

## **Community Foundation for Northern Ireland Standard Terms and Conditions for Endowment Funds**

This document outlines the basis upon which the Fund is held by the Community Foundation of Northern Ireland and should be read in conjunction with the Philanthropy Agreement.

### **1. Establishing the Fund**

1.1 A Philanthropy Agreement will be agreed between the two parties, the Donor, and the Community Foundation for Northern Ireland (the Foundation).

1.2 The Fund will be established following the signature of the Philanthropy Agreement by both parties.

### **2. Type of Fund**

2.1 The Fund will be held as an expendable endowment fund within the Foundation's investment portfolio which is managed by professional advisors. The fund will be invested in a variety of asset classes, including stocks and shares, in line with the Foundation's Investment Policy. The value of the fund may go up as well as down. Investment management costs will be deducted by the investment managers at source.

### **3. Agreed Donations**

3.1 The Foundation will accept the following donations to the fund:

3.1.1 Initial donation;

3.1.2 On-going financial donations;

3.1.3 Transfer of gifts of property, shares and other assets. These may be subject to additional fees relating to the transfer, including legal advice and other related services. This will be agreed between the parties before the transfer of the gift;

3.2 All contributions are irrevocable donations.

3.3 All donations are subject to the Foundation's Gift Acceptance Policy.

### **4. Agreed Purposes**

The agreed purposes of the Fund will be in accordance with the Foundation's charitable purposes (Appendix 1) and as agreed with the Donor and set out in the Philanthropy Agreement.

### **5. Prohibited Purposes**

5.1 The Fund shall not be used to support the following:

- 5.1.1 Political purposes;
- 5.1.2 The advancement of religion;
- 5.1.3 The establishment or endowment of any school or institution providing further education within the meaning of the Education and Libraries (Northern Ireland) Order 1972;
- 5.1.4 The provision of assistance to any Housing Association within the meaning of the Housing (Northern Ireland) Order 1976;
- 5.1.5 CIC Companies Limited by Shares, or CICs without an asset lock clause.  
Eligible CICs must have at least three unrelated committee members, and/or the majority of the committee unrelated;
- 5.1.6 Any purpose that is adverse to the Donor;
- 5.1.7 Any purpose that is adverse to the Foundation's Board of Trustees;
- 5.1.8 Private businesses unless wider public benefit can be clearly demonstrated;
- 5.2 The Foundation reserves the right not to pay an award if a request or recommendation from the Donor is not consistent with the agreed purposes or the Foundation's charitable purposes.

## **6. Appointment of a Nominee**

6.1 The Donor will be required to appoint a Nominee. In the event that the Donor dies or becomes mentally incapable the Foundation will confer with the Nominee. In the event that the Nominee is unable or unwilling to discharge their responsibilities then the Foundation will be the Nominee for the purposes of the Philanthropy Agreement to allow the Fund to continue to operate. In either case references in the Philanthropy Agreement and this document to the Donor, thereafter refer to the Nominee.

6.2 If the Donor does not appoint a Nominee, or after reasonable efforts by the Foundation to honour succession arrangements they are unable to be enacted, the assets of the Fund which remain following the death of the Donor will be transferred to the Foundation's unrestricted funds to be used for the general charitable purposes of the Foundation.

## **7. Investment Management**

7.1 The Foundation will manage the investment of the Fund and Income in accordance with the Foundation's Investment Policy as in force from time to time. Unless otherwise specified in the Philanthropy Agreement, Funds are held as expendable endowment, enabling the Foundation to operate a Total Return approach within its Investment Policy.

7.2 Any Income achieved as a result of Funds being invested will be the sole property of the Foundation and retained for Charitable Purposes. Such Income will be added to the Fund unless otherwise specified in the Philanthropy Agreement.

7.3 The Foundation will exercise due care and diligence in the selection and performance monitoring of professional third-party investment managers and will take all decisions and actions required in connection with the Investments of Funds or Income in order to meet its obligations. However, the Foundation will have no liability to the Donor in respect of the performance of any investment product and/or manager.

## **8. Grant Applications and Awards Process**

8.1 The process for grant applications to the Fund and awards made from the Fund will be as stated in the Philanthropy Agreement.

## **9. Obligations of the Community Foundation for Northern Ireland**

9.1 The Foundation will:

9.1.1 Create a restricted fund in its accounts and identify the Fund separately and for the avoidance of doubt contributions made to the Fund will constitute qualifying donations for the purposes of tax legislation;

9.1.2 Apply monies available for distribution from the Fund by way of grants only to further the agreed purposes;

9.1.3 Promote and profile the Fund as agreed with the Donor and as detailed in the Philanthropy Agreement;

9.1.4 Administer the grant making process including carrying out due diligence and issuing payments;

9.1.5 Fulfil its accounting, audit and reporting responsibilities to HMRC and the Charity Commission for NI;

9.1.6 Reclaim tax on all eligible contributions under the Government's Gift Aid scheme and allocate such receipts to the Fund;

9.1.7 Prepare an annual report including a financial breakdown and detail of awards;

## **10. Role of the Donor in Grants Administration**

10.1 The Foundation will agree with the Donor:

10.1.1 Each party's role in the assessment of grant applications, recommendation of awards;

10.1.2 The requirements for monitoring and reporting by grantees;

10.1.3 If insufficient applications are received in any year, the Foundation will consult with the Donor over the decision to carry unallocated funds into the following year or to re-open the Fund for new applications;

10.1.4 The roles and requirements agreed in sections 7 will be set out in the Philanthropy Agreement.

## **11. Publicity**

11.1 The Donor will agree to either publicise their involvement with the Fund or to remain anonymous. Whichever option the donor selects, will be clearly stated in the Philanthropy Agreement.

11.2 If the Donor agrees to publicity, they agree to share their experience with other potential donors and others interested in the fund management service provided by Foundation.

11.3 The Foundation may wish to publicise the Fund to showcase the fund management services, this will be agreed with the Donor prior to publishing any information online or otherwise.

11.4 Information about the Fund will be listed in the Foundation's Annual Report and other Foundation publications. The Donor will not be mentioned by name unless agreed.

11.5 The Foundation will provide information on the Fund on its website and social media platforms where appropriate and may share this information with other relevant organisations.

## **12. Fundraising**

12.1 If the Donor decides to carry out any fundraising activities for the Fund, they will do so at their own expense and will first obtain the Foundation's approval to anything they propose to undertake and will, if such activities go ahead, ensure that they are undertaken in a safe and proper manner.

12.2 If the Donor wishes to raise additional funds for the Fund by making a funding application to a Trust, Foundation or Funding organisation, they should first speak to the Foundation's representative to discuss the proposal, prior to the submission of any application.

12.3 The Donor will be required to adhere to the Foundation's publicity guidelines regarding the use of its logo and how the Foundation is referred to in the context of any promotional material or fundraising through websites and events. These are available from the Foundation's representatives.

## **13. Breach of contract**

13.1 Breach of contract will apply in the following circumstances:

13.1.1 There is a material or substantial breach by the Foundation of any of its obligations in this Agreement, and the Foundation, having received notice from the Donor requiring such breach to be remedied, fails to remedy such breach within 30 working days of the date of the said notice;

13.1.2 The Foundation is in breach of Northern Ireland law or regulation in connection with the management and distribution of the Fund in respect of its charitable purposes;

13.1.3 The Foundation's actions or omissions bring the Donor's reputation into disrepute;

13.1.4 The Donor's actions or omissions bring the Foundation's reputation into disrepute.

13.2 In any of the above circumstances relating to a breach by the Foundation, the Donor will be entitled to cease all payments to the Fund and terminate this Agreement forthwith by serving 60 days' notice on the Foundation (with the date of such notice being the date on which this Agreement terminates).

13.3 In any of the above circumstances relating to a breach by the Donor, the Foundation will be entitled to terminate this Agreement forthwith by serving 60 days' notice on the Donor (with the date of such notice being the date on which this Agreement terminates).

## **14. Winding Up Provisions**

14.1 The Foundation may close the Fund and terminate the Philanthropy Agreement in the following circumstances, by giving 60 days' notice in writing to the Donor, their Nominee, or their successor or representative, in the following circumstances:

14.1.1 The Donor's actions or omissions bring the Foundation's reputation into disrepute as in clause 13;

14.1.2 Where the fund value has been reduced to zero and the Donor has confirmed that no further contributions will be made. In the absence of any confirmation from the Donor, the Foundation reserves the right to close the Fund after 12 months have elapsed since the Fund balance was reduced to zero and will deal with the Fund as set out in clause 13.1;

14.1.3 Where the Donor has not made any award recommendations for over two years and where no other arrangements allow for this case;

14.1.4 After the Foundation has made reasonable efforts (over a period of 12 months) to contact the Donor, their successor or representative, which have been unsuccessful, the Foundation reserves the right to close the fund and will deal with the Fund as set out in clause 12.1

14.2 Any remaining distributable income, less any fees due to the Foundation, or anticipated payments due to third parties in connection with the Fund, will be fully distributed for the agreed purposes. This may include adding any remaining distributable income to the Foundation's unrestricted funds. Funds will be allocated at the discretion of the Trustees of the Foundation, who will adhere to the agreed purposes.

## **15. Contributions to Community Foundation for NI**

15.1 Contributions to the Foundation's fund management costs will be dependent

on the size of the Fund, the scale and approach to grant-making and the services the Donor requires the Foundation to provide. In general terms, the following contributions will be charged:

15.1.1 A set-up fee;

15.1.2 An annual management fee, charged as a percentage of the capital value of the endowment fund invested at the 31 December each year.

15.2 If the donor requires additional services from the Foundation, e.g. additional research, the additional fees charged will be based on a daily rate basis advised by the Foundation.

15.3 Fees are not currently subject to VAT. However, if at any point the Foundation is required to register for VAT, fees may incur VAT.

15.4 The Donor agrees that the Foundation may deduct from the Fund any sums of money which may be required to be paid by the Foundation to HMRC for any reason in connection with the Fund.

15.5 The Donor agrees that the Foundation may deduct from the Fund all costs, fees and expenses that become due to third parties in connection with the administration of the Fund or in furtherance of its agreed purposes.

15.6 The Foundation will review Contribution levels from time to time, usually annually. The Foundation reserves the right to vary them as necessary and will provide the Donor with 30 days' notice in writing of any changes to Contribution levels.

## **16. Variation of Agreement**

16.1 No variation to this agreement shall be valid unless it is in writing and signed by authorised representatives of both parties to this agreement.

16.2 The Foundation reserves the right to decline proposed amendments to the agreed purposes if the Foundation determines that they do not fulfil charitable purposes or would conflict with the Foundation's policies or damage the reputation of the Foundation.

## **17. Complaints and Resolution of Disputes**

17.1 Any complaints will initially be managed in line with the Foundation's Complaints procedure and if not resolved shall be escalated to the line manager of the Foundation's representative and further to the Chief Executive. However these terms are overriding therefore the Foundation's decision regarding any dispute is final.

## **18. Data Protection**

18.1 The Foundation will collect Donor contact information in line with up to date legislation and for its own use exclusively and will not share information with any outside

person or organisation except where it is authorised by the Donor or otherwise as set out in this agreement or is required by law to do so.

## **19. General**

19.1 This agreement constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of their subject matter.

19.2 The Donor may not assign, sub contract or otherwise transfer their rights or obligations under this agreement (unless as noted in Clause 5) without the prior written consent of the Foundation. The Foundation may not assign, sub contract or otherwise transfer their rights or obligations under this agreement without the prior written consent of the Donor

19.3 Any notice to be given under this agreement shall be in writing and be given by hand or sent by first class recorded delivery post to the Foundation at its registered address and in the case of the Donor, the address held on file by the Foundation or such other address for notices as either party may have notified to the other in accordance with this clause. If sent to the correct address notices shall be deemed given two business days (a day when CFNI is open for business) after the date of posting.

19.4 No failure or delay by the Foundation or the Donor to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or of any other right or remedy.

19.5 If any provision of the agreement is found by any court or other authority of competent jurisdiction to be invalid, illegal, ineffective or unenforceable or is suspended or the subject of an equivalent order that provision shall, to the extent required, be deemed not to form part of this agreement and the Foundation will modify this agreement so that the intent of the agreement can be carried out.

## **20. Governing Law and Jurisdiction**

20.1 This agreement and any dispute or claim arising out of or in connection with its' or its' subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Northern Ireland and the Foundation and the Donor hereby submit to the non-exclusive jurisdiction of the Northern Ireland Courts.

Appendix 1 – The Community Foundation for Northern Ireland's charitable purposes:

**The prevention or the relief of poverty:** Grants to disadvantaged communities will provide support and facilities in these areas, providing local people with improved access to benefits advice and support and training to develop their skills to gain employment.

**The advancement of education:** Grants to individuals and organisations will enable them to access training and skills to develop their learning and improve their employment prospects.

**The advancement of health or the saving of lives:** Grants to organisations will enable local people to access activities such as physical activities and healthy eating awareness programmes that will improve their health and well-being.

**The advancement of citizenship or community development:** Grants to communities will bring local people together to develop facilities and services in their local area that will improve their well-being and social inclusion.

**The advancement of the arts, culture, heritage or science:** Grants to individuals and organisations will enable people to access the arts and take part in music, drama, craft workshops and other activities that will improve their social inclusion, skills and well-being.

**The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity:** Grants to organisations will enable these organisations to address issues of social justice and human rights in their communities and engage in capacity building to address contentious issues in interface communities. This will improve the safety and well-being of local people.

**The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage:** Grants to individuals and organisations will enable local people to access support and activities which address their needs, thus reducing their isolation, improving their social inclusion and well-being.