandatory. A commitment of time and resources is important for the program's success.

A sample resolution follows:

***WHEREAS**, the community foundation serves the community through grantmaking and community leadership;*

***WHEREAS**, the community foundation assists the citizens of our community in fulfilling their charitable wishes;*

***WHEREAS**, the community foundation builds endowment, guaranteeing resources today to address tomorrow's needs;*

***BE IT RESOLVED**, that the Board of Trustees of the Community Foundation fully supports the implementation of a legacy society to recognize donors who have made significant gifts or have plans to leave a gift to the community foundation. The Board of Trustees defines "fully support" to include the commitment of staff and trustee resources, notably time and financial.*

By adopting such a resolution, your board will help to ensure that your legacy society will serve as a great source of growth. By showing a strong commitment, the board will enhance the likelihood that the legacy society will succeed.

2. **Determine which types of gifts should be recognized through the society.**

Traditionally, legacy societies have been established to honor those who named the charity in their wills. Many

organizations have expanded the membership guidelines to recognize those making significant contributions through other gift planning instruments. It is recommended that your legacy society acknowledge all planned or deferred contributions, such as charitable trusts or gift annuities. Furthermore, some organizations also include donors who have made sizable gifts over time, such as lifetime cumulative gifts totaling \$25,000.

3. Establish standards of gift acceptance that are consistent with your current practices.

If your organization currently reviews gifts individually and determines their appropriateness, you can continue to do so. However, sample written gift acceptance policies as found in Section III are recommended. In the long run, you will find that this creates greater efficiency and a better understanding of gift requirements for volunteers and future donors. The procedures will also affirm the foundation's position on the acceptance or nonacceptance of noncash gifts.

4. Determine how you would like to identify the legacy society.

Many organizations keep the literal name *Legacy Society*. Naming the legacy society after a community leader, a major donor, the founders of the foundation, or the first family to make a life gift has proven rewarding. It is recommended that you combine the two, as in, for example, the Benjamin Franklin Legacy Society. By including “Legacy Society” in the name, you add credibility to a new program and help it build an immediate identity within the community. The family name personalizes the legacy society. Retaining “Legacy Society” will also assist in mass marketing efforts.

5. Identify how the community foundation can appropriately recognize donors.

It is important to thank donors for their significant gifts to the community.

- Ask donors if they would like to be listed as members of your legacy society, or if they wish to remain anonymous. List new member names in the next issue of the newsletter. If anonymous, determine the level of anonymity desired. Some donors say “anonymous” when they mean they don't want publicity, but allow the Board of Trustees

and staff to know their names; others do not want board or staff members to know; and still others prefer total anonymity and may work through an accountant or attorney. Some donors prefer to be anonymous during their lives, but would like the fund to bear their name after their death.

- Write about the legacy society and identify members in the community foundation's annual report. Discuss how the board could appropriately recognize the donor.
- Hold an award event for friends of the foundation and legacy society members. Recognize new members.

6. **Market! Market! Market! Promote the legacy society in every possible way.**

Folks will appreciate that you are able to help them make final arrangements to benefit family and community.

- Prepare a brochure that discusses the benefits of your legacy society.
- Dedicate a section in every issue of the community foundation newsletter to the society.
- Include legacy society information in mailings to friends, colleagues, and other charities within your constituency.
- Mail a letter to your community's professional advisors introducing the community foundation's legacy society.
- Write to local attorneys asking them to seek permission from their clients to let you know of planned gifts to the community foundation.
- Add “remember the community foundation in your estate plan” to your letterhead.
- Ask your trustees to become charter members—include their names in the announcement of the legacy society.

Conclusion

James Gregory Lord wrote that it is the philanthropist's role *to help the donor do something significant for the community and for society.*

Through the community foundation and the use of the legacy society, we are doing just that. We are addressing tomorrow's challenges and opportunities today.

Thanking donors today for tomorrow's gifts is very rewarding for everyone involved and, although the financial results to the foundation may be a long time coming, it provides an opportunity for significant financial growth.

We hope that, by using this guide, your foundation can develop a legacy society that will enhance your current development program. Such a society may also act as the cornerstone for your evolving gift planning program.

The Council of Michigan Foundations' staff can provide in-depth and customized consultation to help you establish a legacy society. Please write or call CMF at: One South Harbor Avenue, P.O. Box 599, Grand Haven, MI 49417, 616-842-7080.

WILLS AND BEQUESTS

A *will* is simply a legal record of a person's wishes regarding the eventual use of assets accumulated during a lifetime. The instructions regarding the dispensation of the assets are called *bequests*.

A charitable bequest transfers a donor's property to a favorite charity upon the donor's death. It is an attractive gift instrument for both the donor and the community. As a form of giving, a charitable bequest provides flexibility since it may be changed at any time. A bequest can be made in memory of loved ones, providing a meaningful way to create a memorial that lives on in service to others.

Donors are able to retain ownership of their assets during their lifetimes, yet make significant contributions to their community after death. Furthermore, the individual's taxable estate will receive a charitable deduction equal to the full, fair market value of the bequest.

A bequest can be an appropriate gift instrument for many people. Experts believe individuals who lived through the Great Depression and members of the generation immediately following feel more secure giving through this gift instrument.

Types of Bequests

There are several forms of outright bequests.

General Bequest

The donor simply leaves a specified dollar amount (e.g., \$20,000) to the community foundation.

Specific Bequest

A bequest of this type involves the designation of the specific property (e.g., a home, a farm, or shares of stock) to the community foundation.

Residuary Bequest

Through a residuary bequest the community foundation receives all (or a portion of) the estate after all debts, taxes, expenses, and other bequests have been paid. It may augment a general or specific bequest to the community foundation if the

size of the estate allows, or may ensure that other beneficiaries receive their bequests prior to distribution to the foundation.

Percentage Bequest

The donor may direct that the community foundation receive a percentage of the estate or residuary estate. Through a percentage bequest, if the size of the estate changes, the bequest will change proportionately.

Contingent Bequest

In the event that an individual beneficiary dies before the donor or disclaims the property, the donor names the community foundation as the contingent beneficiary.

Specific language for establishing funds through a charitable bequest can be found in Section II, page 23.

PLANNED OR DEFERRED GIFTS

Individuals of moderate financial means can make significant charitable contributions through wills and other gift planning instruments. The underlying difference between a will and these other vehicles is that a will does not legally transfer property until the donor passes away. Therefore, any tax benefits are not recognizable by the donor during his or her lifetime.

In contrast, other gift planning instruments provide the opportunity to make a considerable charitable gift while providing benefits during the donor's lifetime, such as guaranteed income and tax savings.

TYPES OF PLANNED OR DEFERRED GIFTS

Life insurance, charitable remainder annuity trusts, charitable remainder unitrusts, charitable lead annuity trusts, charitable lead trusts, and charitable gift annuities are common gift instruments used today. Each is relatively easy to understand and may be easily integrated as recognizable gifts for your legacy society.

Life Insurance

Many people purchased life insurance when they needed protection for their family, for their business, or for their estate. In later years they may find that they don't need all the insurance they did when they were younger because they have built an estate of other assets, their children are self-supporting, or their personal and mortgage debt levels are lowered. As a result, it may become desirable for these individuals to use their policies for charitable giving.

By irrevocably assigning an insurance policy to the community foundation, the donor will receive an immediate federal income tax charitable deduction in the year of the assignment. The value of the deduction is equal to the lesser of the policy's replacement value or the cost (in terms of net premiums paid). If the policy is not yet paid up, an income tax deduction is also allowed for contributions made to the community foundation to pay subsequent premiums.

A gift of life insurance maintains the donor's current stream of income, provides estate tax savings later, and often enables the donor to make a larger charitable gift than was previously thought possible.

Perhaps the donor is not ready to give up ownership of the life insurance policy because he or she wants access to the cash surrender value or needs the policy as collateral. Instead of assigning the policy, the donor can name the community foundation as primary beneficiary of the insurance (or the contingent beneficiary to receive the proceeds if the primary beneficiary predeceases the donor).

By naming the foundation as beneficiary, the donor retains ownership of the policy, and has both access to the cash value and the right to change the beneficiary. Because the donor retains ownership, there is no charitable deduction for the value of the policy upon designation of the foundation as beneficiary or for subsequent premium payments. Any proceeds payable to the community foundation at the donor's death will not be subject to federal estate tax.

Charitable Remainder Annuity Trust

A trust is established when assets are transferred to a trustee to be held on behalf of specified beneficiaries during the trust's term. The charitable remainder annuity trust pays (to the donor and/or another beneficiary) an amount of money for the beneficiary's life or for a fixed term not exceeding 20 years. The fixed income payment must not be less than five percent of the initial value of the trust assets; thus, it may not be added to in future years. The annuity trust appeals to many senior citizens and may be particularly suitable for a beneficiary who wants the security of a fixed annual income. When the payments cease, the remaining property is transferred to the community foundation.

The charitable remainder annuity trust can be funded using any of a variety of assets: cash, bonds, stocks, land, or personal property. Charitable remainder trusts are sheltered from current income taxation because the income is distributed to beneficiaries and the principal is held for charitable purposes. If the donor places low-yielding securities in the trust, the trustee can sell them, reinvest the proceeds in issues paying higher yields, and neither the trust nor the donor will have to pay tax on the capital gains that are realized at that time. The beneficiary will pay federal income tax on amounts distributed by the trust.

Once the charitable remainder trust is established with the community foundation as the remainderman, the property is no longer part of the donor's estate and the donor's heirs will not benefit from the property. Life insurance can replace the value of the asset that has been donated to the foundation. The donor can use the tax savings resulting from the charitable deduction to buy a life insurance policy and pay the subsequent premiums. Placing the insurance policy in a separate trust (often called a wealth replacement trust) permits the proceeds to pass outside the donor's taxable estate to the heirs.

Charitable Remainder Unitrust

The charitable remainder unitrust is a popular instrument for individuals and couples in their 50s and 60s. Payments from the charitable remainder unitrust are based on a percentage of the *annual* value of the trust assets, contrasted to the annuity trust payments, which are based on a percentage of the initial value of the trust. Therefore, the income received by the unitrust beneficiary each year will increase or decrease as the asset values change. Because the payout is based on an annual valuation, the donor may add to the principal of a unitrust in future years. The variable nature of the unitrust payment may provide the beneficiary with a hedge against inflation—assuming a growth in value of the trust asset is comparable to the inflation rate.

Like an annuity trust, the payout percentage must be at least five percent. The charitable remainder unitrust can be established to provide benefits for life or for a specified number of years (not to exceed 20), as can an annuity trust. In both forms of charitable remainder trusts, the remainder is transferred to the community founda-

tion. The trust can be funded using a variety of assets including cash, bonds, stock, land, or personal property.

Charitable Lead Trust

A charitable lead trust is the reverse of a charitable remainder trust. In a charitable lead trust, which can be created by a deed of trust or by will, the donor can provide that an annuity or unitrust payment be made to a fund at the community foundation for a term of years of any duration, after which the principal is paid to the donor, the donor's heirs, or any other noncharitable beneficiary selected by the donor.

The donor does not receive a charitable deduction for federal income tax purposes upon the creation of a lead trust unless the donor chooses to be taxed on the trust income (i.e., the income that will be paid to the community foundation). Some people find that the chance to take a federal income tax deduction in the initial year outweighs the disadvantage of paying taxes on the trust's income in later years. The donor can avoid the negative tax impact by funding the lead trust with tax-exempt securities.

A charitable lead trust in which the donor is not taxed on the trust's income and that will transfer the remainder of the assets to other family members allows the ultimate transfer of the property to be made at a low transfer cost. This mechanism is especially useful for property that has a great capacity for appreciation.

A lead trust can be established either during the donor's lifetime or by will. A charitable lead trust created by will can cut down substantially on the estate taxes payable upon death because of the charitable deduction for the community foundation's charitable interest in the annuity or unitrust payment. The value of the charitable interest depends on the length of the trust and the amount or percentage to be paid out each year. The savings in estate taxes means that the heirs will ultimately receive substantially more than if the property were left to them at the donor's death.

Similarly, if the donor creates a charitable lead trust during his or her lifetime, taxes on the income from the assets placed in the trust are generally eliminated and the gift tax on the property eventually passing to the children or grandchildren is also reduced.

Charitable Gift Annuity

A charitable gift annuity is a contract between the donor and the community foundation. It gives the donor the opportunity to make a charitable gift and secure a stream of income for life. Under this contract arrangement, a donor transfers property, cash, or securities to the foundation in exchange for a commitment by the foundation to pay the donor (and a second annuitant, if the donor chooses) fixed and guaranteed payments for the remainder of his or her lifetime(s). Upon the death of the donor and the second annuitant (if one were designated), the remaining principal is retained by

the foundation to carry out the donor's charitable intentions.

Payment rates for gift annuities are established by the National Committee on Gift Annuities and are based on the annuitant(s) age(s) at the time of the gift. The older the annuitant, the higher the rate. Under the current rate tables, senior persons over age 80 would receive a return exceeding 9 percent. These rates are calculated so the charity receives approximately 50 percent of the amount deposited. Payments from a gift annuity may also be attractive, as a portion of the payments is characterized as the tax-free return of principal over the life expectancy of the annuitant.

A gift annuity program places a financial obligation on the community foundation, as the foundation is legally bound to make the annuity payments to the income recipient(s). Please proceed carefully with good legal and tax assistance.

The charitable remainder annuity trust, charitable remainder unitrust, and charitable gift annuity may provide opportunities for individuals to earn income greater than or equal to their current return on an asset, while making a significant charitable contribution to their community. These gifts each provide donors with a charitable deduction equal to the present value of the remainder interest. The charitable deduction will be subject to the annual limitation for charitable contributions based on the donor's adjusted gross income. However, amounts not deductible are available for a five-year carryover.

Charitable remainder trusts provide the additional benefit of foregoing capital gains tax at the time of creation for contributions made with appreciated assets, such as stock or land. Once appreciated assets are sold within the trust, a portion of the income the recipient receives may be characterized as capital gain.

Sample gift instruments are provided in Section II. There is no sample document for the charitable lead trust, as it has many variables and is used less frequently than the other planned giving vehicles. For further information, contact your attorney, or call the Council of Michigan Foundations at 616-842-7080.

A word of caution: The sample documents provided in Section II are for demonstration and educational purposes only. Donors and foundation staff members should not copy these forms for donors or use them for a donor by filling in the blanks. Gifting instruments can be legally complex and directly effect the income and tax obligations of the donors. These planning arrangements should be used only with the assistance of competent legal counsel in coordination with the donor's overall estate plan. Encourage donors to contact an attorney familiar with charitable gift planning.

SECTION II
SAMPLE LANGUAGE FOR
CHARITABLE REMAINDER TRUSTS,
CHARITABLE GIFT ANNUITIES,
AND
BEQUESTS TO
COMMUNITY FOUNDATIONS

INTRODUCTION

Community foundations in Michigan often request “model” language for donor gifts. The Council of Michigan Foundations has previously published a manual entitled, *Sample Language for Gifts and Bequests to Community Foundations*. This section of *A Guide to Building a Legacy Society* provides sample documents for the creation of charitable remainder unitrusts, charitable remainder annuity trusts, charitable gift annuities, deferred charitable gift annuities, and testamentary devises.

The sample documents contained in this manual were developed by Duane L. Tarnacki, Esq., legal counsel for the Council of Michigan Foundations, and Robin D. Ferriby, Esq. The authors are attorneys with Clark, Klein & Beaumont, P.L.C. in Detroit, Michigan.¹

For information on the laws affecting community foundations that issue charitable gift annuities, please refer to *The Michigan Community Foundation Legal Reference*, a CMF publication, which describes the federal and state laws governing this area.

The sample documents contained in this manual are being distributed with the understanding that the CMF is not engaged in rendering legal, accounting or other professional services. Although the documents were prepared by professionals, **this publication should not be used as a substitute for professional services in specific situations.**

The documents are provided as examples and should not be relied on to meet any given client’s needs.

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General Comments On Charitable Remainder Trust Samples

Whenever a donor and a community foundation are considering the use of a charitable remainder trust, they should be fully aware of the effects of entering into such an agreement. The trusts are irrevocable. Donors must understand that when they transfer property to one of these arrangements the transfer is irreversible (the same principle applies to the charitable gift annuity agreements also contained in this manual). Except for the unitrust or annuity amount to be paid to the donor, the donor gives up all other rights in and benefits of any property donated. As to the forms themselves, the following observations are made:

1. The forms provide for payment of the annuity or unitrust amount to a single beneficiary who may be the donor or another living individual chosen by the donor. This can be modified so that the payment is made to multiple beneficiaries, or a succession of beneficiaries before the charitable entity receives the remainder. It should be noted that in so doing, the charitable deduction for donating property to the trust will in all likelihood be reduced. Further, the donor could become liable for a gift tax if the income beneficiary is someone other than the donor or the donor's spouse.
2. Both the charitable remainder unitrust and annuity trust contained in this manual provide that the payments will be made to the income beneficiary for a term of years unless the income beneficiary dies before the expiration of the term of years. In that case, the trust terminates and the property is distributed to the charitable organization. The forms can be modified to provide that if the initial income beneficiary dies prior to the expiration of the term of years, the payments will be made to a successor beneficiary for the remainder of the term of years. However, careful consideration must be made in the drafting of such provisions due to gift tax consequences and the impact on the charitable deduction.
3. Each of the charitable remainder trust forms provide that if, at the termination of the trust, the community foundation is not a qualified charitable organization or is not then in existence, the trustee is authorized to distribute the principal and income to another charity that the trustee selects. The forms specifically restrict the charitable organization that the trustee can select to those described in Internal Revenue Code Section 170(b)(1)(A). These organizations are commonly referred to as "public charities" as distinguished

from private foundations. The reason for this restriction is to ensure that the donor can take advantage of the more favorable rules governing the deductibility of contributions to public charities. For the more favorable deduction rules to apply, the named community foundation must be a public charity at the time the property is donated to the charitable remainder trust. However, if the community foundation loses its public charity status (possibly due to failing its public support test) the forms will still allow for the community foundation to receive the remainder of the trust as long as it remains a charitable organization under Section 170(c) of the Internal Revenue Code.

4. The unitrust or annuity payment can be made in monthly, quarterly, semiannual, or annual installments. The selection modestly affects the charitable deduction allowed. The forms use a quarterly payment schedule.

As mentioned earlier, the Council of Michigan Foundations provides these forms as samples only. They are not intended to supplant the knowledge and training that any drafter of these documents should have in the area of charitable giving and tax planning. Even apparently simple changes in these forms can have severe tax consequences. Practitioners who draft these documents will need to be familiar with the various provisions of the Internal Revenue Code and state law regarding the administration and creation of these arrangements. The donor should have all materials drafted by a competent attorney familiar with these arrangements. The donor should also have professional support (legal and/or accounting) from advisors independent of community foundations.

Relevant Tax Law

Those wishing to learn more about these arrangements should review Internal Revenue Code sections 170, 512, 664, 4941, 4942, 4943, 4944, and 4945, and the corresponding regulations. Familiarity with IRS Revenue Rulings 72-395, 80-123, 82-128, 82-165, 88-81, and IRS Revenue Procedures 89-19, 89-20, 89-21, 90-30, 90-31, 90-32, and 90-33 is also recommended. Other Internal Revenue Code sections, Revenue Rulings, and Procedures may also be important though not listed here.

Witness

[insert name of Donor]

Donor

Witness

Witness

[insert name of initial Trustee]
Trustee

Witness

STATE OF MICHIGAN)
) SS.
COUNTY OF)

This instrument was acknowledged before me on _____, 199_,
by [insert name of Donor], as Donor, and [insert name of initial Trustee], as
Trustee.

Notary Public, _____ County,
Michigan
My Commission Expires: _____

SCHEDULE A

[Describe Property, Date Donated and Fair Market Value]

Note: After the initial contribution, no additional contributions are permitted to a charitable remainder annuity trust.

INTER VIVOS CHARITABLE REMAINDER UNITRUST, SINGLE LIFE

The following sample document establishes an inter vivos charitable remainder unitrust for a single life. An “inter vivos” trust is a trust that is created during the lifetime of the donor, as opposed to a testamentary trust created under the provisions of the donor’s will. The term “unitrust amount” refers to the payment of an amount determined annually by applying a fixed percentage to the value of the assets, which are valued annually. In contrast, a charitable remainder annuity trust pays out an annuity amount that does not vary from year to year.

29

[INSERT NAME OF DONOR]
CHARITABLE REMAINDER UNITRUST
DATED _____, 199__.

[Insert name of Donor] of [insert city, village, or township], Michigan, (the “Donor”) desiring to establish a charitable remainder unitrust within the meaning of Revenue Procedure 89-20 and Section 664(d)(2) of the Internal Revenue Code (the “Code”) and [insert name of initial Trustee], as initial Trustee, establish by this Agreement the [insert name of Donor] CHARITABLE REMAINDER UNITRUST for the benefit of the beneficiaries identified below. “Trustee,” unless otherwise stated, refers to the initial Trustee and to all successor Trustees, whether individuals or corporate trustees and regardless of number and gender.

1. *Trust Funding.* The Donor transfers to the Trustee the property described in Schedule A, and the Trustee accepts this property and agrees to hold, manage, and distribute the trust property under the terms of this Trust.
2. *Payment of Unitrust Amount.* In each taxable year of the Trust, the Trustee will pay to [insert name of Income Beneficiary] (the “Recipient”) during the Recipient’s life a unitrust amount equal to [insert a percentage equal to or greater than five] percent of the net fair market value of the Trust assets valued as of the first day of each taxable year of the Trust (the “Valuation Date”). The unitrust amount will be paid in equal quarterly installments from income and, to the extent

that income is not sufficient, from principal. Any Trust income for a taxable year in excess of the unitrust amount will be added to principal. If for any year the net fair market value of the Trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for federal tax purposes, the Trustee will pay to the Recipient (in the case of an undervaluation) or receive from the Recipient (in the case of an overvaluation) an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

3. *Proration of the Unitrust Amount.* In determining the unitrust amount, the Trustee will prorate the same on a daily basis for a short taxable year and for the taxable year of the Recipient's death.
4. *Distribution to Charity.* At the Recipient's death, the Trustee will distribute any remaining Trust property (other than any amount due either the Recipient or the Recipient's estate under the above provisions) to [insert name of your community foundation] (the "Charitable Organization"). If the Charitable Organization is not then an organization described in Code Sections 170(c), 2055(a), and 2522(a) at the time when any principal or income of the Trust is to be distributed to it, or it is not then in existence, then the Trustee will distribute the remaining Trust property to one or more organizations then described in Code Sections 170(b)(1)(A), 2055(a), and 2522(a) as the Trustee selects in its sole discretion.
5. *Additional Contributions.* If any additional contributions are made to this Trust after the initial contribution, the unitrust amount for the year in which the additional contribution is made will be [the same percentage as in paragraph 2] percent of the sum of: (a) the net fair market value of the Trust assets as of the Valuation Date for the taxable year (excluding the added assets and any income from, or appreciation on, such assets) and (b) that proportion of the fair market value of the added assets that was excluded under (a) that the number of days in the period that begins with the date of contribution and ends with the earlier of the last day of the taxable year or the day of the Recipient's death bears to the number of days in the period that begins on the first day of the taxable year and ends with the earlier of the last day in the taxable year or the day of the Recipient's death. If there is no Valuation Date

after the time of contribution, the added assets will be valued as of the time of contribution.

6. *Prohibited Transactions.* The Trustee will make distributions at such time and in such manner as not to subject the Trust to tax under Code Section 4942. Except for the payment of the unitrust amount to the Recipient, the Trustee will not engage in any act of self-dealing as defined in Code Section 4941(d), and will not make any taxable expenditures as defined in Code Section 4945(d). The Trustee will not make any investments that jeopardize the charitable purpose of the Trust within the meaning of Code Section 4944 and the corresponding regulations, or retain any excess business holdings within the meaning of Code Section 4943(c).
7. *Taxable Year.* The taxable year of the Trust will be the calendar year.
8. *Governing Law.* Michigan law governs the operation of the Trust. However, the Trustee is prohibited from exercising any power or discretion granted under law that would be inconsistent with the qualification of the Trust under Code Section 664(d)(2) and the corresponding regulations. The Trust created by this Agreement is exempt from registration under the Michigan Revised Probate Code or other similar law.
9. *Limited Power of Amendment.* This Agreement is irrevocable. The Trustee will have the power to amend the Trust in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder unitrust within the meaning of Code Section 664(d)(2).
10. *Investment of Trust Assets.* Nothing in this Trust instrument will be construed to restrict the Trustee from investing the Trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of Trust assets.
11. *Successor Trustee.* If the [insert name of initial Trustee] resigns, dies, or otherwise cannot perform the duties of Trustee, then [insert name of Successor Trustee] will act as the sole successor Trustee. If [insert name of Successor Trustee] is not then living, resigns, dies, or otherwise cannot perform the duties of Trustee, then a court having jurisdiction over this Trust will appoint a Trustee.
12. *Trustee's Account.* The Trustee will submit an account at least annually to each presently vested beneficiary who is entitled

to receive such information under Michigan law. The account will include a statement of all receipts, disbursements, sales, investments, and distributions of Trust property and an inventory of Trust property. The Trustee's account will be deemed accepted and approved by a beneficiary unless the beneficiary delivers a written objection to the Trustee within 90 days after receipt of the account. Settlement of any account to which a beneficiary has objected will be in accordance with the proceedings prescribed in the Michigan Revised Probate Code. Any beneficiary or the Trustee may initiate these proceedings. When the account has been settled or when the 90-day period for filing objections has passed without any objection having been delivered to the Trustee, the Trustee will be released and discharged as to all matters included in the account as if the account had been approved by court order. If any beneficiary is a minor or is otherwise legally incapacitated, a parent, guardian, conservator, attorney-in-fact, or other person having custody of the beneficiary may act for the beneficiary in receiving the Trustee's account and objecting to the account with the same legal effect as if the account had been submitted to the beneficiary as an adult with full legal capacity.

13. *Trustee's Powers.* In addition to any inherent or implied powers of a trustee, Donor grants to the Trustee the power, subject to the above provisions of this Agreement and any law that must be complied with in order to qualify this Trust as a charitable remainder unitrust under Code Section 664(d)(2), to manage and control all the Trust property to the fullest extent permitted a trustee or a fiduciary by the Michigan Revised Probate Code and the Michigan Charitable Trustees Power Act in effect on the date of this Agreement. This power includes:

- a. The power to sell, convey, mortgage, and lease any real or personal property that is held as Trust property, with the discretion to determine all terms such as price, rate of interest, and contract period.
- b. The power to invest the Trust property in accordance with the prudent man standard, including the power to invest in commercial and savings accounts, money market certificates and funds, cash management accounts, common and preferred stocks, bonds, U.S. governmental obligations, mutual funds, notes, deben-

- tures, annuities, and common trust funds.
- c. The power to borrow money in an unsecured transaction or in a transaction using Trust property as security.
 - d. The power to settle, litigate, submit to arbitration, or release any claim in favor of or against the Trust; and to prosecute and defend any legal proceedings on behalf of the Trust or the Trustee in the performance of its duties.
 - e. The power to distribute Trust property in divided or undivided interests, in disproportionate shares or in different kinds of property, and to adjust resulting differences in valuation.
 - f. The power to vote securities in person or by proxy, to grant discretionary proxies, to elect an individual Trustee or any officer or director of a corporate Trustee as officer or director; to exercise options, warrants, or other rights with respect to any stock, and to participate in a voting trust or similar agreement.
 - g. The power to participate in any reorganization, consolidation, merger, dissolution, sale, purchase, or lease of assets, or similar transaction, by any corporation whose securities or obligations are Trust property.
 - h. The power to apportion between income and principal all receipts and expenditures without regard to any specific requirement of the Michigan Revised Uniform Principal and Income Act.
 - i. The power to register any security in the name of a depository trust or a nominee without indicating a fiduciary capacity.
 - j. The power to pay reasonable expenses of administration, including reasonable Trustee fees.
 - k. The power to employ investment counsel, financial planners, agents, and other professional advisors to advise or assist the Trustee in the exercise of its investment powers or in the performance of its administrative duties. The Trustee may pay reasonable compensation and costs for their services, and may act on their recommendations without independent investigation. The Trustee may rely on information or advice from these advisors, and

the Trustee will not be liable for any action taken or omitted in reliance on their opinions or advice or for the default or misconduct of any advisor.

In the exercise of any power that requires or involves discretion by the Trustee, the Trustee's decision will be final and conclusive on all beneficiaries (whether then in existence or not) who, at that time or in the future, may have an interest in the income and/or principal of the Trust. The Trustee will not be required to obtain the approval of any court in the exercise of these powers.

This Agreement is executed as of the date written above.

Witnesses:

Witness

[insert name of Donor]
Donor

Witness

Witness

[insert name of initial Trustee]
Trustee

Witness

STATE OF MICHIGAN)
) SS.
COUNTY OF)

This instrument was acknowledged before me on _____, 199____,
by [insert name of Donor], as Donor, and [insert name of initial Trustee], as
Trustee.

Notary Public, _____ County,
Michigan
My Commission Expires: _____

INTER VIVOS CHARITABLE REMAINDER UNITRUST, TERM OF YEARS

The following sample document establishes an inter vivos charitable remainder unitrust for a term of years. The trust pays an amount equal to a fixed percentage of the value of the trust assets, which are valued annually, to a single beneficiary for a term of years, which may not exceed 20. If the income beneficiary dies before the term of years expires, the trust assets are immediately distributed to the community foundation.

35

[INSERT NAME OF DONOR]
CHARITABLE REMAINDER UNITRUST
DATED _____, 199__.

[Insert name of Donor] of [insert city, village, or township], Michigan, (the “Donor”) desiring to establish a charitable remainder unitrust within the meaning of Revenue Procedure 89-20 and Section 664(d)(2) of the Internal Revenue Code (the “Code”) and [insert name of initial Trustee], as initial Trustee, establish by this Agreement the [insert name of Donor] CHARITABLE REMAINDER UNITRUST for the benefit of the beneficiaries identified below. “Trustee,” unless otherwise stated, refers to the initial Trustee and to all successor Trustees, whether individuals or corporate trustees and regardless of number and gender.

1. *Trust Funding.* The Donor transfers to the Trustee the property described in Schedule A, and the Trustee accepts this property and agrees to hold, manage, and distribute the Trust property under the terms of this Trust.
2. *Payment of Unitrust Amount.* In each taxable year of the Trust, the Trustee will pay to [insert name of Income Beneficiary] (the “Recipient”) for a period ending [insert number of years, not to exceed 20] years from the date of this Agreement or on the Recipient’s death, whichever occurs first, (the “Termination Date”) a unitrust amount equal to [insert a percentage equal to or greater than five] percent of the net fair market value of the assets of the Trust valued as of the first day of each taxable year of the Trust (the

“Valuation Date”). The unitrust amount will be paid in equal quarterly installments from income and, to the extent that income is not sufficient, from principal. Any Trust income for a taxable year in excess of the unitrust amount will be added to principal. If for any year the net fair market value of the Trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for federal tax purposes, the Trustee will pay to the Recipient (in the case of an undervaluation) or receive from the Recipient (in the case of an overvaluation) an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.

3. *Proration of the Unitrust Amount.* In determining the unitrust amount, the Trustee will prorate the same on a daily basis for a short taxable year and for the taxable year ending with the Termination Date.
4. *Distribution to Charity.* Upon the occurrence of the Termination Date, the Trustee will distribute any remaining Trust property (other than any amount due either the Recipient or the Recipient’s estate under the above provisions) to ABC Community Foundation (the “Charitable Organization”). If the Charitable Organization is not an organization described in Code Sections 170(c), 2055(a), and 2522(a) at the time when any principal or income of the Trust is to be distributed to it, or it is not then in existence, then the Trustee will distribute the remaining Trust property to one or more organizations described in Code Sections 170(b)(1)(A), 2055(a), and 2522(a) as the Trustee selects in its sole discretion.
5. *Additional Contributions.* If any additional contributions are made to this Trust after the initial contribution, the unitrust amount for the year in which the additional contribution is made will be [the same percentage as in paragraph 2] percent of the sum of: (a) the net fair market value of the Trust assets as of the Valuation Date for the taxable year (excluding the added assets and any income from, or appreciation on, those assets) and (b) that proportion of the fair market value of the added assets that was excluded under (a) that the number of days in the period that begins with the date of contribution and ends with the earlier of the last day of the taxable year or the Termination Date to the number of days in the period that begins on the first day of the taxable year and ends with the earlier of the last day in the taxable year or the Termination Date. If there is no Valuation Date after the time of contribution, the added assets will be valued as of the time of

contribution.

6. *Prohibited Transactions.* The Trustee will make distributions at such time and in such manner as not to subject the Trust to tax under Code Section 4942. Except for the payment of the unitrust amount to the Recipient, the Trustee will not engage in any act of self-dealing as defined in Code Section 4941(d), and will not make any taxable expenditures as defined in Code Section 4945(d). The Trustee will not make any investments that jeopardize the charitable purpose of the Trust within the meaning of Code Section 4944 and the corresponding regulations, or retain any excess business holdings within the meaning of Code Section 4943(c).
7. *Taxable Year.* The taxable year of the Trust will be the calendar year.
8. *Governing Law.* Michigan law governs the operation of the Trust. However, the Trustee is prohibited from exercising any power or discretion granted under law that would be inconsistent with the qualification of the Trust under Code Section 664(d)(2) and the corresponding regulations. The Trust created by this Agreement is exempt from registration under the Michigan Revised Probate Code or other similar law.
9. *Limited Power of Amendment.* This Agreement is irrevocable. The Trustee will have the power to amend the Trust in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder unitrust within the meaning of Code Section 664(d)(2).
10. *Investment of Trust Assets.* Nothing in this Trust instrument will be construed to restrict the Trustee from investing the Trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of Trust assets.
11. *Successor Trustee.* If the [insert name of Trustee] resigns, dies, or otherwise cannot perform the duties of Trustee, then [insert name of Successor Trustee] will act as the sole successor Trustee. If [insert name of Successor Trustee] is not then living, resigns, dies, or otherwise cannot perform the duties of Trustee, then a court having jurisdiction over this Trust will appoint a Trustee.
12. *Trustee's Account.* The Trustee will submit an account at least annually to each presently vested beneficiary who is entitled to receive such information under Michigan law. The

account will include a statement of all receipts, disbursements, sales, investments, and distributions of Trust property and an inventory of Trust property. The Trustee's account will be deemed accepted and approved by a beneficiary unless the beneficiary delivers a written objection to the Trustee within 90 days after receipt of the account. Settlement of any account to which a beneficiary has objected will be in accordance with the proceedings prescribed in the Michigan Revised Probate Code. Any beneficiary or the Trustee may initiate these proceedings. When the account has been settled or when the 90-day period for filing objections has passed without any objection having been delivered to the Trustee, the Trustee will be released and discharged as to all matters included in the account as if the account had been approved by court order. If any beneficiary is a minor or is otherwise legally incapacitated, a parent, guardian, conservator, attorney-in-fact, or other person having custody of the beneficiary may act for the beneficiary in receiving the Trustee's account and objecting to the account with the same legal effect as if the account had been submitted to the beneficiary as an adult with full legal capacity.

13. *Trustee's Powers.* In addition to any inherent or implied powers of a trustee, Donor grants to the Trustee the power, subject to the above provisions and any law that must be complied with in order to qualify the Trust as a charitable remainder unitrust under Code Section 664(d)(2), to manage and control all the Trust property to the fullest extent permitted a trustee or a fiduciary by the Michigan Revised Probate Code and the Michigan Charitable Trustees Power Act in effect on the date of this Agreement. This power includes:
- a. The power to sell, convey, mortgage, and lease any real or personal property that is held as Trust property, with the discretion to determine all terms such as price, rate of interest, and contract period.
 - b. The power to invest the Trust property in accordance with the prudent man standard, including the power to invest in commercial and savings accounts, money market certificates and funds, cash management accounts, common and preferred stocks, bonds, U.S. governmental obligations, mutual funds, notes, debentures, annuities, and common trust funds.

- c. The power to borrow money in an unsecured transaction or in a transaction using Trust property as security.
- d. The power to settle, litigate, submit to arbitration, or release any claim in favor of or against the Trust; and to prosecute and defend any legal proceedings on behalf of the Trust or the Trustee in the performance of its duties.
- e. The power to distribute Trust property in divided or undivided interests, in disproportionate shares or in different kinds of property, and to adjust resulting differences in valuation.
- f. The power to vote securities in person or by proxy, to grant discretionary proxies, to elect an individual Trustee or any officer or director of a corporate Trustee as officer or director; to exercise options, warrants, or other rights with respect to any stock, and to participate in a voting trust or similar agreement.
- g. The power to participate in any reorganization, consolidation, merger, dissolution, sale, purchase, or lease of assets, or similar transaction, by any corporation whose securities or obligations are Trust property.
- h. The power to apportion between income and principal all receipts and expenditures without regard to any specific requirement of the Michigan Revised Uniform Principal and Income Act.
- i. The power to register any security in the name of a depository trust or a nominee without indicating a fiduciary capacity.
- j. The power to pay reasonable expenses of administration, including reasonable Trustee fees.
- k. The power to employ investment counsel, financial planners, agents, and other professional advisors to advise or assist the Trustee in the exercise of its investment powers or in the performance of its administrative duties. The Trustee may pay reasonable compensation and costs for their services, and may act upon their recommendations without independent investigation. The Trustee may rely on information or advice from these advisors, and the

Trustee will not be liable for any action taken or omitted in reliance on their opinions or advice or for the default or misconduct of any advisor.

In the exercise of any power that requires or involves discretion by the Trustee, the Trustee's decision will be final and conclusive on all beneficiaries (whether then in existence or not) who, at that time or in the future, may have an interest in the income and/or principal of the Trust. The Trustee will not be required to obtain the approval of any court in the exercise of these powers.

This Agreement is executed as of the date written above.

Witnesses:

Witness

[insert name of Donor]
Donor

Witness

Witness

[insert name of initial Trustee]
Trustee

Witness

STATE OF MICHIGAN)
) SS.
COUNTY OF)

This instrument was acknowledged before me on _____, 199__,
by [insert name of Donor], as Donor, and [insert name of initial Trustee], as
Trustee.

Notary Public, _____ County,
Michigan
My Commission Expires: _____

SCHEDULE A

[Describe Property, Date Donated, and Fair Market Value]

SAMPLE

INTER VIVOS CHARITABLE REMAINDER ANNUITY TRUST, SINGLE LIFE

42

The following sample document establishes an inter vivos charitable remainder annuity trust for a single life. The term “annuity amount” refers to the payment of an amount equal to a fixed percentage of the initial value of the trust assets. This amount will not vary during the life of the income beneficiary. In contrast, a charitable remainder unitrust pays an amount based on a percentage of the trust assets as they are valued each year. The trust will pay the annuity amount to a single beneficiary for the life of that beneficiary.

[INSERT NAME OF DONOR]
CHARITABLE REMAINDER ANNUITY TRUST
DATED _____, 199__.

[Insert name of Donor] of [insert city, village, or township], Michigan, (the “Donor”) desiring to establish a charitable remainder annuity trust within the meaning of Section 5 of the Rev. Proc. 90-32 and Section 664(d)(1) of the Internal Revenue Code (the “Code”) and [insert name of initial Trustee], as initial Trustee, establish by this Agreement the [insert name of Donor] CHARITABLE REMAINDER ANNUITY TRUST for the benefit of the beneficiaries identified below.

“Trustee,” unless otherwise stated, refers to the initial Trustee and to all successor Trustees, whether individuals or corporate trustees and regardless of number and gender.

1. *Trust Funding.* The Donor transfers to the Trustee the property described in Schedule A, and the Trustee accepts property and agrees to hold, manage, and distribute Trust property under the terms of this Trust.
2. *Payment of Annuity Amount.* The Trustee will pay to [insert name of Income Beneficiary] (the “Recipient”) in each taxable year of the Trust an annuity amount equal to [insert a percentage equal to or greater than five] percent of the initial net fair market value of the Trust assets as of the date of this Agreement during the Recipient’s life. This annuity amount will be paid in equal quarterly amounts from income and, to the extent that income is not sufficient, from principal.

Any income of the Trust for a taxable year in excess of the annuity amount will be added to principal. If the net fair market value of the Trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for federal tax purposes, the Trustee will pay to the Recipient (in the case of undervaluation) or receive from the Recipient (in the case of overvaluation) an amount equal to the difference between the annuity amount(s) properly payable and the annuity amount(s) actually paid.

3. *Proration of the Annuity Amount.* In determining the annuity amount, the Trustee will prorate the same on a daily basis for a short taxable year and for the taxable year of the Recipient's death.
4. *Distribution to Charity.* At the Recipient's death, the Trustee will distribute any remaining Trust property (other than any amount due either the Recipient or the Recipient's estate under the above provisions) to [insert name of your community foundation] (the "Charitable Organization"). If the Charitable Organization is not then an organization described in Code Sections 170(c), 2055(a), and 2522(a) at the time when any principal or income of the Trust is to be distributed to it, or it is not then in existence, then the Trustee will distribute the remaining Trust property to one or more organizations then described in Code Sections 170(b)(1)(A), 2055(a), and 2522(a) as the Trustee selects in its sole discretion.
5. *Additional Contributions.* No additional contributions will be made to the Trust after the initial contribution.
6. *Prohibited Transactions.* The Trustee will make distributions at such time and in such manner as not to subject the Trust to tax under Code Section 4942. Except for the payment of the annuity amount to the Recipient, the Trustee will not engage in any act of self-dealing as defined in Code Section 4941(d), and will not make any taxable expenditures as defined in Code Section 4945(d). The Trustee will not make any investments that jeopardize the charitable purpose of the Trust within the meaning of Code Section 4944 and the corresponding regulations, or retain any excess business holdings within the meaning of Code Section 4943(c).
7. *Taxable Year.* The taxable year of the Trust will be the calendar year.
8. *Governing Law.* Michigan law governs the operation of the Trust.

However, the Trustee is prohibited from exercising any power or discretion granted under law that would be inconsistent with the qualification of the Trust under Code Section 664(d)(1) and the corresponding regulations. The Trust created by this Agreement is exempt from registration under the Michigan Revised Probate Code or other similar law.

9. *Limited Power of Amendment.* This Agreement is irrevocable. The Trustee will have the power to amend the Trust in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder annuity trust within the meaning of Code Section 664(d)(1).
10. *Investment of Trust Assets.* Nothing in this Trust instrument will be construed to restrict the Trustee from investing the Trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of Trust assets.
11. *Successor Trustee.* If the [insert name of initial Trustee] resigns, dies, or otherwise cannot perform the duties of Trustee, then [insert name of Successor Trustee] will act as the sole successor Trustee. If [insert name of Successor Trustee] is not then living, resigns, dies, or otherwise cannot perform the duties of Trustee, then a court having jurisdiction over this Trust will appoint a Trustee.
12. *Trustee's Account.* The Trustee will submit an account at least annually to each presently vested beneficiary who is entitled to receive such information under Michigan law. The account will include a statement of all receipts, disbursements, sales, investments, and distributions of trust property and an inventory of trust property. The Trustee's account will be deemed accepted and approved by a beneficiary unless the beneficiary delivers a written objection to the Trustee within 90 days after receipt of the account. Settlement of any account to which a beneficiary has objected will be in accordance with the proceedings prescribed in the Michigan Revised Probate Code. Any beneficiary or the Trustee may initiate these proceedings. When the account has been settled or when the 90-day period for filing objections has passed without any objection having been delivered to the Trustee, the Trustee will be released and discharged as to all matters included in the

account as if the account had been approved by court order. If any beneficiary is a minor or is otherwise legally incapacitated, a parent, guardian, conservator, attorney-in-fact or other person having custody of the beneficiary may act for the beneficiary in receiving the Trustee's account and objecting to the account with the same legal effect as if the account had been submitted to the beneficiary as an adult with full legal capacity.

13. *Trustee's Powers.* In addition to any inherent or implied powers of a trustee, Donor grants to the Trustee the power, subject to the above provisions and any law that must be complied with in order to qualify the Trust as a charitable remainder annuity under Code Section 664(d)(1), to manage and control all the trust property to the fullest extent permitted a trustee or a fiduciary by the Michigan Revised Probate Code and the Michigan Charitable Trustees Power Act in effect on the date of this Agreement. This power includes:
- a. The power to sell, convey, mortgage, and lease any real or personal property that is held as Trust property, with the discretion to determine all terms such as price, rate of interest, and contract period.
 - b. The power to invest the Trust property in accordance with the prudent man standard, including the power to invest in commercial and savings accounts, money market certificates and funds, cash management accounts, common and preferred stocks, bonds, U.S. governmental obligations, mutual funds, notes, debentures, annuities, and common trust funds.
 - c. The power to borrow money in an unsecured transaction or in a transaction using Trust property as security.
 - d. The power to settle, litigate, submit to arbitration, or release any claim in favor of or against the Trust; and to prosecute and defend any legal proceedings on behalf of the Trust or the Trustee in the performance of its duties.
 - e. The power to distribute Trust property in divided or undivided interests, in disproportionate shares or in different kinds of property, and to adjust resulting differences in valuation.
 - f. The power to vote securities in person or by proxy, to grant discretionary proxies, to elect an individual

Trustee or any officer or director of a corporate Trustee as officer or director; to exercise options, warrants, or other rights with respect to any stock, and to participate in a voting trust or similar agreement.

- g. The power to participate in any reorganization, consolidation, merger, dissolution, sale, purchase, or lease of assets, or similar transaction, by any corporation whose securities or obligations are Trust property.
- h. The power to apportion between income and principal all receipts and expenditures without regard to any specific requirement of the Michigan Revised Uniform Principal and Income Act.
- i. The power to register any security in the name of a depository trust or a nominee without indicating a fiduciary capacity.
- j. The power to pay reasonable expenses of administration, including reasonable Trustee fees.
- k. The power to employ investment counsel, financial planners, agents, and other professional advisors to advise or assist the Trustee in the exercise of its investment powers or in the performance of its administrative duties. The Trustee may pay reasonable compensation and costs for their services, and may act on their recommendations without independent investigation. The Trustee may rely on information or advice from these advisors, and the Trustee will not be liable for any action taken or omitted in reliance on their opinions or advice or for the default or misconduct of any advisor.

In the exercise of any power that requires or involves discretion by the Trustee, the Trustee's decision will be final and conclusive on all beneficiaries (whether then in existence or not) who, at that time or in the future, may have an interest in the income and/or principal of the Trust. The Trustee will not be required to obtain the approval of any court in the exercise of these powers.

This Agreement is executed as of the date written above.

Witnesses:

Witness

[insert name of Donor]
Donor

Witness

Witness

[insert name of initial Trustee]
Trustee

Witness

STATE OF MICHIGAN)
) SS.
COUNTY OF)

This instrument was acknowledged before me on _____,
199__, by [insert name of Donor], as Donor, and [insert name of initial
Trustee], as Trustee.

Notary Public, _____ County,
Michigan
My Commission Expires: _____

SCHEDULE A

[Describe Property, Date Donated, and Fair Market Value]

Note: After the initial contribution, no additional contributions are permitted to a charitable remainder annuity trust.

SAMPLE

INTER VIVOS CHARITABLE REMAINDER ANNUITY TRUST, TERM OF YEARS

The following sample document establishes an inter vivos charitable remainder annuity trust for a term of years. The term “annuity amount” refers to the payment of a fixed amount equal to a percentage of the initial value of the trust assets. The sample trust pays the annuity amount to a single beneficiary for a period years, which may not exceed 20. If the income beneficiary dies before the expiration of the term of years, the trust assets are immediately distributed to the community foundation.

49

[INSERT NAME OF DONOR] **CHARITABLE REMAINDER ANNUITY TRUST** **DATED _____, 199 .**

[Insert name of donor] of [insert city, village, or township], Michigan, (the “Donor”) desiring to establish a charitable remainder annuity trust within the meaning of Section 5 of the Rev. Proc. 90-32 and Section 664(d)(1) of the Internal Revenue Code (the “Code”) and [insert name of initial Trustee], as initial Trustee, establish by this Agreement the [insert name of donor] CHARITABLE REMAINDER ANNUITY TRUST for the benefit of the beneficiaries identified below.

“Trustee,” unless otherwise stated, refers to the initial Trustee and to all successor Trustees, whether individuals or corporate trustees and regardless of number and gender.

1. *Trust Funding.* The Donor transfers to the Trustee the property described in Schedule A, and the Trustee accepts property and agrees to hold, manage, and distribute Trust property under the terms of this Trust.
2. *Payment of Annuity Amount.* The Trustee will pay to [insert name of Income Beneficiary] (the “Recipient”) in each taxable year of the Trust an annuity amount equal to [insert a percentage equal to or greater than five] percent of the initial net fair market value of the Trust assets as of the date of this Agreement for a period ending [insert number of years, not to exceed 20] years from the date of this Agreement or the death of the Recipient, whichever occurs first (the

“Termination Date”). The annuity amount will be paid in equal quarterly amounts from income and, to the extent that income is not sufficient, from principal. Any Trust income of the Trust for a taxable year in excess of the annuity amount will be added to principal. If the net fair market value of the Trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for federal tax purposes, the Trustee will pay to the Recipient (in the case of undervaluation) or receive from the Recipient (in the case of overvaluation) an amount equal to the difference between the annuity amount(s) properly payable and the annuity amount(s) actually paid.

3. *Proration of the Annuity Amount.* In determining the annuity amount, the Trustee will prorate the same on a daily basis for a short taxable year and for the taxable year ending with the Termination Date.
4. *Distribution to Charity.* Upon the occurrence of the Termination Date, the Trustee will distribute any remaining Trust property (other than any amount due either the Recipient or the Recipient’s estate under the above provisions) to ABC Community Foundation (the “Charitable Organization”). If the Charitable Organization is not an organization described in Code Sections 170(c), 2055(a), and 2522(a) at the time when any principal or income of the Trust is to be distributed to it, or it is not then in existence, then the Trustee will distribute the remaining Trust property to one or more organizations described in Code Sections 170(b)(1)(A), 2055(a), and 2522(a) as the Trustee selects in its sole discretion.
5. *Additional Contributions.* No additional contributions will be made to the Trust after the initial contribution.
6. *Prohibited Transactions.* The Trustee will make distributions at such time and in such manner as not to subject the Trust to tax under Code Section 4942. Except for the payment of the annuity amount to the Recipient, the Trustee will not engage in any act of self-dealing as defined in Code Section 4941(d), and will not make any taxable expenditures as defined in Code Section 4945(d). The Trustee will not make any investments that jeopardize the charitable purpose of the Trust within the meaning of Code Section 4944 and the corresponding regulations, or retain any excess business holdings within the meaning of Code Section 4943(c).

7. *Taxable Year.* The taxable year of the Trust will be the calendar year.
8. *Governing Law.* Michigan law governs the operation of the Trust. However, the Trustee is prohibited from exercising any power or discretion granted under law that would be inconsistent with the qualification of the Trust under Code Section 664(d)(1) and the corresponding regulations. The Trust created by this Agreement is exempt from registration under the Michigan Revised Probate Code or other similar law.
9. *Limited Power of Amendment.* This Agreement is irrevocable. The Trustee will have the power to amend the Trust in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder annuity trust within the meaning of Code Section 664(d)(1).
10. *Investment of Trust Assets.* Nothing in this Trust instrument will be construed to restrict the Trustee from investing the Trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of Trust assets.
11. *Successor Trustee.* If the [insert name of initial Trustee] resigns, dies, or otherwise cannot perform the duties of Trustee, then [insert name of Successor Trustee] will act as the sole successor Trustee. If [insert name of Successor Trustee] is not then living, resigns, dies, or otherwise cannot perform the duties of Trustee, then a court having jurisdiction over this Trust will appoint a Trustee.
12. *Trustee's Account.* The Trustee will submit an account at least annually to each presently vested beneficiary who is entitled to receive such information under Michigan law. The account will include a statement of all receipts, disbursements, sales, investments, and distributions of Trust property and an inventory of Trust property. The Trustee's account will be deemed accepted and approved by a beneficiary unless the beneficiary delivers a written objection to the Trustee within 90 days after receipt of the account. Settlement of any account to which a beneficiary has objected will be in accordance with the proceedings prescribed in the Michigan Revised Probate Code. Any beneficiary or the Trustee may initiate these proceedings. When the account has been settled or when the 90-day period for filing objections has passed without any objection having been

delivered to the Trustee, the Trustee will be released and discharged as to all matters included in the account as if the account had been approved by court order. If any beneficiary is a minor or is otherwise legally incapacitated, a parent, guardian, conservator, attorney-in-fact, or other person having custody of the beneficiary may act for the beneficiary in receiving the Trustee's account and objecting to the account with the same legal effect as if the account had been submitted to the beneficiary as an adult with full legal capacity.

13. *Trustee's Powers.* In addition to any inherent or implied powers of a trustee, Donor grants to the Trustee the power, subject to the above provisions and any law that must be complied with in order to qualify the Trust as a charitable remainder annuity trust under Code Section 664(d)(1), to manage and control all the trust property to the fullest extent permitted a trustee or a fiduciary by the Michigan Revised Probate Code and the Michigan Charitable Trustees Power Act in effect on the date of this Agreement. This power includes:

- a. The power to sell, convey, mortgage, and lease any real or personal property that is held as Trust property, with the discretion to determine all terms such as price, rate of interest, and contract period.
- b. The power to invest the Trust property in accordance with the prudent man standard, including the power to invest in commercial and savings accounts, money market certificates and funds, cash management accounts, common and preferred stocks, bonds, U.S. governmental obligations, mutual funds, notes, debentures, annuities, and common trust funds.
- c. The power to borrow money in an unsecured transaction or in a transaction using Trust property as security.
- d. The power to settle, litigate, submit to arbitration, or release any claim in favor of or against the trust; and to prosecute and defend any legal proceedings on behalf of the Trust or the Trustee in the performance of its duties.
- e. The power to distribute Trust property in divided or undivided interests, in disproportionate shares or in different kinds of property, and to adjust resulting differences in valuation.

- f. The power to vote securities in person or by proxy, to grant discretionary proxies, to elect an individual Trustee or any officer or director of a corporate Trustee as officer or director; to exercise options, warrants, or other rights with respect to any stock, and to participate in a voting trust or similar agreement.
- g. The power to participate in any reorganization, consolidation, merger, dissolution, sale, purchase, or lease of assets, or similar transaction, by any corporation whose securities or obligations are Trust property.
- h. The power to apportion between income and principal all receipts and expenditures without regard to any specific requirement of the Michigan Revised Uniform Principal and Income Act.
- i. The power to register any security in the name of a depository trust or a nominee without indicating a fiduciary capacity.
- j. The power to pay reasonable expenses of administration, including reasonable Trustee fees.
- k. The power to employ investment counsel, financial planners, agents, and other professional advisors to advise or assist the Trustee in the exercise of its investment powers or in the performance of its administrative duties. The Trustee may pay reasonable compensation and costs for their services, and may act on their recommendations without independent investigation. The Trustee may rely on information or advice from these advisors, and the Trustee will not be liable for any action taken or omitted in reliance on their opinions or advice or for the default or misconduct of any advisor.

In the exercise of any power that requires or involves discretion by the Trustee, the Trustee's decision will be final and conclusive on all beneficiaries (whether then in existence or not) who, at that time or in the future, may have an interest in the income and/or principal of the Trust. The Trustee will not be required to obtain the approval of any court in the exercise of these powers.

This Agreement is executed as of the date written above.

Witnesses:

Witness

[insert name of Donor]
Donor

Witness

Witness

[insert name of initial Trustee]
Trustee

Witness

STATE OF MICHIGAN)
) SS.
COUNTY OF)

This instrument was acknowledged before me on _____,
199__, by [insert name of Donor], as Donor, and [insert name of initial Trustee],
as Trustee.

Notary Public, _____ County,
Michigan
My Commission Expires: _____

SCHEDULE A

[Describe Property, Date Donated, and Fair Market Value]

Note: After the initial contribution, no additional contributions are permitted to a charitable remainder annuity trust.

SAMPLE

CHARITABLE GIFT ANNUITY AGREEMENT

There is financial risk to a community foundation issuing charitable gift annuities, as the foundation is financially obligated to pay the benefit. There are also laws governing gift annuity programs that should be considered. For information on the laws affecting community foundations issuing charitable gift annuities, please refer to *The Michigan Community Foundation Legal Reference*, a CMF publication. The Council of Michigan Foundations recommends that community foundations consult with their legal counsel and accountant prior to establishing a charitable gift annuity program.

The following sample document establishes a charitable gift annuity that begins making payments to the annuity beneficiary immediately. While a charitable remainder trust is an agreement between a donor and a trustee where the trustee agrees to administer the property for the beneficiaries, a charitable gift annuity is an agreement between the donor and the charity, in this case, a community foundation. In return for the property contributed, the charity agrees to pay the donor an annuity amount determined at the time of the agreement. The annuity amount may be paid in monthly, quarterly, semiannual, or annual installments.

Charitable gift annuities are structured so that the value of the cash contribution or property donated exceeds the present value of the annuity payments the donor will receive. Accordingly, the donor is entitled to a charitable deduction for the difference in value. The American Council on Gift Annuities publishes suggested rates that ensure that the donor will be entitled to a charitable deduction and that approximately 50 percent of the donated property passes to the charity. The present gift annuity rates can be obtained from the American Council on Gift Annuities, 2401 Cedar Springs, Dallas, Texas, 75201, telephone 214-720-4774.

GIFT ANNUITY AGREEMENT

This Agreement is made on _____, 199__, by and between [insert name of Donor] of [insert city, village, or township], Michigan, (the “Donor”) and [insert name of your community foundation], a nonprofit corporation organized and existing under Michigan law and having its offices at [insert city, village, or township], Michigan (the “Payor”).

1. *Transfer of Property by Donor.* In consideration of the mutual promises contained in this Agreement, the Donor transfers to the Payor, and the Payor acknowledges receipt of, the property described in the attached Schedule A (the “Gift Property”).
2. *Payment of Annuity.* In consideration of the Gift Property transferred by the Donor, the Payor agrees to pay the Donor during each year of Donor’s life an amount equal to [insert percentage rate from Gift Annuity Table] percent of the net fair market value of the Gift Property valued on this date (the “Annuity”). The Annuity is to be paid in equal installments at the end of each quarter. The first installment will be paid on the last day of the calendar quarter in which this Agreement is executed.
3. *Nonassignability of Annuity.* The Annuity is nonassignable, except to the Payor.
4. *Termination of Annuity.* The obligation of the Payor under this Agreement terminates with the payment of the Annuity installment preceding the Donor’s death.
5. *Contribution.* The parties agree and acknowledge that, as of this date, the fair market value of the Gift Property is substantially in excess of the fair market value of the Annuity and that the amount of the difference between those values constitutes a contribution by the Donor to the Payor to be used for its general purposes. The Payor further agrees to provide Donor with a written receipt as required by the Internal Revenue Code.

The parties have executed this Agreement as of the above date.

[insert name of Donor]

Donor

[insert name of your community foundation]

By:

[insert name and title of officer]

Payor

SAMPLE

SCHEDULE A
[Describe Property and Fair Market Value]

SAMPLE

DEFERRED CHARITABLE GIFT ANNUITY AGREEMENT

60

This sample document establishes a charitable gift annuity that defers making annuity payments to the donor until a date specified in the future. Often, the year in which the donor retires is chosen. The annuity amount may be paid in monthly, quarterly, semiannual, or annual installments.

DEFERRED GIFT ANNUITY AGREEMENT

This Agreement is made on _____, 199__, by and between [insert name of Donor] of [insert city, village, or township], Michigan (the “Donor”) and [insert name of your community foundation], a corporation organized and existing under Michigan law and having its offices at [insert city, village, or township], Michigan (the “Payor”).

1. *Transfer of Property by Donor.* In consideration of the mutual promises contained in this Agreement, the Donor transfers to the Payor, and the Payor acknowledges receipt of, the property described in the attached Schedule A (the “Gift Property”).
2. *Payment of Annuity.* In consideration of the Gift Property transferred by the Donor, the Payor agrees to pay the Donor during each year of Donor’s life, commencing in [insert deferral period] (hereinafter referred to as the “Deferral Period”), an amount equal to [insert percentage rate from Gift Annuity Table] percent of the net fair market value of the Gift Property valued on this date (the “Annuity”). The Annuity is to be paid in equal quarterly installments at the end of each quarter. The first installment will be paid on the last day of the calendar quarter in which the Deferral Period ends.
3. *Nonassignability of Annuity.* The Annuity is nonassignable, except to the Payor.
4. *Termination of Annuity.* The obligation of the Payor under this Agreement terminates upon the earlier of (1) the payment of the Annuity installment preceding the Donor’s death, or (2) the death of the Donor, if such death occurs before the

expiration of the Deferral Period.

5. *Contribution.* The parties agree and acknowledge that, as of this date, the fair market value of the Gift Property is substantially in excess of the fair market value of the Annuity and that the amount of the difference between those values constitutes a contribution by the Donor to the Payor to be used for its general purposes. The Payor further agrees to provide Donor with a written receipt as required by the Internal Revenue Code.

The parties have executed this Agreement as of the above date.

[insert name of Donor]

Donor

[insert name of your community
foundation]

By:

[insert name and title of officer]

Payor

SCHEDULE A
[Describe Property and Fair Market Value]

SAMPLE

WILL PROVISIONS

The following provisions are suitable for inclusion in the Will of a donor who wishes to leave a bequest (technically called a “devise” under Michigan law) to a Community Foundation:

63

Charitable Devise

I devise to the [insert name of your community foundation], a Michigan nonprofit corporation, [describe devise—for example, “One Thousand Dollars”] to be used *in furtherance of the charitable purposes of the Community Foundation as defined in and subject to the provisions of its Articles of Incorporation and Bylaws.*

If the amount of the devise meets the minimum contribution requirements of the Community Foundation, the donor may create a separately identifiable fund by name and purpose by replacing the italicized language in the above provision with one of the four options that follow:

Named Fund/Unrestricted Purpose

... to establish a fund to be known as the [insert name of fund] Fund. I direct that the annual net income of the Fund be used exclusively for the charitable purposes set forth in the Articles of Incorporation and Bylaws of the Community Foundation as determined from time to time by the governing board.

Field of Interest Fund

... to establish a fund to be known as the [insert name of fund] Fund. I direct that the annual net income of the Fund be used for [specify charitable purpose—for example, “the care of the homeless” or “senior citizen health care”].

Designated (Agency) Fund

... to establish a fund to be known as the [insert name of fund] Fund. I direct that the annual net income of the Fund be used to support [insert name of a particular charitable agency to be supported—for example, “the ABC Community Hospital” or “the ABC School District”].

Donor Advised Fund

... to establish a fund to be known as the [insert name of fund] Fund. I direct that an Advisory Committee consisting of [Donor’s Spouse], [Other Advisor], and [Other Advisor] may make written recommendations from time to time to the governing board (or Distribution Committee) concerning grants from the Fund, provided the proposed grant is in furtherance of the general charitable purposes of the Community Foundation. I recognize that these recommendations may be accepted or rejected, in whole or in part, by the governing board (or Distribution Committee) in its sole discretion.

Distribution from Principal

If the donor desires to permit the governing board to invade principal in unusual circumstances, the following language may be added:

It is my intention that the distributions from the Fund will ordinarily be made from income only. When extraordinary circumstances exist, however, the governing board (or Distribution Committee) may authorize distributions from the principal of the Fund.

Contingent Devise

The following provision can be used to provide a devise to an individual. If the individual predeceases the donor, the devise will pass to the Community Foundation:

I devise one-fourth of the residue of my estate to my nephew, John Doe, if he survives me. If John Doe does not survive me, I devise the property that would have passed to John Doe to [insert name of your community foundation].

SECTION III

SAMPLE POLICY GUIDELINES FOR THE SOLICITATION, ACCEPTANCE, AND ADMINISTRATION OF GIFTS

*COURTESY OF THE
MUSKEGON COUNTY COMMUNITY FOUNDATION
AND THE
BATTLE CREEK COMMUNITY FOUNDATION*

MUSKEGON COUNTY COMMUNITY FOUNDATION

Policy for the

ACCEPTANCE OF CONTRIBUTIONS

I. PURPOSE AND SCOPE OF THE POLICY STATEMENT

A. GENERAL PURPOSE

The need for such a policy as this arises from the fact that donors of charitable gifts must assign a value to their gifts to establish their charitable income tax deduction bases. The tax regulations relating to valuations of charitable gifts are complex, and tax deductions are dependent on how the donor acquired the property, its current value, and the use to which the gift is being put by the Muskegon County Community Foundation (MCCF). To avoid misunderstanding or conflict between a donor and the Muskegon County Community Foundation as to valuation when a gift is made to the MCCF, the MCCF will follow the guidelines set forth below. However, the MCCF cannot give assurance that any valuations given will be acceptable to the Internal Revenue Service for charitable tax deduction purposes. In every case, donors must rely on their own professional legal and tax consultants. The MCCF will abide by the substantiation rules for valuing charitable gifts as outlined in the IRS Code and regulations thereunder.

B. SCOPE OF THE STATEMENT

The basic items to be covered in this policy are:

1. Circumstances under which a gift will be accepted.
2. Circumstance under which a financial valuation amount will be acknowledge to the donor in the form of a receipt.
3. Circumstances under which no financial valuation amount will be acknowledged, but under which only a description of the item received will be issued to the donor in the form of a receipt.

II. DEFINITION OF KINDS OF GIFTS AND THE AGENCY FOR ADMINISTRATION

A. CREATION OF A CONTRIBUTIONS REVIEW COMMITTEE

1. Establishment of the Committee

Reference will be made in this policy statement to a Contributions Review Committee. This committee will consist of Chairs of the Investment and Finance Committees, Chair of the Foundation, and a member of the Legal Committee with the President as exofficio.

2. *Function of the Committee*

Of prime importance to the MCCF in the acceptance of the gift is the identification and motivation of the donor. If there is any question about the source or the appropriateness of the funds or the donor, e.g., the gift might derive from sources inconsistent with the philosophy of the MCCF, the decision to accept such a gift must be made by the Contributions Review Committee.

Because of the varied nature of charitable gifts, proposed or offered gifts which have unusual restrictions or which have limited application to the mission of the MCCF must be reviewed by the Contribution Review Committee before acceptance. The Committee must evaluate both if the acceptance of a given gift is in the best interest of the MCCF, and if the MCCF can administer the terms of the gift to meet the wishes of the donor. Generally, donors should be encouraged to make unrestricted gifts to the MCCF.

B. GENERAL DEFINITIONS OF KINDS OF GIFTS

Most donors give gifts to the MCCF for use by the MCCF as the MCCF determines (“unrestricted gifts”), or for some specific purpose within the pale of the MCCF’s charitable mission (“restricted gifts”). Gifts, whether restricted or unrestricted, are either made outright allowing the MCCF to use the gift immediately (“current gifts”), or the gifts are made subject to some manner of deferral resulting in the MCCF being unable to use the gifts until some certain or indeterminate time has past (“deferred gifts”). Deferred gifts are usually personal will and trust charitable bequests although other gifts may involve the payment of income from the donated gift assets to individuals over their lifetimes (“life income gifts”). Where life income deferred gifts are involved, in order to determine the value of the income to be paid to the income beneficiaries and the value of the charitable income tax deduction taken by the donor, a valuation of the gift assets will need to be established in accordance with IRS regulations.

III. POLICY STATEMENTS CONCERNING SPECIFIC TYPES OF GIFTS

The MCCF will accept gifts and issue gift receipts of various types depending on the nature of the charitable gift made.

A. *Cash* (including cash equivalent, such as Certificates of Deposit and savings accounts). Receipts including gift value will be issued to donors making cash gifts.

B. *Marketable Securities* (stocks, bonds, U.S. Government securities). Gifts of publicly traded securities will be accepted and will be acknowledged by receipt for the number of shares given. The donor will be acknowledged by letter stating the median value of the high and low selling price of the securities on the date of the gift; however, donor must consult with their tax advisor for further determination.

C. *Non-Publicly Traded Securities* (closely held stock). The Contributions Review Committee will the advisability of accepting gifts of closely held stock. Usually, receipt for a gift of such stock will reflect only on the description, omitting valuation.

D. *Insurance Policies*. “Term” insurance policies are not usually accepted by the MCCF; however, if the MCCF is made the owner of such a contract, a receipt (without gift valuation) which describes the policy will be issued to the donor. If a permanent life insurance policy has a cash surrender value at the time of the gift (whole life or endowment insurance), a receipt containing the policy description and the amount of the policy interpolated terminal reserve plus unearned premium, plus accumulated value of dividends as of the date of the gift will be issued to the donor. If a new whole life insurance policy is given, a receipt will be issued for the value of the initial premium paid by the donor or paid by the MCCF from funds received by the donor.

E. *Real Estate (Non-Income Producing)*. An offer of real estate to the MCCF must be reviewed by the Contributions Review Committee. Generally, if the real estate has potential resale value, the gift will be accepted. If the real estate has questionable potential disposition, consideration should be given to declining the gift. To be acceptable, gift property shall have been a subject of a recent acceptable environmental study. If accepted, the MCCF will issue a receipt containing only the legal description of the real estate.

F. *Real Estate (Income Producing)*. The potential receipt of income producing property must be reviewed carefully by the Contributions Review Committee together with the MCCF auditors. The receipt of unrelated business income and its effect on the on the nonprofit status as well as the administrative burden of the MCCF must be completely understood before such a gift is accepted. To be acceptable, gift property shall have been a subject of a recent acceptable environmental study. If accepted, the MCCF will issue a receipt containing the legal description of the real estate.

G. *Tangible Personal Property*. There are several types of tangible personal property that could be received by the MCCF. In general, no gift value

will be included in a receipt for personal property. Because of the complications of the decision to accept personal property gifts, the Contributions Review Committee must review all personal property gift offers prior to acceptance and if acceptable, advise the donor if the MCCF intends to retain or make immediate disposition of the object.

H. *Miscellaneous.* Receivables, debt instruments, land contracts promissory notes, etc. An offer of such instruments to the MCCF must be reviewed by the Contributions Review Committee.

SAMPLE

POLICY GUIDELINES

**for Solicitation, Acceptance,
and Administration of
DEFERRED CHARITABLE GIFTS
for
Muskegon County Community Foundation
(hereinafter referred to as “the MCCF”)**

71

Prepared by:

*Patricia B. Johnson
President*

I. PURPOSE

The policy guidelines which follow are set forth to:

1. Protect the interests of donors of deferred gifts to the MCCF
2. Protect the interests of the MCCF
3. Delineate the administrative responsibilities of the MCCF with respect to deferred gifts.

These guidelines cannot embrace all areas in which judgment must be exercised. The MCCF administrative officers must exercise sound judgment in handling situations not specifically covered. In view of the importance of deferred gifts to the MCCF, those charged with attracting and maintaining them must be given wide latitude and, at the same time, must insure that the dignity and integrity of the MCCF and the best interest of its donors be maintained.

To that end in part, the MCCF subscribes to the Model Standards of Practice for the Charitable Gift Planner as adopted by the National Committee on Planned Giving and the Committee on Gift Annuities. This code of ethics for planned giving practitioners is hereby incorporated by reference.

II. GENERAL PROVISIONS

1. *POLICY FOR THE ACCEPTANCE OF CONTRIBUTIONS*

The MCCF Policy for the Acceptance of Charitable Contributions is hereby incorporated by reference.

2. *DONATIVE INTENT*

Solicitation of charitable gifts for the MCCF should be based on the assumption that prospective donors are interested in helping the MCCF through his or her gift arrangement, even though gift-encouraging investment and tax benefits for the donor may be present.

3. *DONOR PROTECTION*

The MCCF will not knowingly accept an irrevocable deferred gift from a donor who:

- a) has insufficient income and assets remaining after making the gift to provide for his or her needs such as personal support, health care, etc.
- b) has insufficient income and assets remaining after making the gift to provide for his or her heirs for whom he or she is fiscally responsible.

4. *TRUSTEESHIP*

With exception of Charitable Gift Annuity, Pooled Income Fund, and Life Insurance gifts, the MCCF shall refrain from accepting a position of trustee of charitable deferred gift trusts and will recommend that the donor seek the services of a personal or professional trustee, e.g., an individual person or a bank trust department. The MCCF Contributions Review Committee shall consider exceptions to this guideline when a gift may not be completed if the MCCF does not accept trusteeship. In this case, limits as hereinafter set forth shall apply depending on trust type.

If acting as trustee, the role of the MCCF in administering deferred gift trusts is that of trustee with precisely the same responsibilities as those of a commercial trust company. While acting as trustee, although the MCCF is also the remainderman, it is obligated to base its fiduciary decisions on the best interests of the donor, the income beneficiaries and the MCCF respectively, inasmuch as a charitable trust is not a conditional gift to the MCCF. Trust assets, therefore, are not the MCCF assets until the trust terminates, and the MCCF and trust accounting procedures will so reflect. Particular attention must be paid to IRS restrictions against self-dealing, jeopardizing investments, unrelated business income, etc.

Except for very unusual circumstances, no trust agreement shall be entered into which places the MCCF in a position of administering the ongoing personal and financial matters of a donor.

5. *LEGAL COUNSEL*

The MCCF shall seek the advice of legal counsel in all legal aspects of its deferred giving program. Specimen agreements (See Addendum 2) have been approved by legal counsel and require no further review by counsel when used as approved. Agreements which name the MCCF as trustee which do not conform to specimen forms shall be reviewed by counsel for the MCCF prior to acceptance of trust. The MCCF will not knowingly be party to documented agreements not prepared by legal counsel.

6. *PUBLICITY*

No public media exposure with respect to his or her gift will be given any donor without the donor's consent.

7. *CONFIDENTIALITY*

The MCCF staff responsible for deferred gifts shall maintain strict control over files and information received from donors or prospective donors so as to maintain confidentiality of such information.

8. *HARD-TO-VALUE PROPERTY*

When property other than cash, listed securities, or securities traded over

the counter are offered by a donor, the approval of the Contributions Review Committee shall be required.

9. GIFT USE DESIGNATION

Given the mission of the MCCF and the unpredictability of its future financial needs and circumstances, the MCCF encourages donors to leave undesignated the ultimate use of future proceeds of their deferred gift arrangements. Given that deferred gifts are usually made from donors' capital funds (assets), the MCCF, undesignated, maturing gift funds will be placed in capital (endowment) funds maintained for the benefit of the MCCF. Donors may, however, specify the endowment(s) into which such funds will be placed only with concurrence of the MCCF subject to the following guidelines:

Of the total proceeds, 50% or \$50,00 or more shall normally be applied to existing or created undesignated or field of interest funds maintained by the MCCF. Exceptions must be approved by the Contributions Review Committee.

From time to time, a donor may wish to use the MCCF as a conduit for making beneficial gift arrangements for charities other than the MCCF. Donors may establish donor advised or agency funds with MCCF (being subject to the policies of the MCCF and which further the charitable purposes of the MCCF) to receive the proceeds of their deferred gift arrangements. The balance of the deferred gift proceeds not applied to the undesignated or field of interest endowments (see above) may be designated to special purpose funds the income from which will be distributed to other charitable entities provided that such charitable organizations qualify as such under Section 501(c)(3) and are described under Section 170(b)(1)(A) of the Internal Revenue Code. Such distributions shall be made pursuant to a letter on file with the MCCF from the donor regarding his or her preferences for distribution; it shall be understood by the donor that such recommendations are advisory and that MCCF retains ultimate authority to direct the distribution of maturing gift proceeds.

III. SOLICITATION AND NEGOTIATION

1. LEGAL AND ACCOUNTING COUNSEL

Any written material sent to a prospective donor describing the potential tax, legal, or accounting effects or benefits of a deferred gift trust or bequest shall urge that a prospective donor consult her or his own legal and accounting advisors as to the consequences of a proposed gift in her or his particular situation; extreme care must be taken at all times not to place the MCCF in the position of having warranted a particular tax or legal result.

2. *AUTHORITY TO NEGOTIATE*

The MCCF administrative officers authorized to negotiate and sign deferred giving agreements with prospective donors are:

- President of MCCF
- Vice-President for Finance
- Chairperson of the MCCF Board of Trustees

3. *UNITRUST, ANNUITY TRUST LIMITS*

If the MCCF is to serve as trustee, no charitable remainder unitrust or annuity trust agreement shall be entered into with a donor unless the contributed principal sum is at least \$50,000. The fixed income percentage to be paid shall be no less than 5%, the minimum required by law. Unless the trust shall terminate in 20 years or less, no beneficiary shall be under the age of 50, and the maximum number of beneficiaries shall be 5. In no event shall a transfer be accepted if the unitrust/annuity trust charitable remainder value computed using IRS tables is less than \$15,000. Unitrusts may be established for smaller amounts when there is evidence that additional funds are intended to be added to the unitrusts subsequent to initial funding.

Hard-to-value or non-income producing properties transferred to trust will be placed only in a net income (or net income with make-up) unitrusts.

Any donor establishing a net income Unitrust will be asked to sign a letter of agreement between himself and the MCCF indicating she or he understands the income payout ramifications of net income trusts.

4. *POOLED INCOME FUND LIMITS*

MCCF Pooled Income Fund trust agreements shall not be entered into with a donor unless the contributed sum is at least \$5,000, or for the life of anyone under 50 years of age. Subsequent addition to an existing pooled income fund trust shall not be less than \$1,000.

5. *IMMEDIATE CHARITABLE GIFT ANNUITIES*

An immediate charitable gift annuity shall not be issued for a contributed amount of less than \$5,000, or for the life of an individual under 50 years of age.

No gift annuity agreement shall provide for more than two lives, and no annuity shall be issued unless the charitable remainder, computed using the government tables, exceeds 10% of the amount transferred for the annuity.

Annuities shall not provide for payout rates in excess of the annuity rates recommended on the Committee on Gift Annuities, as revised from time to time.

6. *DEFERRED PAYMENT CHARITABLE GIFT ANNUITIES*

A deferred gift annuity shall not be issued for a contributed amount of less than \$5,000. The period of deferral between the transfer date and the date the annuity payment starts shall be no more than 20 years.

Deferred annuity agreements may allow for lump sum or short-term certain periodic income distributions after the deferral period of not more than 20 years.

Deferred gift annuities may provide for the acceleration of the deferral date.

No deferred payment gift annuity agreement shall provide for more than two income beneficiaries, and no deferred payment agreement shall be issued unless the charitable gift, computing using the government tables, exceeds 10% of the amount for the transferred annuity.

Contract for Immediate Gift Annuities or Deferred Payment Gift Annuities shall be in contractual forms approved by the Legal Committee.

All payments received in exchange for an annuity contract shall be segregated; they may, however, be co-mingled for investment purposes. Amounts shall be taken from the fund and used for the purposes of the Muskegon County Community Foundation only as the liability under each annuity contract is completed. The adequacy of the segregated fund to meet the total liabilities of Muskegon County Community Foundation under issued gift annuities shall be determined annually.

7. *REVOCABLE SPECIAL PURPOSE (GIFT/TRUST) AGREEMENTS*

MCCF Revocable (Gift/Trust) Agreements shall be issued and managed under the following terms:

- a) Corpus—the initial deposit shall not be less than \$10,000.
- b) Income—all distributable net income will be paid to the designated income beneficiaries unless the grantor-donor stipulates a lesser amount or percentage in which case excess income will be added to principal. IRS-specified tax reporting to income beneficiaries shall reflect rules regarding excess accumulations.
- c) Income beneficiaries—shall not be less than age 50 and no agreement shall provide for more than 2 income beneficiaries.
- d) Additions to corpus—may be made at any time in amounts not less than \$1,000. Withdrawals may be made one time per calendar year in amounts not less than \$1,000. Withdrawals resulting in less than \$5,000 corpus remaining will result in revocation of the agreement by the MCCF.
- e) Revocation—the agreement may be revoked per the terms of the agreement at which time all principal and accumulated income shall be returned to the grantor-donor.

8. *LIFE INSURANCE LIMITS*

The MCCF will accept gifts of permanent life insurance policies provided that the MCCF is named as owner of or is assigned ownership in such policies. Policies continuing on a premium paying basis will be maintained as such by the

MCCF so long as gifts are made to the MCCF in the amount of the premiums due. Should such gifts not be forthcoming, the MCCF may, on the recommendation of its Investment Committee, elect:

- to continue premium payments on its own, or
- to invoke procedures under which the existing policy values can sustain the policy without further outlay of the MCCF funds for premiums, or
- to surrender the policy in exchange for its cash surrender value.

The MCCF discourages the contributions of life insurance policies subject to policy loans and reserves the right to accept or reject such policies as well as those carrying assignments to other entities. The MCCF will consider its own interest and the best interest of the donor in the light of tax ramifications in determining on a case by case basis the acceptability of encumbered life insurance policies. Particular care will be given to problems of self-dealing, jeopardy investments, and unrelated business income in this regard.

From time to time, donors may wish to make gifts of life insurance to the MCCF which name multiple charitable beneficiaries to receive policy proceeds. In such cases the following guidelines shall apply:

- a) Life insurance policies of which the MCCF is owner and premium payer shall include the MCCF in the beneficiary designation to receive policy death benefit or surrender proceeds to the extent of not less than 50% of the total maturity or surrender proceeds.
- b) The MCCF retains the exclusive right to change the beneficiary designations of policies of which it is owner and premium payer limited by paragraph “a” (above), only to other charitable organization which qualify as such under Section 501(C)(3) and which are described under Section 170(b)(1)(A) of the Internal Revenue Code.
- c) If a policy beneficiary designation is to be changed, the MCCF shall consider the charitable intentions of the donor. It is understood, however, that a donor's recommendations in this regard are advisory and that the MCCF, as owner of the policy, retains exclusive authority to direct the maturity or surrender proceeds of the policy.
- d) A donor who makes the MCCF the owner and beneficiary of a policy having multiple charitable beneficiaries (as limited by paragraphs “a” and “c” above) shall have full and sole responsibility for federal and state ramifications with respect to deduction and credits for contributions made to the MCCF for the purpose of premium payment even though a receipts for the full amount donated and/or for subsequent gifts to fund premium payment may be issued by the MCCF.

- e) Before the MCCF will comply with a donor who wishes to name multiple charitable beneficiaries per above, the donor shall submit a signed statement to the MCCF indicating familiarity with these policies and receipt of a copy of the same.

9. *GENERATION SKIPPING*

Deferred gifts involving “generation skipping” transfers shall be accepted subject to the written understanding by the donor of the potential tax consequences of such transfers.

10. *GIFT VALUATION AND APPRAISALS*

Acceptance of gifts involving land, buildings, or other real or personal property shall be contingent upon the obtaining of at least one appraisal by a person competent and qualified to make such an appraisal. IRS requirements regarding gift valuation substantiation shall be strictly adhered to by the MCCF. Real estate gifts will be acceptable only after the subject property has been the subject of a recent and acceptable environmental study.

11. *INCOME PRODUCING ADEQUACY*

Whenever an income interest in a gift is retained by a donor, the asset transferred, if to be retained by the MCCF as trustee, must be of such a value and character as to be able to provide the income anticipated by the donor without depletion of principal through required income distribution. It shall be understood by the donor that the MCCF acting as trustee is never under any compulsion by the donor to retain or sell any asset transferred to it under trust.

12. *ENCUMBRANCES*

No encumbered property will be accepted to fund a deferred charitable gift without the approval of the Contributions Review Committee of the MCCF Board of Trustees.

13. *EXPENSES*

The expenses associated with establishing and maintaining a deferred gift arrangement are multifold and may include costs of legal and appraisal fees, property and security sale commissions, and continuing administration expenses. Although some of these expenses are rightfully the responsibility of the donor, the MCCF may offer to have those expenses paid by the MCCF considering the likelihood of receiving the intended gift if not paid by the MCCF and considering the relative size of the intended gift. The foregoing notwithstanding, the MCCF shall not pay finders fees, commissions, or other fees to independent gift planners as a condition of delivery of a gift.

IV. ADMINISTRATION

1. COOPERATION AND RESPONSIBILITY

The administration of deferred gifts must be a cooperative effort between those responsible for the MCCF financial administration and those involved in gift solicitation. This cooperation must be ongoing and be based on prescribed responsibilities. Specific responsibilities are outlined in Addendum #1.

2. EXPENSES

Administrative fees will not normally be assessed by the MCCF against deferred gift trusts of which it is trustee and sole beneficiary. However, in the case that such a trust shall name charitable beneficiaries in addition to MCCF, an administrative fee shall be assessed at a rate of one-half (1/2) of one (1) percent (%) of the portion of the trust corpus which represents the non-MCCF interest as determined by the trust valuation as of the last day of the trust tax year.

3. INVESTMENTS

Where the MCCF is the trustee of charitable trust instruments, the Investment Committee will have the responsibility as a whole or by delegation for all deferred gift trust investment decisions, including decisions to sell, purchase, or exchange trust assets, and the timing of the same.

Investment of deferred gift funds by the MCCF will be according to specific guidelines established by the Investment Committee realizing such investment must be prudent in order to serve the interests of the donor as well as those of the MCCF.

Funds received for gift annuities will be invested in a segregated Annuity Fund and accounted for on the MCCF's balance sheet. A qualified accountant or actuary shall prepare a proper annual evaluation of the ongoing liabilities for future annuity payments by the MCCF. Only upon the maturity of an annuity shall a proportionate amount of Annuity Fund principal be transferred to the account for which the annuity gift was intended by the donor.

Deferred Gift Trusts shall be invested and accounted for independently and shall be segregated from the assets of the MCCF.

4. INCOME PAYMENTS

Annuity and Trust income checks shall be written only on the following schedule:

- Annual: January 1
- Semiannual: January 1 and July 1
- Quarterly: January 1, April 1, July 1, October 1

5. *PROCEDURE FOR PROCESSING MATURED ESTATE BEQUESTS AND DEFERRED GIFTS*

a. Scope: This procedure will apply to the following types of matured gifts:

- Will and trust bequests
- Pooled income fund
- Unitrusts and annuity trusts
- Charitable gift annuities
- Revocable gift agreements
- Life estate contracts
- Life insurance proceeds

b. Notification: When the MCCF is notified of the inclusion in a maturing deferred gift, the following procedures will be activated:

1. Communications with the attorney and/or paying institution
2. Continue monitoring with attorney and/or paying institution gift is ready for transfer or is delivered
3. Determine if gift is cash or in-kind assets

c. Receipt of Gift Assets:

1. Receive check for cash transfer and issue a receipt to paying institution
2. If in-kind transfer, provide a letter of consummation and a listing of assets detailing market value at the date of the transfer
3. Write a thank you letter to the agent responsible for the gift
4. Investigate donor's history, picture, etc.

d. Gift Processing:

1. Create a donor fund file
2. Create donor record in the data base
3. Record receipt of gift in the accounting records

e. Designation of Undesignated Gifts: Designation shall be made per General Policies Section II, #9 (above), after which:

1. Gifts received without donor's instructions and under \$25,000 shall be placed in the General Fund

f. Prepare Fund Agreement or letter stating donor's desires

6. *PROCEDURE FOR PROCESSING LIFE INSURANCE PREMIUM GIFTS*

Life insurance premium gifts shall be processed in the following fashion:

a. Donor Gifts:

1. Foundation must be the owner/beneficiary
2. Premium notice should be sent to the Community Foundation

3. Donor will pay MCCF the premium as a contribution
4. A tickler file will be developed for all life insurance premiums

SAMPLE

ADDENDUM #1
MCCF DEFERRED GIFT ADMINISTRATION

Area of Responsibility

Performance Responsibility

GIFT DOCUMENTS

- Prepare per specimen
- MCCF officials' signatures
- Obtain donor signature(s)
- Receive donor funds
- Deliver fund and document to controller
- Calculate deductible charitable remainder
- Interest and notify donor

President and V.P. Finance
Administrative Assistant
President and V.P. Finance
President and Secretary
Attorney and/or Accountant
V.P. Finance
President

INCOME PAYMENTS

- Prepare checks
- Prepare envelopes
- Mail checks

V.P. Finance
Secretary
Secretary

TAX FORMS

- Obtain IRS Tax ID# (if needed)
- Prepare tax forms as required

V.P. Finance
V.P. Finance

INVESTMENT

- Determine investments
- Complete investments
- Review investments

Investment Committee
Investment Committee
Investment Committee

FOLLOW-UP

- Thank you letter
- Publicity
- Christmas card
- Annual review with donor

President
President
President
President

ADDENDUM #2
MCCF SPECIMEN FORMS FOR DEFERRED GIFTS

The following forms are on file in the MCCF office word processor. The processor addresses are indicated below. Printed copies of these forms are on file.

FORM NAME

WORD PROCESSOR ADDRESS

A. Pooled Income Fund

1. Declaration of Trust (Conformed)
2. Instrument of Transfer - One Life
4. Instrument of Transfer - Concurrent Lives
5. Schedule A to Instrument of Transfer
6. Schedule B - Donor's Designation
7. Donor Trust Agreement
8. Statement to IRS - Form 1040, Schedule "A"
9. Request for Illustration
10. Receipt for Transfer

B. Gift Annuity

1. Immediate Gift Annuity Agreements
 - a. Single Life Annuity
 - b. Two-life Annuity
2. Deferred Gift Annuity Agreements
 - a. Single Life Annuity
 - b. Two-life Annuity

C. Revocable Gift Trust Agreement

THE BATTLE CREEK COMMUNITY FOUNDATION

(herein after referred to as “BCCF”)

Policy for **FUND DEVELOPMENT**

SEPTEMBER 1, 1993

Mission Statement of The Battle Creek Community Foundation

*“To promote philanthropy; to provide stewardship and leadership
which promotes the coordinated use of community resources to
meet the needs of our citizens.”*

THE BATTLE CREEK COMMUNITY FOUNDATION

I. GENERAL POLICIES

A. ANNUAL FUND DRIVE/ANNUAL REQUEST LETTER

BCCF will NOT engage in an “annual fund drive.” (This is intended to mean that the Community Foundation should not engage in a public campaign to raise funds.)

The annual request letter (sent out at the end of the year) soliciting contributions for various funds should be continued. However, the staff should carefully review the cost/benefit of the material to be sent. We should continue to emphasize the “Fund for Battle Creek” in our fund development messages.

BCCF will establish or participate in “event” fundraising activities such as the Al Molde Children’s Golf Classic only after Board approval of such activities.

B. ANNUAL DONOR MEETING

BCCF should continue to convene an annual meeting of community leaders, donors, and prospective donors. Trustees should be encouraged to bring potential donors to the meeting. (The “refreshment and snacks” type of meeting held late afternoon for the 1992 meeting is an acceptable model.)

C. DISTRIBUTIONS FROM DONOR(S) DESIGNATED FUNDS OR DONOR(S) ADVISED FUNDS

The Committee recommends that no distribution be made from any Donor(s) Designated Fund or Donor(s) Advised Fund until the corpus reaches \$10,000.00. This policy should apply only to funds newly established after August 1, 1993.

D. FUND FOR BATTLE CREEK

Trustees and staff should continue emphasis on building the “Fund for Battle Creek.”

E. DEFERRED & PLANNED GIVING

Deferred and Planned Gifts should be a major emphasis in the BCCF’s fund development activities.

Trustees and staff should attempt to work together to annually review the amount of deferred gifts that should be attainable in the community and establish short-range and long-range goals for deferred giving.

F. ANNUAL GIFTS

We should continue to try to raise annual gifts, but the emphasis should be on deferred giving, rather than the annual gift.

G. ROLE OF TRUSTEES

1. Trustees should participate in getting feedback from the community about the performance of BCCF, and communicate to the Chairman, CEO, and Board.
2. Trustees should make every effort to make some level of contribution. In many cases, Board members may have affiliations with other organizations, and even a contribution by the Trustees to the BCCF for the benefit of these other organizations with which they have an affiliation should be encouraged.
3. Trustees should prospect and qualify prospective donors.
4. Trustees should be encouraged to attend training sessions or obtain guidelines in assisting to raise funds at the comfort level of the Trustee.

H. ROLE OF CEO IN FUND RAISING

1. The CEO should develop programs and projects to accomplish the goals of fund development and fundraising of BCCF, based upon the policies from time to time established by the Board.
2. The CEO should see that BCCF maintains an information system that records and maintains appropriate data regarding donors and prospects.
3. The CEO should provide leadership in developing staff skills necessary to nurture positive relationships with donors, prospects and centers of influence.
4. The CEO shall participate in identifying and qualifying prospects.
5. The CEO will see that qualified prospects are contacted on a timely basis.
6. The CEO shall participate in and direct staff to participate in appropriate training programs related to fund development for BCCF.

I. FEES

Any fees generated in a fiduciary capacity by the President/CEO or any staff member of BCCF with regard to any of the relationships of Personal Representative, Trustee of Trusts or Attorney-in-Fact should be clearly delineated and channeled to BCCF and not to the individual. It is assumed that all such services would be within the scope of the duties of the President with relation to his role as CEO of BCCF.

II. POLICY FOR THE ACCEPTANCE OF CONTRIBUTIONS

A. PURPOSE AND SCOPE

1. General Purpose

The need for such a policy as this arises from the fact that donors of charitable gifts must assign a value to their gifts to establish their charitable income tax deduction bases. The tax regulations relating to valuations of charitable gifts are complex, and tax deductions are dependent on how the donor acquired the property, its current value, and the use to which the gift is being put by the BCCF. To avoid misunderstanding or conflict between a donor and the BCCF as to valuation when a gift is made to the BCCF, the BCCF will follow the guidelines set forth below. However, BCCF cannot give assurance that any valuations given will be acceptable to the Internal Revenue Service for charitable tax deduction purposes. In every case, donors must rely on their own professional legal and tax consultants. BCCF will abide by the substantiation rules for valuing charitable gifts as outlined in the IRS Code and regulations thereunder. Gifts that comply with the guidelines and conditions contained in this document may be accepted by the President/CEO and such other employees as the President may designate. Any gifts not complying with these guidelines and conditions must be approved by the Board of Trustees.

2. Scope of Statement

The basic items to be covered in this policy are:

- a. Circumstances under which a gift will be accepted.
- b. Circumstances under which a financial valuation amount will be acknowledged to the donor in the form of a receipt.
- c. Circumstances under which no financial valuation amount will be acknowledged, but under which only a description of the item received will be issued to the donor in the form of a receipt.

B. CONTRIBUTIONS REVIEW COMMITTEE

1. Establishment of the Committee

Reference will be made in this policy statement to a *Contributions Review Committee*. This committee will consist of the Board of Trustees Executive Committee.

2. Function of the Committee

Of prime importance to the BCCF in the acceptance of a gift is the identification and motivation of the donor. If there is any question about the source or

the appropriateness of the funds or the donor, e.g., the gift might derive from sources inconsistent with the philosophy of the BCCF, the decision to accept such a gift must be made by the *Contributions Review Committee*.

Because of the varied nature of charitable gifts, proposed or offered gifts which have unusual restrictions or which have limited application to the mission of the BCCF must be reviewed by the *Contributions Review Committee* before acceptance. The Committee must evaluate both if the acceptance of a given gift is in the best interest of the BCCF, and if the BCCF can administer the terms of the gift to meet the wishes of the donor. Generally, donors should be encouraged to make unrestricted gifts to the BCCF.

C. GENERAL DEFINITION OF KINDS OF GIFTS

Most donors give gifts to the BCCF for use by the BCCF as the BCCF determines (“unrestricted gifts”), or for some specific purpose within the pale of the BCCF’s charitable mission (“restricted gifts”). Gifts, whether restricted or unrestricted, are either made outright allowing the BCCF to use the gift immediately (“current gifts”), or the gifts are made subject to some manner of deferral resulting in the BCCF being unable to use the gifts until some certain or indeterminate time has past (“deferred gifts”). Deferred gifts are usually personal will and trust charitable bequests although other gifts may involve the payment of income from the donated gift assets to individuals over their lifetimes (“life income gifts”). Where life income deferred gifts are involved, in order to determine the value of the income to be paid to the income beneficiaries and the value of the charitable income tax deduction taken by the donor, a valuation of the gift assets will need to be agreed upon by the BCCF and donor in a manner acceptable to the IRS.

D. POLICY STATEMENTS CONCERNING SPECIFIC TYPES OF GIFTS

The BCCF will accept gifts and issue gift receipts of various types depending on the nature of the charitable gift made.

1. *Cash* (including cash equivalent, such as Certificates of Deposit and savings accounts).

Receipts including gift value will be issued to donors making cash gifts.

2. *Marketable Securities* (stocks, bonds, U.S. Government securities, etc.).

Gifts of publicly traded securities will be accepted and will be acknowledged by receipt for the number of shares given and the median value of the high and low selling prices of the securities on the date of the gift.

3. *Non-Publicly Traded Securities* (closely held stock).

The *Contributions Review Committee* will review the advisability of accepting gifts of closely held stock. Usually, receipt for a gift of such stock will reflect only the description, omitting

valuation. BCCF should not accept any share in closely held companies unless BCCF is at liberty to sell the share, and if there is a market for the interest. No gift of closely held companies should be accepted if there are any restrictions on the gift as to the ability to sell the interest.

4. *Insurance Policies.* If the BCCF is made the owner of a term insurance policy, a receipt without gift valuation which describes the policy will be issued to the donor. If an insurance policy has a cash value at the time of the gift (whole life or endowment insurance), a receipt containing the policy description and the amount of the policy interpolated terminal reserve plus unearned premium, plus accumulated dividends as of the date of the gift will be issued to the donor. If a new whole life insurance policy is given, a receipt will be issued for the value of the initial premium paid by the donor or paid by the BCCF from funds received by the donor. (For additional information, see Section III C. 7.)

5. *Real Estate.* No real estate should be accepted as a gift in behalf of BCCF unless specifically approved by the Board, after presentation to the Board of the details of the value and marketability of the real estate, the need for active management, the condition of the property, the ability to generate income to pay taxes and insurance and related aspects, environmental considerations, and other appropriate matters that may help the Board evaluate the feasibility of accepting the gift. If accepted, the BCCF will issue a receipt containing only the legal description of the real estate. It is anticipated that proposed gifts of real estate will be reviewed by the Contributions Review Committee and the Committee shall make a recommendation to the Board.

6. *Tangible Personal Property* There are several types of tangible personal property that could be received by the BCCF. In general, no gift value will be included in a receipt for personal property. Because of the complications of the decision to accept personal property gifts, the *Contributions Review Committee* must review all personal property gift offers prior to acceptance and if acceptable, advise the donor if the BCCF intends to retain or make immediate disposition of the object.

III. POLICY GUIDELINES FOR SOLICITATION, ACCEPTANCE, AND ADMINISTRATION OF DEFERRED CHARITABLE GIFTS

A. PURPOSE

The policy guidelines which follow are set forth to:

1. Protect the interests of donors of deferred gifts to BCCF
2. Protect the interests of BCCF
3. Delineate the administrative responsibilities of BCCF with respect to deferred gifts

These guidelines cannot possibly embrace all areas in which judgment must be exercised. BCCF administrative officers must exercise sound judgment in handling situations not specifically covered. In view of the importance of deferred gifts to BCCF, those charged with attracting and maintaining them must be given wide latitude and, at the same time, must insure that the dignity and integrity of BCCF and the best interest of its donors be maintained.

To that end in part, BCCF subscribes to the Model Standards of Practice for the Charitable Gift Planner as adopted by the National Committee on Planned Giving and the Committee on Gift Annuities. This code of ethics for planned giving practitioners is hereby incorporated by reference.

B. GENERAL PROVISIONS

1. POLICY FOR THE ACCEPTANCE OF CONTRIBUTIONS

The BCCF Policy for the Acceptance of Charitable Contributions is hereby incorporated by reference.

2. DONATIVE INTENT

Solicitation of charitable gifts for BCCF should be based on the assumption that prospective donors are interested in helping BCCF through his or her gift arrangement, even though gift-encouraging investment and tax benefits for the donor may be present.

3. DONOR PROTECTION

BCCF will not knowingly accept an irrevocable deferred gift from a donor who:

- a. has insufficient income and assets remaining after making the gift to provide for his or her needs such as personal support, health care, etc.

- b. has insufficient income and assets remaining after making the gift to provide for his or her heirs for whom he or she is fiscally responsible.

4. FIDUCIARY POSITIONS

- a. Personal Representatives of Wills—The Community Foundation shall not be designated as a Personal Representative under the Last Will and Testament of any individual. The President of BCCF, as an individual, may be appointed, but the provisions of the Will should clearly spell out that, should the then acting President of BCCF no longer hold the position, then the successor President should become the successor Personal Representative. Any fees generated by virtue of being designated as Personal Representative should inure to the benefit of the Battle Creek Community Foundation. The potential liability to BCCF should be clearly delineated.

No designation of Personal Representative should be encouraged or accepted with specific approval of the Board of BCCF.

- b. Trustees of Trusts—The Community Foundation shall not be designated as a Trustee of the Trust of an individual. The President of BCCF, as an individual may be appointed, but the provisions of the Trust should clearly spell out that, should the then acting President of BCCF on longer hold the position, then the successor President should become the successor Trustee. Any fees generated by virtue of being designated as Trustee should inure to the benefit of the Battle Creek Community Foundation. The potential liability to BCCF should be clearly delineated.

No designation of Trustee should be encouraged or accepted without specific approval of the Board of BCCF.

Every effort should be made to discourage designating the President of BCCF to be a Trustee of a Revocable Living Trust during the lifetime of the Donor. Nevertheless, there may be some circumstances under which it may be both imperative and prudent to permit designation of the President to be Trustee in the event of the disability of the owner, particularly where the corpus is substantial and

the benefits will inure to the benefit of the BCCF on the death of the Donor. Again, the Board should decide whether or not to approve all such designations after obtaining relevant facts.

- c. *Attorney-in-Fact*—BCCF is not permitted to act as attorney-in-fact under a General Power of Attorney. There may be specific, limited circumstances under which the Foundation could act under a Limited Power. Again, the President as an individual could act, but this should be discouraged because of the potential burden and potential exposure. Designation as attorney-in-fact implies that there would be activity during the principle's lifetime. This could be a neverending process and burden, and should be discouraged.

Except for very unusual circumstances, no trust agreement shall be entered into which places BCCF in a position of administering the ongoing personal and financial matters of a donor.

None of the foregoing policies is intended to restrict the right of the CEO to be a fiduciary in any relationship with individuals that do not relate in any way to acting in apparent behalf of Battle Creek Community Foundation and are not a "conflict of interest."

5. *LEGAL COUNSEL*

BCCF shall seek the advice of legal counsel in all legal aspects of its deferred giving program. Specimen agreements for use by the BCCF with its donors which have been approved by legal counsel require no further review by counsel when used as approved. Agreements which name BCCF as trustee which do not conform to specimen forms shall be reviewed by counsel for BCCF prior to acceptance of trust. BCCF will not knowingly be party to documented agreements not prepared by legal counsel.

6. *PUBLICITY*

No public media exposure with respect to his or her gift will be given any donor without the donor's consent.

7. *CONFIDENTIALITY*

BCCF staff responsible for deferred gifts shall maintain strict control over files and information received from donors or prospective donors so as to maintain confidentiality of such information.

8. *HARD-TO-VALUE PROPERTY*

When property other than cash, listed securities, or securities traded over the counter are offered by a donor, the approval of the Contributions Review Committee shall be required.

9. *GIFT USE DESIGNATION*

Given the mission of BCCF and the unpredictability of its future financial needs and circumstances, BCCF encourages donors to leave undesignated the ultimate use of future proceeds of their deferred gift arrangements. Donors may, however, specify the endowment(s) into which such funds will be placed only with concurrence of BCCF subject to the following guidelines:

- a. Of the total proceeds, 50% or more shall be applied to existing or created permanent endowments maintained by BCCF.
- b. Donors may establish special purpose endowments to receive the proceeds of their deferred gift arrangements. Such funds, established with the advice of the donors subject to the policies of BCCF, shall be maintained by and shall further the charitable purposes of BCCF.

Under unusual circumstances, BCCF may consider designating deferred gift proceeds to nonendowment applications. In so doing, BCCF shall take into account the wishes of donors (if known), the mission of BCCF and the fiscal situation in which it finds itself at the time the gift matures.

From time to time, a donor may wish to use BCCF as a conduit for making beneficial gift arrangements for charities other than BCCF. The balance of the proceeds not applied to BCCF-maintained endowments (see above) may be distributed to other charitable entities provided that such charitable organizations qualify as such under Section 501(C)(3) and are described under Section 170(b)(1)(A) of the Internal Revenue Code. Such distributions shall be made pursuant to a letter on file with BCCF from the donor regarding his or her preferences; it shall be understood by the donor that such recommendations are advisory and that BCCF retains ultimate authority to direct the distribution of maturing gift proceeds.

Donor Designated Fund: (This fund is an “in perpetuity” fund).

BCCF shall allow Donor Designated Funds. The Donor is permitted to change the designation of the fund. The Donor may provide that the fund continue for a specific period of time, and then upon the expiration of that time, the balance of the funds go into the Foundation’s Unrestricted Funds. If the purpose for which the designation is made ceases to exist, the balance of the designated fund shall be placed into the Community Foundation’s Unrestricted Funds unless another designation has been made during the Donor’s lifetime.

Donor Advised Funds: BCCF shall allow Donor Advised Funds. Upon the death of the Donor(s) the funds shall be totally allocated to the Community Foundation's Unrestricted Funds unless the Donor(s) designated up to 50% of the fund to go to a Field of Interest Fund. If a Donor(s) desires to provide for the advised fund to continue beyond the life of the Donor(s), the Board of Trustees of the Community Foundation must specifically authorize this continuation.

Note: The term of the Donor Advised Fund may be for a period shorter than the lifetime of the Donor(s).

C. SOLICITATION AND NEGOTIATION

1. LEGAL AND ACCOUNTING COUNSEL

Any written material sent to a prospective donor describing the potential tax, legal, or accounting effects or benefits of a deferred gift trust or bequest shall urge that a prospective donor consult her or his own legal and accounting advisors as to the consequences of a proposed gift in her or his particular situation; extreme care must be taken at all times not to place BCCF in the position of having warranted a particular tax or legal result.

2. AUTHORITY TO NEGOTIATE

BCCF administrative officers authorized to negotiate and sign deferred giving agreements with prospective donors are:

- President/CEO
- Chairman of the Board of Trustees
- Financial Administrator
- Funds Development Officer
- Program Officer

3. CHARITABLE REMAINDER UNITRUST, CHARITABLE REMAINDER ANNUITY TRUST LIMITS

If BCCF is to serve as trustee, no charitable remainder unitrust or annuity trust agreement shall be entered into with a donor unless the contributed principal sum is at least \$50,000. The fixed income percentage to be paid shall be no less than 5%, the minimum required by law. Unless the trust shall terminate in 20 years or less, no beneficiary shall be under the age of 50, and the maximum number of beneficiaries shall be two. In no event shall a transfer be accepted if the unitrust/annuity trust charitable remainder value computed using IRS tables is less than \$10,000. Unitrusts may be established for smaller amounts when there is evidence that additional funds are intended to be added to the unitrusts subsequent to initial funding.

Hard-to-value or non-income producing properties transferred to trust will be placed only in a net income (or net income with "make-up") unitrusts.

Any donor establishing a net income Unitrust will be asked to sign a letter of agreement between himself and BCCF indicating she or he understands the income payout ramifications of net income trusts.

4. *POOLED INCOME FUND LIMITS*

No pooled income fund trust agreement shall be entered into with a donor unless the contributed sum is at least \$10,000, or for the life of anyone under 50 years of age. No subsequent addition to an existing pooled income fund trust shall be less than \$500. BCCF will not accept Pooled Income Funds without Board approval.

5. *IMMEDIATE CHARITABLE GIFT ANNUITY LIMITS*

No immediate charitable gift annuity shall be issued for a contributed amount of less than \$10,000 or for the life of an individual under 50 years of age. No gift annuity agreement shall provide for more than two lives, and no annuity shall be issued unless the charitable remainder, computed using the government tables, exceeds 10% of the amount transferred for the annuity; no exception shall be made to these requirements. BCCF-issued annuities shall not provide for payout rates in excess of the annuity rates recommended by the Committee on Gift Annuities as revised from time to time, which are hereby incorporated by reference, except that those rates shall not be followed if the “10% test” is not met.

6. *DEFERRED PAYMENT CHARITABLE GIFT ANNUITY LIMITS*

No deferred gift annuity shall be issued for a contributed amount of less than \$10,000, or for the life of an individual under 40 years of age, and the period of deferral between the transfer date and the date the annuity payments start shall be no more than 20 years. The foregoing notwithstanding, the age restriction shall be unlimited in those cases where the deferred annuity agreement allows for a lump sum or short term certain periodic income distribution after a deferral period of not more than 20 years. Deferred gift annuities may provide for acceleration of the deferral date. No deferred payment gift annuity agreement shall provide for more than two income beneficiaries, and no deferred payment agreement shall be issued unless the charitable gift, computed using the government tables, exceeds 10% of the amount transferred for the annuity; no exception shall be made to these requirements.

7. *LIFE INSURANCE LIMITS*

BCCF will accept gifts of life insurance policies provided that BCCF is named as owner of, or is assigned ownership in, such policies. For policies on a premium paying basis BCCF will make a determination on each premium due date as to whether such premiums will be paid regardless of

whether a donor is making contributions sufficient to pay such premiums. It has generally been the practice of BCCF to continue paying premiums on policies. If continuing gifts are being received from a donor, the President/CEO shall make a determination of whether premiums should be paid. If there are not continuing gifts being received from the donor the decision on whether to continue premiums will be referred to the Finance Committee for recommendation.

The Finance Committee may elect any of the following options:

- to continue premium payments, or
- to invoke procedures under which the existing policy values can sustain the policy without further outlay of BCCF funds for premiums, or
- to place the policy on a reduced paid up basis, or
- to place the policy on an extended term basis, or
- to surrender the policy in exchange for its cash surrender value.

(In general, it is anticipated that proceeds received as a result of surrendering a policy will be allocated in the same manner as they would be if the policy matured as either a death claim or an endowment.)

BCCF discourages the contributions of life insurance policies subject to policy loans and reserves the right to accept or reject such policies as well as those carrying assignments to other entities. BCCF will consider its own interest and the best interest of the donor in the light of tax ramifications in determining on a case by case basis the acceptability of encumbered life insurance policies. Particular care will be given to problems of self-dealing, jeopardy investments, and unrelated business income in this regard.

From time to time, donors may wish to make gifts of life insurance to BCCF which name multiple charitable beneficiaries to receive policy proceeds. In such cases the following guidelines shall apply:

- a. Life insurance policies of which BCCF is owner and premium payer shall include BCCF in the beneficiary designation to receive policy death benefit or surrender proceeds to the extent of not less than 50% of the total maturity or surrender proceeds.
- b. BCCF retains the exclusive right to change the beneficiary designations of policies of which it is owner and premium payer limited by paragraph A (above), only to other charitable organizations which qualify as such under Section 501(C)(3) and which are described under Section 170(b)(1)(A) of the Internal Revenue Code.
- c. If a policy beneficiary designation is to be changed, BCCF shall consider the charitable intentions of the donor. It is understood, however, that a donor's recommendations

in this regard are advisory and that BCCF, as owner of the policy, retains exclusive authority to direct the maturity or surrender proceeds of the policy.

- d. A donor who makes BCCF the owner and beneficiary of a policy having multiple charitable beneficiaries (as limited by paragraphs A through C above) shall have full and sole responsibility for federal and state tax ramifications with respect to deductions and credits for contributions made to BCCF for the purpose of premium payment even though a receipts for the full amount donated and/or for subsequent gifts to fund premium payments may be issued by BCCF.
- e. Before BCCF will comply with a donor who wishes to name multiple charitable beneficiaries per above, the donor shall submit a signed statement to BCCF indicating familiarity with these policies and receipt of a copy of same.

8. *LIFE ESTATE GIFT ARRANGEMENTS*

The BCCF will accept gifts of real estate in which the donor reserves a life estate subject to the provisions of Section II D. 5. In such cases, the donor will agree in writing with the BCCF that the donor assumes full responsibility for all expenses incurred regarding said real estate as if the donor were the owner of the property. Such expenses shall include but not be limited to property taxes, utilities, maintenance, insurance, furnishings, etc.

9. *GENERATION SKIPPING*

Deferred gifts involving “generation skipping” transfers shall be accepted subject to the written understanding by the donor of the potential tax consequences of such transfers.

10. *GIFT VALUATION AND APPRAISALS*

Acceptance of gifts involving land, buildings, or other real or personal property shall be contingent upon the obtaining of at least one appraisal by a person competent and qualified to make such an appraisal. IRS requirements regarding gift valuation substantiation shall be strictly adhered to by BCCF. Normally the appraisal will be paid for by the donor.

11. *INCOME PRODUCING ADEQUACY*

Whenever an income interest in a gift is retained by a donor, the asset transferred, if to be retained by BCCF as trustee, must be of such a value and character as to be able to provide the income anticipated by the donor without depletion of principal through required income distribution. It shall be understood by the donor that BCCF acting as trustee is

never under any compulsion by the donor to retain or sell any asset transferred to it under trust.

12. *ENCUMBRANCES*

No encumbered property will be accepted to fund a deferred charitable gift without the approval of the Contributions Review Committee.

13. *EXPENSES*

The expenses associated with establishing and maintaining a deferred gift arrangement are multifold and may include costs of legal and appraisal fees, property and security sale commissions, and continuing administration expenses. Although some of these expenses are rightfully the responsibility of the donor, BCCF may offer to have those expenses paid by BCCF considering the likelihood of receiving the intended gift if not paid by BCCF and considering the relative size of the intended gift. The foregoing notwithstanding, BCCF shall not pay finders fees, commissions, or other fees to independent gift planners as a condition of delivery of a gift.

D. ADMINISTRATION

1. *COOPERATION AND RESPONSIBILITY*

The administration of deferred gifts must be a cooperative effort between those responsible for BCCF financial administration and those involved in gift solicitation. This cooperation must be ongoing and be based on prescribed responsibilities. Specific responsibilities are outlined on Addendum #1.

2. *EXPENSES*

Administrative fees will not normally be assessed by BCCF against deferred gift trusts of which it is trustee and sole beneficiary. However, in the case that such a trust shall name charitable beneficiaries in addition to BCCF, an administrative fee shall be assessed at a rate of one-half (1/2) of one (1) percent (%) of the portion of the trust corpus which represents the non-BCCF interest as determined by the trust valuation as of the last day of the trust tax year.

3. *INVESTMENTS*

The Investment Review Committee shall be composed of trustees and outside advisors as appointed by the chairman of the board.

Where BCCF is the trustee of charitable trust instruments, the Investment Review Committee will have the responsibility as a whole or by delegation for all deferred gift trust investment decisions, including decisions to sell, purchase, or exchange trust assets, and the timing of the same.

Investment of deferred gift funds by BCCF will be according to specific guidelines established by the Investment Review Committee realizing such investment must be prudent in order to serve the interests of the donor as well as those of BCCF.

Funds received for gift annuities will be invested in a segregated Annuity Fund and accounted for on BCCF's balance sheet. A qualified accountant or actuary shall prepare a proper annual evaluation of the ongoing liabilities for future annuity payments by BCCF. Only upon the maturity of an annuity shall a proportionate amount of Annuity Fund principal be transferred to the account for which the annuity gift was intended by the donor.

Deferred Gift Trusts shall be invested and accounted for independently and shall be segregated from the assets of BCCF.

4. *INCOME PAYMENTS*

Annuity and Trust income checks shall be written only on the following schedule:

- | | |
|--------------|---------------------------------------|
| • Annual | January 1 |
| • Semiannual | January 1 and July 1 |
| • Quarterly | January 1, April 1, July 1, October 1 |
| • Monthly | 1st day of each month |

5. *PROCEDURE FOR PROCESSING MATURED ESTATE BEQUESTS AND DEFERRED GIFTS*

a. Scope: This procedure will apply to the following types of matured gifts:

- Will and trust bequests
- Pooled income fund
- Charitable remainder unitrusts and charitable remainder annuity trusts
- Charitable gift annuities
- Life estate contracts
- Life insurance proceeds

b. Notification: When BCCF is notified of the inclusion in a maturing deferred gift, the following form is updated:

THE BATTLE CREEK COMMUNITY FOUNDATION

Notification of Maturing Gift Form

BCCF Staff Member completing this form _____

Date _____ Time _____

Initial Contact Person _____

Call initiated by _____ Of _____

Future Contact Person _____ Phone # _____

Estate of _____

Notification of Deferred/Planned Gift

If this form is completed prior to maturity, complete a new form at maturity for updated information.

Donor Name _____

BCCF staff member completing this form _____

Notification Date _____ Time _____

Notification received from _____

0 When gift established prior to maturity

0 At maturity

Notification received by:

0 Phone 0 Letter 0 In Person

Party to contact for additional information:

Name _____

Address _____

Phone No. _____

Gift Vehicle: _____

☐ Will or Trust

☐ Charitable Remainder Trust

☐ Charitable Gift Annuity

☐ Pooled Income Fund

☐ Life Estate (Remainder Interest)

☐ Life Insurance

☐ Lifetime Gift

☐ Other (Please explain) _____

Estimated Value (if known) \$ _____

Gift to be completed: ☐ In one sum ☐ Installments

If installments, please elaborate _____

Type of Gift: ☐ Cash ☐ Securities ☐ Personal Property ☐ Real Estate

If personal or real property, please describe _____

Attorney: Name _____ Phone _____
Address _____

Accountant: Name _____ Phone _____
Address _____

Trust Officer/Dept: Name _____ Phone _____
Address _____

Other Advisors: Name _____ Phone _____
Address _____
Profession _____

Anticipated gift: _____ Cash; _____ Stock; _____ Bonds; _____ Life Insurance;

_____ Other (Please explain) _____

Estimated Value or Amount: \$ _____

The gift is to be distributed to (List fund name or interest area):

C O U N C I L O F M I C H I G A N F O U N D A T I O N S

The gift will be made available through (Institution, Brokerage Co., Check, etc.):

Anticipated arrival date: _____

Comments _____

President and CEO, as well as staff accountant, should receive an updated copy of this form whenever information is changed or updated.

c. Gift Processing: Gifts may be obtained through the mail, over the phone, or by those who appear in person to make their contributions.

The following procedures are utilized when a cash or check contribution is presented:

1. Administrative secretary opens mail or greets individual.
2. Administrative secretary receipts cash and checks for the entire day. If a gift is made in person, it is immediately receipted and processed for the contributor.
3. Checks are then stamped for deposit.
4. Administrative secretary prepares a deposit slip for the day's receipts and reconciles with receipts that have been written for the day.
5. Administrative secretary or staff accountant make deposit on a daily basis. In the event a deposit cannot be made for the day, the checks are placed in a locked filing cabinet until the following business day. Large checks of \$25,000 or more are brought to the attention of the staff accountant for specific direction regarding the method of deposit and appropriate fund manager.

6. Staff accountant reconciles weekly deposits with weekly receipts.
7. Administrative secretary generates “thank-you” letters/memorials within three working days of receipting check, and submits letters with envelopes to data manager.
8. Data manager reviews thank-you letters, records on donor base, and forwards to President/CEO for signature and special note.
9. A copy of the thank-you letter for gifts of \$500 or more to a specific fund, or for gifts that Establish a fund, is placed in the appropriate file.

NOTE: In the event the above gift is in the form of stock, the gift is receipted by placing it on the master BCCF stock form by the staff accountant. In addition, when a receipt is prepared for the donor, the number of shares is indicated; however, the actual dollar value should not appear. Once the gift has been receipted, the staff accountant continues the process of working with the brokerage company to either sell the stock, or transfer to one of the BCCF fund managers. The procedures for processing securities is located on page 113.

6. *PROCEDURE FOR PROCESSING LIFE INSURANCE PREMIUM GIFTS*

Life insurance premium gifts (except for those establishing a new policy) shall be processed in the following fashion:

a. Donor Gifts—Existing Life Insurance Policies:

1. President or Program Officer meet to determine donor objectives regarding purpose or fund to be benefited.
2. President and CEO physically receives the insurance policy and appropriate copies of forms transferring ownership to foundation and designating the foundation as the beneficiary.
3. President and CEO determines whether policyholder intends to make future cash contributions to the foundation.
4. President and CEO provides donor with a copy of Heritage Society brochure and asks to include their name among the Heritage Society members.
5. Administrative Secretary issues receipt that identifies the policy number and the value, if available (the amount of the policy interpolated terminal reserve

- plus unearned premium, plus accumulated dividends). If this information is not available, advise the donor that the value on the date of gift should be obtained from the insurance company.
6. Staff Accountant enters the value of the policy as of the date of transfer on the BCCF books. The value, if not available, should be obtained from the insurance company, using interpolated terminal reserve plus unearned premium, plus accumulated dividends as of the date of the gift.
 7. For premium paying policies, when premiums are paid, the staff accountant charges these expenses to appropriate fund.
 8. A determination is made at premium due date on whether to pay all or any portion of the premium from dividends.
 9. At the end of the fiscal year, the staff accountant, in conjunction with auditors, updates cash value of life insurance owned by BCCF by increasing the values of the asset and income to the named funds.
 10. At donor's death when proceeds are received, the staff accountant makes the proper accounting entries to record the difference between the cash value of the insurance policy and the death benefit to the named fund. (The other part of the credit J. E. is to the insurance policy asset).

b. Matching Gifts

1. Donor completes appropriate company's donor matching gift form and presents it with personal contribution.
2. BCCF staff verify gift, fill out the appropriate section on the matching gift form, and President/CEO signs form.
3. Administrative secretary processes receipt and "thank you" to donor.
4. Administrative secretary copies all correspondence on matching gift (form, letter, etc.) and places in working file.
5. Original matching gift form sent to the appropriate company.
6. Once corporate match gift is received by BCCF, a copy of the correspondence is matched with that gift.
7. Appropriate fund for the match is identified, and a receipt

sent to the “matching” company.

8. The company match gift amount and purpose is entered on the computer database for corporate matching gifts.
9. Staff accountant records the gift in the appropriate fund.
10. Donor match form is retained for one year or through the successful completion of an annual audit.
11. Match is destroyed through shredding process.
12. At the end of each fiscal year, or periodically throughout the year, the list of matching gifts contained on the computer is printed and reviewed by staff.

7. PROCEDURE FOR PROCESSING SECURITIES

If stock is in BCCF name:

1. Have CEO or Program Officer sign a stock power.
2. Type memo to custodian stating basis of stock and which fund the stock should be deposited into. Take stock certificate, stock power, Corporate Resolution, and memo to custodian for deposit into designated fund.

If stock is in donor’s name:

1. They may wish to have transaction handled through their own broker.
2. Have donor sign stock power. If an organization, be sure name/names are signed and typed exactly the same on stock power as on Corporate Resolution.
3. Administrative secretary prepares a receipt for donor.
4. Type memo to custodian stating basis of stock and which fund the stock should be deposited into. Take stock certificate, stock power, Corporate Resolution, and memo to custodian for deposit into designated fund.

If stock is in form of Trust:

1. Need copies of first page (naming of individuals) and last page (signature page).

ADDENDUM #1

DEFERRED GIFT ADMINISTRATION

106

SAMPLE

ADDENDUM #2

SPECIMEN FORMS FOR DEFERRED GIFTS TO BCCF

The following forms are on file in BCCF office word processor. The processor addresses are indicated below. Printed copies of these forms are on file.

FORM NAME

WORD PROCESSOR ADDRESS

All documents reside in #1 Hard Disk "Sandy" computer.

FOLDER NAME OF DOCUMENT

A. Gift Annuity

Forms/Gift Annuities

1. Immediate Gift Annuity Agreements

a. Single Life Annuity

Gift Annuity-Single Imm.

b. Two-life Annuity

Gift Annuity-Joint Imm.

2. Deferred Gift Annuity Agreements

a. Single Life Annuity

Gift Annuity-Single Deferred

b. Two-life Annuity

Gift Annuity-Joint Deferred

ADDENDUM #3

SPECIMEN FORMS FOR FUND AGREEMENTS WITHIN BCCF

The following forms are on file in BCCF office word processor. The processor addresses are indicated below. Printed copies of these forms are on file.

FORM NAME	WORD PROCESSOR ADDRESS	
	All documents reside in PJC 40 "Pete" computer.	
	<u>FOLDER(S)</u>	<u>NAME OF DOCUMENT</u>
A. Donor Advised Fund	Donor Advised Funds	Donor Advised (Corp) Generic Donor Advised
B. Field of Interest Fund	Field of Interest Funds	
1. Advised	Standard Agrmnt FOI FOI Adv	AdvDonor Adv Educ Fund (CTC) Fld of Int Fund Form 1 (comb) Fld of Int Fund (Corp.) Adv Fld of Int Fund (Ind.) Adv
2. Non-advised	Standard Agrmnts FOI Non Adv	Fld of Int. Fund (Corp.) Non-Adv
C. Scholarship Fund	Donor - Scholarships	Generic Scholarship I Generic Scholarship II Generic Scholarship III
D. 1. Donor Designated		
Individual	Donor Designated - Ind	Standard DD-Ind.
2. Donor Designated		
Agency Donor	Designated-Org/Standard Forms	
a. Fund I		Endowment Form 1
b. Fund II		Endowment Form 2
E. Special Project Fund	Special Project Funds/Standard Forms	Standard Agreement





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