

POLICIES & PROCEDURES

for accepting gifts



THE COMMUNITY FOUNDATION OF UTAH

The Community Foundation of Utah (“CFU”) has been authorized to establish various component funds by a resolution of its Board of Directors (“Board”). From time to time, a donor may wish to make a gift or transfer to one of these funds. This policy document outlines the types of gifts CFU will accept as well as the procedures for doing so. These policies and procedures may be amended from time to time, when deemed necessary or desirable by the Board.

REVIEW & ACCEPTANCE PROCEDURE

CFU’s Chief Executive Officer, or CFU staff acting under the guidance and direction of the Chief Executive Officer, may accept the following gift(s) without prior Board approval as long as the gift is otherwise consistent with CFU policies and governing documents:

- Cash and cash equivalents;
- Publicly traded securities;
- Tangible property intended for CFU use; and
- Charitable trust instruments, including charitable remainder trusts and charitable lead trusts, when funded with marketable securities and/or cash and if CFU will not serve as a trustee.

All other gifts require prior approval of the Executive Committee of the Board and subsequent ratification by the entire Board. That said, the Chief Executive Officer has overall authority to handle inquiries, negotiate with donors, assemble documentation, and execute agreements on behalf of CFU.

Before CFU accepts a gift that is not list above, CFU will also seek to engage legal counsel to review and approve any and all transfer instruments or documentation relating to the gifted asset(s), including but not limited to any shareholder, buy-sell, or other agreements purporting to impose any restrictions or limitations upon the sale or transfer of the asset. CFU will also conduct an independent legal analysis of any gift to determine whether acceptance of the gift will result in adverse tax consequences, such as UBIT, to CFU.

RIGHT OF REFUSAL

CFU reserves the right to refuse gifts for any reason, including but not limited to the following:

- The cost to manage the asset exceeds the eventual benefit of the gift to CFU;
- The gift or gift purpose could potentially jeopardize CFU's tax exempt status;
- The fund purpose is believed to be discriminatory in nature;
- The gift is not in the best interest of promoting a healthy, caring community;
- The donor has, or appears to have insufficient income and assets remaining after making a gift to provide for his/her needs and/or those for whom the donor is financially responsible;
- The donor has, or appears to have, insufficient mental capacity to make a rational decision; or
- The donor has, or appears to have, insufficient input from competent financial, legal, and/or professional counsel.

GENERALLY PERMISSIBLE GIFTS

CFU will consider accepting most assets, including but not limited to those listed below. Any non-cash gifts require prior approval of CFU. In addition, for many non-cash assets, the donor must complete and return a Form 8283, for which the donor may need to obtain a qualified appraisal at his/her own expense.

- **Cash and cash equivalents, including check or credit card.**
- **Publicly-traded stock.** CFU will not hold any donated stock for more than two business days, and all publicly-traded stock will be liquidated upon acceptance. CFU reserves the right to review stock gifts in more detail.
- **Real property.** CFU can accept gifts of real property, including residences, corporate buildings or land. CFU will not manage real property, and the property must be readily marketable. All property gifts received will be converted to cash at the earliest opportunity to maximize the value of the gift. These gifts are subject to the additional policies outlined in Section 4.
- **Retained life estate.** A retained life estate is created when a donor transfers the title for a personal residence or farm to CFU while retaining use of the property for a term of years or the life of the donor and/or another person. A life estate will not be accepted without a life estate agreement between the donor/life tenant and CFU. These gifts are subject to the additional policies outlined in Section 4.
- **Retirement plans.** CFU permits donors to name CFU as a full or partial beneficiary of any Individual Retirement Plan (IRA), Keogh plan, 401(k), 403(b), or other qualified pension plan. Donors should be sure to notify CFU if this is the case.

- **Tangible personal property.** CFU can accept tangible personal property as gifts if (1) CFU assumes no liability in receiving them; (2) the property is marketable; (3) there are no restrictions placed on the property; and (4) there are nominal or no carrying costs for the property.
- **Life insurance.** CFU will accept gifts of life insurance policy if (1) a “guarantee analysis” is available; (2) CFU is not obligated to expend its assets to maintain the policy; (3) no portion of the proceeds will be paid to any individuals or non-tax-exempt charitable organizations; (4) CFU must have unrestricted rights as the owner, including the power to surrender, select payment options, designate beneficiaries and withdraw or borrow cash values; and (5) donor will pay any remaining premiums on the policy. CFU will not participate in split dollar plans, reverse split dollar plans, or other partial interest programs. Life insurance policies may be contributed by irrevocably assigned a paid-up policy to CFU, irrevocably assigning a life insurance policy on which premiums remain to be paid if CFU is owner and beneficiary, naming CFU as a primary or successor beneficiary of the proceeds, or establishing a new life insurance policy with CFU as the applicant, owner, and beneficiary. CFU will thoroughly evaluate all life insurance donations, including evaluating the policy, the insurance company, and the benefit to CFU, before accepting the donation. CFU will only deviate from these restrictions if the Board approves the action.
- **Endowments.** Donors interested in gifting endowed funds may contribute to one of CFU’s existing endowed funds or create an endowed Donor-Advised Fund, Field of Interest Fund or Designated Fund. See CFU’s Objectives and Policies for Investments for more information about endowing funds at CFU.
- **Planned giving.** CFU accepts a wide range of planned gifts. Planned gifts can provide the donor with advantages, including tax advantages, that a direct gift does not provide. One of the simplest ways to make a planned gift to CFU is through a will. The donor can name CFU as the direct beneficiary of identified assets, a portion of the donor’s estate, or the residual estate. Please contact CFU for more information about planned giving options.
- **Charitable gift annuity.** A charitable gift annuity is a contract between CFU and the donor whereby CFU agrees to pay the donor (and/or a person named by the donor) a lifetime annuity in return for a gift of cash, securities, or other property. The payment may continue for the life of a second individual, such as a spouse. The annual payment must be a fixed sum, determined by the size of the gift, the number of beneficiaries, and the age(s) of the beneficiaries. CFU prefers quarterly payments to gift annuity donors. The donor may also designate the fund to which the remainder of the gift will go. Gift annuities must comply with applicable

federal and state laws, including the disclosure requirements under the Philanthropy Protection Act of 1995. CFU will accept a charitable gift annuity if (1) the gift is at least \$50,000; (2) annuity rates will never exceed the suggested rates recommend by the American Council on Gift Annuities; (3) agreements are limited to two lives; (4) the minimum age of the individual receiving the annuity is 60 (for deferred gift annuities, 50); and (5) the agreement complies with all applicable federal and state laws.

- **Charitable remainder trust or unitrust.** A charitable remainder trust is a separately-administered trust established by the donor that provides for payments to the donor and/or another named beneficiary(ies) either for life or for a term of years (not exceeding 20), whereupon the remaining trust assets are distributed to one or more charities. A charitable remainder annuity trust pays a fixed amount (at least five percent (5%)) of the original fair market value of the assets initially contributed to the trust. This amount does not change, and no additional gifts may be made to the annuity trust after it is created. Payments made in any one year by a charitable remainder annuity trust to individual beneficiaries may not exceed fifty percent (50%) of initial fair market value of the trust. A charitable remainder unitrust pays a fixed percentage (at least five percent (5%)) of the fair market value of trust assets, as valued annually. Because the value of assets can be expected to change from year to year, the unitrust payment will vary in amount each year. Additional contributions may be made to the unitrust after it is established. Payments made in any one year by a charitable remainder unitrust to individual beneficiaries may not exceed fifty percent (50%) of the fair market value of the trust on the most recent valuation date. The present value of CFU's remainder interest in the charitable remainder unitrust must equal ten percent (10%) (or more) of the initial fair market value of the trust. This rule also applies to additions to existing charitable remainder unitrusts. CFU will accept gifts of charitable remainder trusts or unitrusts if (1) the portion contributed to CFU is irrevocable; (2) at least fifty percent (50%) of the amount contributed goes to CFU's unrestricted fund; (3) the beneficiaries are age appropriate or the trust is for a term of year; (4) if payments are made for the life of the beneficiaries, there are only two beneficiaries; and (5) the trust is not funded with any of the following assets: encumbered real property; margined sole proprietorships, limited partnership, working interests in oil and gas fields, or general partnership interests.
- **Charitable lead trust.** A charitable lead trust is a trust in which the income, or "lead" interest, is paid to CFU, and the "remainder" interest is given to one or more non-charitable beneficiaries. The amount paid to CFU is either a fixed sum or a percentage of the trust assets as valued each year. CFU will accept such gifts if (1) CFU is not the sole trustee or co-trustee; and (2) CFU approves the trust term.

- **Private company stock and other business interests.** CFU can accept gifts of private company stock, limited partnership interest, and limited liability company interests provided that (1) CFU assumes no liability in receiving them; and (2) the property can be sold within a reasonable period of time. These gifts are subject to the additional policies outlined in Section 3.

CFU will generally not accept the assets listed below. CFU will make special exceptions only if not prohibited by law and approved by the Board.

- Any gift restricting CFU's ownership rights, including but not limited to the Board's variance power;
- Business interests that would result in a DAF, together with its donor, any fund representatives, or other disqualified persons, holding more than twenty percent (20%) interest in a business enterprise (see Policies and Procedures for Establishing and Operating Donor-Advised and Corporate-Advised Funds);
- Ownership interest in any unincorporated businesses that are not substantially related to the applicable fund's purposes;
- Mortgaged property, unless the Board determines that the property has sufficient equity to justify assumption of the liability and the property is marketable;
- A charitable remainder annuity trust or a charitable gift annuity funded by real property;
- Margin purchases;
- Foreign issues (unless traded on the U.S. exchange or markets);
- Commodities; or
- General partnership interests.

SPECIAL POLICIES FOR GIFTS OF PRIVATE COMPANY SECURITIES

CFU's general policy is that gifts of securities must be sold within a reasonable period of time following CFU's acceptance of such gifts. The applicable fund will then be credited with the proceeds from the sale, after commissions and expenses, if any. If a donor gifts (only after Board approval) private company securities that is unlikely to be sold in the near future, CFU will not guarantee or pre-arrange the sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.

For gifts of nonpublic securities of closely held companies that are not readily marketable at the time of the gift, CFU will generally only accept such gifts if it reasonably appears that the securities will be sold or converted into income-producing property within a specific time frame, ordinarily not to exceed three to five years. If, after Board approval, CFU accepts such securities with the intent to hold them in safekeeping until they can be redeemed or otherwise sold or transferred, until such sale or transfer, the donor's fund account will reflect the fair market value of the securities based upon the appraised value

of such securities at the time of the gift unless CFU becomes aware of an increase or decrease in the value of such securities during such holding period.

Funds holding private company securities will be charged the same fees and administrative contributions as all other funds at CFU. Accordingly, unless otherwise decided by the Board, donors must also contribute adequate cash to pay any and all fees, costs, or administrative contributions.

CFU will not accept any gift which restricts CFU's right to use or convey the property or in any way restricts the Board's variance power. Therefore, before private company securities can be transferred to CFU, the donor must sign an agreement stating the terms of the gift and further specifying that there are no restrictions on CFU's ownership rights or the Board's variance power.

Donors must also complete all steps outlined on Attachment A prior to CFU's acceptance of the gift.

SPECIAL POLICIES FOR GIFTS OF REAL PROPERTY

CFU's general policy is that gifts of real property must be sold within a reasonable period of time following CFU's acceptance of such gift. The applicable fund will then be credited with the proceeds from the sale, after commissions and expenses, if any. If a donor gifts (only after Board approval) real property that is unlikely to be sold in the near future, CFU will not guarantee or pre-arrange the sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.

For real property, donors will be required to provide adequate cash contributions to cover any costs of holding the property prior to sale, including the costs of insurance, taxes, fees or other assessments during the entire holding period. A donor may also be required to indemnify CFU for any liability arising from CFU's holding of such property. Moreover, CFU will not generally accept gifts of real property that are not readily marketable at the time of the gift. CFU will also not accept any property contaminated by toxic wastes unless and until it is removed and CFU receives sufficient assurances that that will not assume liability.

For real property subject to a life estate, unless otherwise determined by the Board, the donor must continue to be responsible for real property taxes, insurance, utilities, and maintenance after transferring title to the property for the duration of the life estate.

Funds holding real property will be charged the same fees and administrative contributions as all other funds at CFU. Accordingly, unless otherwise decided by the

Board, donors must also contribute adequate cash to pay any and all fees, costs, or administrative contributions.

CFU will not accept any gift which restricts CFU's right to use or convey the property or in any way restricts the Board's variance power. Therefore, before private company securities can be transferred to CFU, the donor must sign an agreement stating the terms of the gift and further specifying that there are no restrictions on CFU's ownership rights or the Board's variance power.

Donors must also complete all steps outlined on Attachment B prior to CFU's acceptance of the gift.

DIRECTING GIFTS TO THE CHARITABLE TRUST OF UTAH

In the case of gifts of stock in a corporation that is an S-corporation, CFU may direct gifts to its supporting organization, The Charitable Trust of Utah (the "Trust"), a Utah charitable trust organized and operated to help fulfill CFU's charitable mission. Gifts to the Trust will be subject to the terms of this Gift Acceptance Policy.

TAX AND LEGAL DOCUMENTS

In the case of gifts of stock in a corporation that is an S-corporation, CFU may direct gifts to its supporting organization, The Charitable Trust of Utah (the "Trust"), a Utah charitable trust organized and operated to help fulfill CFU's charitable mission. Gifts to the Trust will be subject to the terms of this Gift Acceptance Policy. Donors must provide CFU with any and all documents and information CFU requires to determine whether a gift complies with applicable federal, state, and local laws and CFU's policies. In addition, donors are wholly responsible for preparing any and all legal and tax documents necessary to transfer assets to CFU.

In the case of noncash contributions, the donor will be required to complete and return a Form 8283, for which donor may need to obtain (at the donor's expense) a qualified appraisal of the gifted asset(s) to establish their value for federal income tax purposes. If the property is subsequently sold, liquidated, or otherwise disposed of within three years of receipt, CFU will, as required by the IRS, report the sale (via Form 8282) within 125 days.

For real property, donor must demonstrate he/she has clear title to the property prior to acceptance of the gift. Depending on the type of property and its location, the donor may also be required to secure a Phase I environmental audit and provide the results to CFU.

Any legal fees incurred by CFU during its legal review, due diligence and gift acceptance will be charged directly to, and must be paid by, the donor or the applicable fund.

VALUATION OF ASSETS

CFU will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction. CFU makes no warranty or representation that any valuation performed at the time of sale or transfer will be acceptable to the IRS.

PROHIBITION ON EXCESS BUSINESS HOLDINGS

Pursuant to the Pension Protection Act of 2006, composite funds may not have "excess business holdings." Accordingly, CFU's funds, together with any donor advisor, fund representative, Board member or Disqualified Person, as defined by the Internal Revenue Service, (including any family members), may not hold more than twenty percent (20%) interest in a business enterprise. CFU will not knowingly accept any gift that violates this law.

LIMITED LIABILITY

CFU will not join in or participate in the issuance of warranties, representations, or indemnifications in any agreement other than in a very limited way that does not create general liability for CFU.

AMENDMENTS

CFU may amend or revoke these policies at any time and for any reason upon written notice to the donor advisor. Copies of these policies are available upon request.

ATTACHMENT A

DONOR CHECKLIST FOR GIFTING CLOSELY HELD SECURITIES

Donors seeking to gift closely-held securities to CFU must first do the following:

- Provide CFU with written communication indicating the intent to give.
- Agree, in writing, on arrangements to pay all expenses associated with the acceptance of the gift, including but not limited to appraisal fees and attorney fees; and understand that the donor will pay for any expenses CFU incurs even if the gift is not accepted.
- Provide assurance that the fund, or the donor, will have adequate cash to pay these fees.
- Provide CFU with all necessary information about the company, including where applicable:
 - Proof of business entity or business structure;
 - Description of the nature of the company's business and its prospects for profitability;
 - Audited financial statements for the company for the three most recent fiscal years;
 - Income tax returns for the company for the three most recent fiscal years;
 - Copies of the company's Articles of Incorporation, Bylaws, corporate minutes, and securities books;
 - Report concerting any existing or potential environmental issues involving the company and its assets;
 - Opinion letter from the company's attorney concerning legal existence, authority, subsidiaries, litigation, and other such matters reasonably requested by the Foundation;
 - Recent appraisal of the company;
 - Notice of any market in the company's securities in the last three years;
 - Notice of the number of outstanding shares of securities/units and who owns them;
 - Information regarding the condition of the business and whether there are factions among shareholders or disputes within the company;
 - Notice of whether there are any procedures for valuing the securities on a periodic basis;
 - Notice of whether the company pays any dividend, and if so, the amount currently being paid; and
 - Assurance in writing that, by accepting the proposed gift of securities, CFU will not become a majority shareholder in the company, that the donor and CFU together will not have a controlling interest, and that CFU assumes no liability in receiving the securities.

- ❑ Meet with CFU and/or CFU's legal counsel to address additional questions or concerns about the gift, including whether acceptance of the assets may result in adverse tax consequences, such as UBIT, to CFU.
- ❑ Prepare any and all instruments necessary to transfer the securities to CFU (All such documents must be reviewed by CFU's legal counsel prior to acceptance by CFU).
- ❑ Provide documentation of any shareholder, buy-sell, or other agreements that impose any restriction or limitations upon the sale or transfer of the securities (All such documents must be reviewed by CFU's legal counsel prior to acceptance by CFU).
- ❑ Complete and return Form 8282, including obtaining a qualified appraisal complying with IRS regulations for the purpose of establishing the value of the gift for federal income tax purposes and CFU's valuation purposes. The appraisal must be completed no more than 60 days before the date of the gift. (As a reminder, CFU will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.)
- ❑ Sign a fund agreement with CFU. This agreement must state the terms of the gift and specify that there are no material restrictions on CFU's right to use or convey the property. CFU will not guarantee or pre-arrange a sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.

ATTACHMENT B

DONOR CHECKLIST FOR GIFTING REAL PROPERTY

Donors seeking to gift real property to CFU must first do the following:

- Provide CFU with written communication indicating the intent to give.
- Agree, in writing, on arrangements to pay all expenses associated with the acceptance of the gift, including but not limited to any and all taxes, assessments, appraisal fees, survey fees, environmental evaluations, insurance coverage (including title insurance), maintenance costs, realtor commissions, and legal fees; and understand that the donor will pay for any expenses CFU incurs even if the gift is not accepted.
- Provide a legal description of the real property, including description of any building(s) or structure(s) located on the land.
- Obtain a completed boundary survey of the real property, with the location of all buildings, structures, and easements appearing on the face of the survey.
- Complete and return Form 8282, including obtaining a qualified appraisal complying with IRS regulations for the purpose of establishing the value of the gift for federal income tax purposes and CFU's valuation purposes. The appraisal must be completed no more than 60 days before the date of the gift (As a reminder, CFU will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction).
- Obtain a General Warranty Deed or similar title.
- Obtain a commitment to provide title insurance from an acceptable title insurance company. The evidence of title must show the property is owned free and clear. The donor must also provide the title search. If a mortgage exists on property, the donor must supply additional information.
- Provide a qualified recent Phase I Environmental Assessment. Obtain Phase II sampling if any "recognized environmental conditions" were identified in Phase I.
- Provide information regarding existing zoning status.
- Where applicable, provide copies of leases, assignments of leases, and service or management contracts.

- Sign a fund agreement with CFU. This agreement must state the terms of the gift and specify that there are no material restrictions on CFU's right to use or convey the property. CFU will not guarantee or pre-arrange a sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.
- Record deed with county clerk's office and pay any applicable fees. Provide copies to CFU.