DELAWARE COMMUNITY FOUNDATION

GIFT ACCEPTANCE POLICY

Delaware Community Foundation (DCF), a nonprofit organization organized under the laws of the State of Delaware, encourages the solicitation and acceptance of gifts to help further and fulfill its mission.

The mission of DCF is to inspire and help people plan and create lasting philanthropic legacies in order to enhance the quality of life of Delawareans.

I. Purpose of Policy and Guidelines

The Board of Directors of DCF and its staff solicit current and deferred gifts from individuals to secure the future growth and missions of the DCF. These policies and guidelines govern the acceptance of gifts by the DCF and provide guidance to prospective donors and their advisors when making gifts to the DCF. The provisions of these policies shall apply to all gifts received by the DCF.

The goal is to encourage gifts to DCF without encumbering the organization with gifts which may prove to generate more cost than benefit, or which are restricted in a manner which is not in keeping with the mission of DCF. DCF will comply with all federal, state, and local laws in the conduct of development activities, including acceptance of gifts.

II. Use of Legal Counsel

DCF shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- Transfers of interests in closely held corporations and other entities
- Documents naming DCF as Trustee
- Gifts involving contracts, such as bargain sales or other documents requiring the DCF to assume an obligation
- Transactions with potential conflict of interest that may invoke IRS sanctions
- Other instances in which use of counsel is deemed appropriate by the Gift Acceptance Committee.

III. Independent Professional Advice for Prospective Donors

DCF will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences, at the donor's expense. This is to ensure that the donor receives a full, accurate, and independent explanation of all aspects of the proposed charitable gift.

IV. Ethics Policy

DCF Board and Staff, as well as volunteers and committee members, must conduct themselves in an honest and ethical manner, including ethical handling of actual or apparent conflicts of interest. DCF will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving, shown as Attachment I.

V. Restrictions on Gifts / Fund Options

The DCF will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. The DCF will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the DCF.

When DCF is named as the beneficiary of an unrestricted matured bequest or other deferred gift, DCF's Executive Committee shall determine the purpose of the gift and what restrictions shall be placed on it. In all cases, the name of the donor shall be appropriately memorialized.

Types of Funds include: Unrestricted, Field of Interest, Donor Advised, Scholarship, Designated, Nonprofit Organization Endowment, and Supporting Organizations. The purpose and operation of each type of fund is detailed in DCF's Procedures for Establishment and Operation of Funds, shown as Attachment II.

VI. The Gift Acceptance Committee

The gift acceptance committee, organized as an ad hoc subcommittee of the DCF Board of Directors, meets on an as-needed basis to review the details of unique or complex gifts. Members include a member of the Executive Committee (appointed by DCF board chairman), Chair of the Professional Advisory Committee, and such other persons (board members or not) as might offer professional expertise in the cost/benefit analysis of a potential gift. Appropriate DCF staff serve as ex officio members (President/CEO, Executive Vice President, Vice President for Gift Planning). The committee assumes the following responsibilities:

- determine whether a specific gift contributes to the mission of this foundation;
- outline steps to be taken in the acceptance/rejection process;
- advise staff how to protect the foundation from any possible repercussions; and
- determine whether or not to accept the gift.

VII. Procedures for Review of Gifts

In reviewing gifts to DCF, the Acceptance Committee and/or staff will consider the following criteria:

- The charitable intent and ultimate community benefit
- The nature of any restrictions, if any
- The permanency of the gift; or in the case of a non-permanent fund, the amount of time the fund will remain with the Foundation
- Projected costs of managing the gift asset
- Fee revenues to the Foundation for administering the gift

Acceptance by staff of gifts consistent with the purposes, bylaws and procedures of DCF shall not require review by the Acceptance Committee if the gifts are in any of the following forms:

- Cash
- Check
- Marketable securities
- Gifts of precious metals, where the value is easily established
- Charitable remainder trusts, charitable lead trusts, or charitable gift annuities, if funded with cash or publicly traded securities.

Gifts requiring review and approval of the Acceptance Committee include the following:

- Charitable remainder trusts, charitable lead trusts, or charitable gift annuities, if funded with assets other than cash or publicly traded securities
- Non-marketable interests in business entities (i.e., closely-held corporations, partnership and limited liability company interests)
- Gifts of real estate or any other asset that has real estate holdings as an element of its value (e.g., certain limited partnerships or other business entities)
- Remainder interest in a residence, ranch, or farm

- Rights in copyrighted materials, patents, and royalties
- Tangible personal property
- Other property that may be unusual or fall outside the type of gifts usually handled by DCF.

VIII. Types of Gifts

The following gifts are acceptable:

- Cash
- Tangible Personal Property
- Publicly Traded Securities
- Closely-Held Securities
- Real Estate
- Remainder Interests in Property
- Royalties, distribution rights
- Bargain Sales
- Life Insurance
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Retirement Plan Beneficiary Designations
- Bequests

IX. *Criteria for Acceptance of Various Gift Forms*

The following criteria govern the acceptance of each gift form:

1. **Cash:** Cash is acceptable in any form. Checks shall be made payable to DCF and shall be delivered to the Director of Gift and Scholarship programs in DCF's offices.

2. **Tangible Personal Property:** All other gifts of tangible personal property shall be examined in light of the following criteria: Is the property marketable? Are there any undue restrictions on the use, or sale of the property? Are there any carrying costs for the property? The final determination on the acceptance of tangible personal property gifts shall be made by the Gift Acceptance Committee.

3. **Publicly Traded Securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Investment Committee. In some cases marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the Gift Acceptance Committee of the DCF.

4. **Closely Held Securities:** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the Gift Acceptance Committee of the DCF. However, gifts must be reviewed prior to acceptance to determine that:

    - there are no restrictions on the security that would prevent DCF from ultimately converting those assets to cash,
    - the security is marketable, and
    - the security will not generate any undesirable tax consequences for the DCF.

    If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities shall be made by the Gift Acceptance Committee of the DCF and legal counsel when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

DCF shall comply with the excess business holding rules as they apply to Donor Advised Funds, as detailed in the Pension Protection Act of 2006.

5. **Real Estate:** Gifts of real estate may include private homes, vacation properties, commercial real estate, and vacant land. Criteria regarding their acceptance are detailed in the Gifts of Real Estate Acceptance Policy attached as Attachment III.

6. **Remainder Interests In Real Estate:** The DCF will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph 5 above. The donor or other occupants may continue to occupy the real property for the duration of the stated term. At the end of the term, the DCF may sell the property. Where the DCF receives a gift of a remainder interest, all expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary, and such arrangement shall be detailed in a written agreement.

7. **Royalty, distribution rights:** DCF may accept gifts of royalties or distribution rights on published works (such as books or films) where there is clear evidence of marketability or assurance of an income stream. A qualified appraisal is required.

8. **Bargain Sales:** DCF will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the DCF. All bargain sales must be reviewed and recommended by the Gift Acceptance Committee. Factors used in determining the appropriateness of the transaction include:

   - The DCF must obtain an independent appraisal substantiating the value of the property (cost is born by the donor)
   - If the DCF assumes debt with the property, the debt must be less than 50% of the appraised market value
   - The DCF must determine that it will use the property, or that there is a market for sale of the property allowing sale within 12 months of receipt
   - The DCF must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

9. **Life Insurance:** DCF must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, the DCF will include the entire amount of the additional premium payment as a gift in the year that it is made.

   If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the DCF may continue to pay the premiums, convert the policy to paid up insurance,or surrender the policy for its cash surrender value.

   Donors and supporters of DCF will be encouraged to name the DCF as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to the DCF until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift is to be recorded at the time the gift becomes irrevocable.

10. **Charitable Gift Annuities:** DCF may offer charitable gift annuities. The minimum gift for funding is $10,000.

    The minimum age for life income beneficiaries of a gift annuity is 60. Where a deferred gift annuity is offered, annuitants must be at least 60 years-old at the time they are to begin receiving payments . No more than two life income beneficiaries will be permitted for any gift annuity. Annuity payments may be made on a quarterly, semi-annual, or annual schedule.

    DCF will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. DCF may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5 year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the President of DCF approves the arrangement.

Funds contributed in exchange for a gift annuity shall be invested in accordance with requirements applicable in the annuitant's state of residence. Once annuity payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to DCF's general endowment funds, or to such specific fund as designated by the donor.

In order for a gift annuity residuum to create a new fund, the value of the donor's charitable income tax deduction must be at least $10,000 at the time the gift annuity is established. DCF administers charitable gift annuities for the ultimate benefit of nonprofit organizations with DCF endowment funds; in such a case, 100% of the gift annuity's residuum is to pay into an endowed fund benefiting the nonprofit organization.

11. **Charitable Remainder Trusts:** The DCF may accept designation as remainder beneficiary of a charitable remainder trust. The DCF may accept appointment as Trustee of a charitable remainder trust with the approval of the Gift Acceptance Committee of the DCF.

12. **Charitable Lead Trusts:** The DCF may accept a designation as income beneficiary of a charitable lead trust. The DCF may accept an appointment as Trustee of a charitable lead trust with the approval of the Gift Acceptance Committee of the DCF.

13. **Retirement Plan Beneficiary Designations:** Donors and supporters of DCF will be encouraged to name the DCF as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the DCF until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift is to be recorded at the time the gift becomes irrevocable.

14. **Bequests**: Donors and supporters of DCF will be encouraged to make bequests to the DCF under their wills and trusts. Such bequests will not be recorded as gifts to the DCF until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift is to be recorded at the time the gift becomes irrevocable.

X. Miscellaneous Provisions

1. **Securing appraisals and legal fees for gifts to the DCF:** It will be the responsibility of the donor to secure a qualified appraisal in accordance with IRS requirements and independent legal counsel for all gifts made to the DCF.

2. **Valuation of gifts for development purposes:** The DCF will record a gift received by the DCF at its valuation for gift purposes on the date of gift.

3. **Responsibility for IRS Filings upon sale of gift items:** DCF is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the DCF when the charitable deduction value of the item is more than $5,000. The DCF must file this form within the required time period following the disposition of the asset.

XI. Changes to Gift Acceptance Policies

These policies and guidelines have been reviewed and accepted by the Executive Committee of the DCF. The Executive Committee of the DCF must approve any changes to or deviations from these policies.

Approved on this ______ day of _________________, 2009.

____

Chairman, Board of Directors, Delaware Community Foundation

ATTACHMENTS

I. **Model Standards of Practice of the Charitable Gift Planner**

II. **Procedures for Establishment and Operation of Funds and Supporting Organizations**

III. **Gifts of Real Estate Acceptance Policy**

Attachment I

MODEL STANDARDS OF PRACTICE FOR THE CHARITABLE GIFT PLANNER

Preamble

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as “Gift Planners”), and by the institutions that these persons represent. This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. Primacy of Philanthropic Motivation
The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications
Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure
It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation
Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finder’s fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. Competence and Professionalism
The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. Consultation with Independent Advisers
A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor’s choice.

VII. Consultation with Charities
Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to ensure that the gift will accomplish the donor’s objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires

anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

VIII. Description and Representation of Gift

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. Full Compliance

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999.

<u>Attachment II</u>

Delaware Community Foundation
Procedures for Establishment and Operation of Funds

Section 1. *Types of Funds*

Funds are categorized by their charitable purpose.

<u>a. Categorization by Charitable Purpose</u>
1. *Donor-Advised Funds*: the Donor, Donor Advisor(s) or Advisory Committee may recommend charitable grant recipients from time to time.

2. *Designated Funds*: this type of fund is created to ensure that support will be provided to one or more specific charitable organizations named by the Donor(s).

3. *Nonprofit Endowment Funds*: this type of fund is established by nonprofit organizations to help manage endowment assets and/or special project funds.

4. *Field-of-Interest Funds*: this type of fund allows the Donor to support an area of charitable interest, defined broadly (such as education) or narrowly (such as advanced vocal music training). A Donor can also select a defined geographic area or specific community to benefit from grant distributions.

5. *Scholarship Funds*: Donors can support worthy students at an institution (high school, college, technical), students in a particular field of study, or students from a particular geographic, or students who have attended a specific high school or school district.

6. *Unrestricted Funds*: Donors may choose an unrestricted fund that allows the Community Foundation to determine where grant distributions will do the most good.

Section 2. *General Policies*

Each Fund shall be considered part of the Community Foundation and shall be governed by its Articles of Incorporation, Bylaws and by these Procedures.   The Community Foundation is vested with ultimate authority and control over the principal and income of each Fund.

Section 3. *Donor May Select Name of Fund*

Each Fund will be named as the Donor wishes. However, the Community Foundation reserves the right to reject names that it finds objectionable.

Section 4. *Distributions*

<u>a. Grants Shall Follow Donor's Intent</u>
Grants will be made from each Fund consistent with the instructions given by the Donor at the time that the Fund was established. If, however, (1) the Donor's instructions are contrary to the Articles of Incorporation, Bylaws or Procedures, or (2) the "variance power" (described below in Sections A.5; A.8(b); A.9(b); A10(b); and A.11(b)) is exercised, then the Donor's instructions shall be modified to a degree that is necessary for compliance with these Procedures. To the extent practicable or feasible, the Board of Directors shall distribute amounts for purposes that are consistent with the Donor's charitable interests. The Community Foundation is vested with ultimate authority and control over the principal and income of each Fund.

<u>b. Grants Will Normally Identify the Name of the Fund</u>
Unless otherwise requested by the Donor, any distribution shall identify the name of the Fund from which it is made.

c. Grants Must Not Provide a Financial Benefit to Donor
The Community Foundation will not make a grant that provides a financial benefit to a Donor, Donor Advisor or Advisory Committee member. Distributions from the Community Foundation may not be used in whole or in part for any pre-existing legally binding pledge or for any private benefit such as dues, membership fees, benefit tickets and the non-charitable portion of fund-raising dinners, or goods and services bought at charitable auctions.

The Community Foundation may make grants that provide a Donor, Donor Advisor(s) or Advisory Committee member with name recognition and such other benefits that the Internal Revenue Service has recognized as not providing the donor with a financial benefit.

d. Donor Generally Cannot Control Timing of Grants
The ultimate right to direct the timing and amount of all distributions of income or principal from any Component Fund is vested in the Board of Directors. As is required by federal tax regulations, a Donor may not reserve the right to direct the timing of distributions from the Fund. However, a Donor can specify in the instrument of transfer:

1. That some or all of the principal (as opposed to income or specific assets) may not be distributed for a specified period of time.

2. That distributions are limited to income only.

3. That distributions should be made annually (or more frequently). If distributions are limited to spending policy of the Community Foundation, the amount shall be computed annually based on the current spending policy.

e. Board May Identify Specific Charitable Needs of the Community
The Board may enumerate specific charitable needs and specific organizations that it deems are most deserving of support.

Section 5. ***Variance Power and Monitoring Function***

a. Community Foundation to Follow General Donor Intent if Variance Power is Exercised
If the Board of Directors exercises the variance power described in Section A.8(b), A.9(b), A.10(b), or A.11(b) to modify a Designated Fund, Organizational Fund, Field-of-Interest Fund, or Scholarship Fund, or if the privilege of the Donor, Donor Advisor(s) or Advisory Committee and other persons designated to make recommendations from a Donor-Advised Fund has been terminated in accordance with Section A.7, then the Board of Directors shall convert the Fund into its choice of either an Unrestricted Fund or a Field-of-Interest Fund. To the extent practicable or feasible, the Board of Directors shall distribute charitable grants from the converted Fund for purposes that are consistent with the original Donor's charitable interests.

b. Fund To Keep Donor's Name If Variance Power Exercised
Generally the Fund shall retain the name given by the Donor. If the Fund contains less than the minimum amount to establish a named Fund at the time it is converted, the Board of Directors may, in its discretion, deposit all of the Fund's assets into the General Fund.

c. Community Foundation to Monitor Beneficiary's Performance of Terms of Grant.
In addition to the Monitoring Functions hereinafter stated, the Board of Directors through the Board Committees and the Staff may periodically review the effectiveness with which agencies that receive grants from Funds and Affiliated Organizations are performing their responsibilities in the utilization of these grants toward attainment of the Community Foundation's and the Donor's objectives. Where necessary, the Board shall initiate corrective action.

Section 6. ***Advisory Committees of Funds***

a. General Rules
A Donor or the Board of Directors may appoint an Advisory Committee for a Donor-Advised, Designated,

Nonprofit Organizational, Field-of-Interest, Scholarship or Unrestricted Fund. The Advisory Committee may make recommendations to the Board of Directors concerning grants from the Fund and any other matters that it deems of importance. Generally, each Advisory Committee should select one person who will have the authority to transmit the Advisory Committee's recommendations to the Community Foundation.

b. Usually Majority Vote Is Required

Unless contrary instructions have been made by the Donor or by the Community Foundation, whenever two persons are designated to make recommendations they shall act by unanimous consent; whenever more than two persons are so designated, then a recommendation by a majority of such persons shall constitute an effective recommendation for consideration by the Community Foundation. Otherwise, each committee may operate under such procedures as it finds appropriate.

c. Authority to Act as Agent of Community Foundation Restricted

The Community Foundation generally encourages donors to solicit contributions to the Community Foundation and its funds. However, no person has the authority to act as the agent of the Community Foundation unless he or she has received express written authority from the Community Foundation. In particular, the Community Foundation does not authorize any volunteer or advisor to accept contributions on its behalf, to commit Community Foundation resources to any activity, or to engage in fund-raising activities in the name of the Community Foundation or on behalf of any of its Funds without written permission from the Board of Directors or an authorized employee.

The Community Foundation is generally supportive of charitable activities that benefit the residents of this region. The restrictions in this section are necessitated, in part, because of compliance with tax and other laws that require disclosure of benefits associated with charitable contributions as well as contemporaneous written acknowledgements to certain donors of contributions (the failure for which could subject the Community Foundation and its Funds to fines and penalties). We need to be informed about activities being done in the name of the Community Foundation (and its Funds) and to monitor any obligations associated with those activities.

d. Fundraising

All fundraising activities conducted for the benefit of a DCF fund are subject to the DCF’s published Fundraising Policy.

e. Divorce/Separation of Current Donor Advisors

This policy generally will only affect current Donor Advisors whereby either husband and/or wife (spouse) may request grant distributions from a Fund.

In the event a husband and wife serve as the only members of an Advisory Committee to a Donor-Advised, Designated or Field-of-Interest Fund, and a legal action for divorce, separation or annulment is pending between the husband and wife, the Community Foundation may, upon receiving notice of such action:

1. suspend processing any grant distribution recommendation for such Fund(s) unless and until the husband and wife both agree in writing to approve the grant distribution recommendation, or

2. suspend processing any grant distribution recommendations for such Fund(s) unless and until the husband and wife have jointly agreed in writing to an alternative procedure, acceptable to the Community Foundation, to provide for the future administration of such Fund(s). Subject to the approval of the Community Foundation, the husband and wife may jointly authorize the Community Foundation to bifurcate any Fund(s), designating husband or other successor advisor to serve as the advisory committee to one of the successor Fund(s) and designating wife or other successor advisor to serve as the Advisory Committee to the other successor Fund(s) created as a result of bifurcation.

In the event that husband and wife cannot jointly agree as provided above and no divorce decree, order of legal separation, order of annulment, property settlement agreement, agreement of the parties or other legal order has been entered or approved which would otherwise resolve the issue to the satisfaction of the Community Foundation, the Community Foundation may, in its sole discretion, bifurcate any Fund(s) so affected into equal shares and designate husband to serve as the Advisory Committee to one of the successor

Fund(s) and designate wife to serve as the Advisory Committee to the other successor Fund(s) created as a result of bifurcation. However, the Community Foundation shall not take such action until at least six months have transpired since the date upon which the action for divorce, separation or annulment was filed with the court of record.

Section 7. *Special Rules for Donor-Advised Funds*

a. Establishment and Purpose
A Donor may establish a Donor-Advised Fund whereby the individual Donor(s) and/or designated Advisors, retain a lifetime privilege to recommend charitable grant recipients to the Community Foundation. Corporate Donor-Advised Funds may continue to advise on charitable distributions as long as the Corporation continues to operate.

b. Distributions from Donor-Advised Funds
Donors and/or Donor Advisors may make written recommendations of grants to tax exempt charitable organizations described in Section 501(c)(3) of the Internal Revenue Code, other than private non-operating foundations. Charitable organizations must be public charities as described in Sections 509(a)(1) or 509(a)(2) of the Internal Revenue Code, supporting organizations described in Sections 509(a)(3) of the Internal Revenue Code or operating private foundations. As provided in the Internal Revenue Code and Regulations, the Board of Directors has the absolute right to direct all distributions of income and/or principal from Donor-Advised Funds.

c. Minimum Grant Amount from Donor-Advised Funds
The Board of Directors may designate a minimum grant amount for Donor-Advised Funds.

d. Eligible Advisors During a Donor(s)' Lifetime
Recommendations for distributions shall be subject to the following rules:

Generally a Donor(s) may designate any person(s) to have the privilege of making recommendations throughout the lifetime of the Donor or his or her spouse, unless earlier terminated by resignation or incapacity.

A Donor may also designate a person(s) (other than the Donor, or his or her spouse, or his or her adult children, or adult lineal descendents) to have the privilege of making recommendations throughout the life of the Donor and for such additional reasonable period as may be necessary to carry out either the express request or intent of the Donor(s) up to and including the lifetime of the designated person(s). Donor(s) may designate additional and/or alternative advisors at anytime during the Donor(s)' lifetime.

A Donor other than an individual, such as a corporation, partnership or trust, will not be subject to a time limit for its privilege to make recommendations.

e. Appointment of Children as Advisors
1. A Donor may designate his or her adult (i.e., over age 18) child or children as the person(s) to have the privilege of making recommendations throughout their lifetimes, unless earlier terminated by resignation or incapacity. If more than one child is named, then the successor advisors shall operate under the rules governing advisory committees described in Section A.6. In particular, the children shall select one individual who will have the authority to deliver grant recommendations to the Community Foundation. Such selection shall be in writing to the Community Foundation and signed by all successor family Advisors.

f. Option to Split Funds for Successor Family Advisors
If a Donor has designated children or grandchildren as successor family advisors and if the charitable interests of the Donor's descendants are sufficiently diverse, then the Community Foundation may, with the consent of the advisors, divide the Donor-Advised Fund into multiple Donor-Advised Funds and limit each descendant's advisory privilege to a separate Fund.

g. Conversion of Donor-Advised Fund After Advisory Privilege Ends
Upon termination of the advisory privilege, a Donor-Advised Fund will be converted at the discretion of the

Community Foundation to an Unrestricted Fund or a Field-of-Interest Fund as provided for in Part B, Section 5, unless otherwise provided for by the donor.

Section 8. ***Special Rules for Designated Funds***

<u>a. Establishment and Purpose</u>
A Donor may establish a Designated Fund for one or more public charities described in Sections 509 (a) (1) or (a) (2) of the Internal Revenue Code or supporting organizations described in Sections 509 (a) (3) of the Internal Revenue Code. Examples include a school, not-for-profit hospital, social service agency, performing arts organization, or a religious organization.

<u>b. Monitoring Function and Variance Power</u>
The Community Foundation shall monitor the performance of the designated charitable organization to determine that it is using payments for charitable purposes consistent with the Community Foundation's purposes and the Donor's intention at the time the contribution was made. If the Board of Directors determines that continued payments for the designated organization have become unnecessary, obsolete, incapable of fulfillment, impractical or inconsistent with the community's charitable needs the Board may, in its discretion, select an alternative public charity with a similar mission and charitable purpose of the original Designated Charity as specified in the Instrument of Transfer or convert the Designated Fund to an Unrestricted Fund or Field-of-Interest Fund. The Fund shall then continue in accordance with the provisions of Section A.5.

Section 9. ***Special Rules for Nonprofit Endowment Funds***

<u>a. Establishment and Purpose</u>
A Donor is a Nonprofit Charitable Organization as described in Sections 509(a) (1) or (a)(2) of the Internal Revenue Code, which specify the establishing organization as the grant recipient of the Fund.

An Organization may establish a Nonprofit Endowment Fund for one or more public charities described in Sections 509 (a) (1) or (a) (2) of the Internal Revenue Code or supporting organizations described in Sections 509 (a) (3) of the Internal Revenue Code. Examples include a school, not-for-profit hospital, social service agency, performing arts organization, or a religious organization.

<u>b. Monitoring Function and Variance Power</u>
The Community Foundation shall monitor the performance of the designated charitable organization to determine that it is using payments for charitable purposes consistent with the Community Foundation's purposes and the Donor's intention at the time the contribution was made. If the Board of Directors determines that continued payments for the designated organization have become unnecessary, obsolete, incapable of fulfillment, impractical or inconsistent with the community's charitable needs the Board may, in its discretion, select an alternative public charity with a similar mission and charitable purpose of the original Designated Nonprofit Charitable Organization as specified in the Instrument of Transfer or convert the Nonprofit Endowment Fund to an Unrestricted Fund or Field-of-Interest Fund. The Fund shall then continue in accordance with the provisions of Section A.5.

Section 10. ***Special Rules for Field-of-Interest Funds***

<u>a. Establishment and Purpose</u>
A Donor or the Community Foundation may establish a Field-of-Interest Fund from which payments are made for a specific charitable purpose (Field-of-Interest). The specified purpose may be broad, such as support of education, health care or arts and humanities; or narrow, such as the prevention of child abuse. Field-of-Interest Funds may also be established for specific geographic areas such as neighborhood, section of city, county or metropolitan area.

<u>b. Monitoring Function and Variance Power</u>
The Board of Directors shall periodically evaluate all Field-of-Interest Funds. If the Board determines that continued payments for the specified charitable purpose have become unnecessary, obsolete, incapable of fulfillment, impractical, or inconsistent with the community's charitable needs, the Board in its discretion,

may change the Field-of-Interest of the Fund or convert it to an Unrestricted Fund. The Fund shall then continue in accordance with the provisions of Section A.5.

Section 11. ***Special Rules for Scholarship Funds***

a. Establishment and Purpose
A Donor or the Community Foundation may establish a Scholarship Fund from which payments are made to support one or more worthy students. Scholarships may be awarded for students to attend a specific institution (elementary through high school, college, technical); students in a particular field of study or major; students from a particular geographic area; or students who have attended a specific high school or school district.

The specified criteria may be broad, such as attending any institution of higher learning at the discretion of the student, or narrow, such as a specific major at a specified named institution. Scholarship Funds may also be established for specific geographic areas such as a neighborhood, section of city, county or metropolitan area.

b. Monitoring Function and Variance Power
The Board of Directors shall periodically evaluate all Scholarship Funds. If the Board determines that continued payments for the specified charitable purpose have become unnecessary, obsolete, incapable of fulfillment, impractical, or inconsistent with the community's charitable needs, the Board in its discretion, may change the scholarship criteria of eligibility or convert it to an Unrestricted Fund. The Fund shall then continue in accordance with the provisions of Section A.5.

c. Conflict of Interest
No scholarship award shall be made to a Donor's family member including direct ancestors and direct lineal descendents, spouse, and other relatives including brothers, sisters, nieces, nephews, aunts, uncles, cousins, and their respective spouses and children. Non-donor Advisory Committee members shall also adhere to the same policy regarding scholarship recipients awarded to Advisory Committee family members.

Attachment III

THE DELAWARE COMMUNITY FOUNDATION

POLICY STATEMENT
ACCEPTANCE OF DONATED REAL PROPERTY

Definition:

This policy covers the terms of acceptance for gifts of real property, including private homes, commercial real estate, and vacant land.

Authority:

All proposed gifts of real property will be submitted to the Delaware Community Foundation Board of Directors for review under the terms and conditions of this policy. The Gift Acceptance Committee is authorized to accept gifts of real property which meet the terms defined in the General Conditions section which follows. Property that falls under the definitions of the Intermediate Conditions section of this policy will require approval of at least 2/3 of the DCF Board members, before the gift can be accepted. Property that falls under the definitions of the Substantial Conditions section of this policy will require unanimous approval of the full DCF Board. Gifts of real property that fall under the definitions of the Unacceptable Conditions section of this policy will not be accepted by the Foundation, unless there are special circumstances that warrant an exception to this policy. Such exceptions will be fully explored with the advice of appropriate expert consultants, and will require approval of the Board. If the proceeds of a gift will be used to set up a new fund at the Delaware Community Foundation (DCF), the donor must have that new fund approved by DCF Board according to DCF procedures.

General Conditions:

If a gift of real property meets the criteria set forth below, DCF's Gift Acceptance Committee, as designated by DCF's Gift Acceptance Policies, are authorized to accept the donated property on behalf of the Foundation:

- The gift does not have any "material" donor-imposed restrictions on the use of the property, investment of the proceeds, or distribution of earnings other than specifying a designated agency.
- The property has no encumbrances or debt financing in excess of 25% of the market value.
- The property has no toxic waste, asbestos, or other negative environmental conditions as evidenced by an environmental survey.
- The property does not have any current or pending zoning or city plan ordinances which could create difficulties or limitations for the Foundation in selling, leasing, or utilizing the property.
- The building meets municipal codes and earthquake standards to an extent that will not preclude the Foundation from selling or disposing of the property, has no material structural or engineering defects, and is in compliance with applicable building ordinances.
- The donor has legal capacity and title to convey the property, has 100% fee simple interest in the property, and the donor's interest in the property is not fractionalized.
- The Title Report indicates that no other persons or entities have an interest in the property, there are no easements or restrictions on the property, and there is no leasehold liability on the property, on which we will not own the fee.

- The property has no leases or tenants, and does not require the Foundation to act in the capacity of a landlord.

- The value of the gift can be determined through a professional appraisal.

- There is a ready market for the property, and the property is located in a geographical area where a prompt sale is deemed likely.

- The donor will not receive any personal benefit from donation of the property, except for the tax deductions allowed under law. Lifetime occupancy arrangements may be an exception, and require majority approval of the full Board.

- No staff or board member will personally benefit from the Foundation's acceptance of the property, except to the extent of tax benefits if the gift is from a staff or board member.

Intermediate Conditions:

- The property has minor structural, engineering, or building code defects, which can be repaired, and which will not cause a significant reduction of the net proceeds from sale of the property.

- Multiple parties have an interest in the property, and all parties are cooperative in releasing their interests.

- There are easements on the property that are considered insignificant.

- There is a short-term lease, or debt financing less than 50% of the market value of the property. All debt financing on donated properties shall be analyzed regarding costs, call dates, any unusual conditions, and any unrelated business income tax (UBIT) generated.

- The gift has donor-imposed conditions which restrict the free usage and disposition of the property.

Substantial Conditions:

- The property has environmental concerns that can be fully mitigated, or the property has significant structural, engineering, or building code defects that can be fully repaired.

- The property has encumbrances or debt financing in excess of 50% of the market value of the property, or has unusual encumbrances or debt.

- There are significant easements or restrictions on the property, or current or pending zoning or city plan ordinances, or liens on the property, but it is determined that the property can be sold or retained with an acceptable positive cash flow to the Foundation.

- The property has a significant number of leases or tenants, but it is determined that the property can be sold or retained and managed with an acceptable positive cash flow to the Foundation.

- There is a mortgage on the property that requires substantial review to determine if there are issues of unrelated business income, whether the donor will receive a benefit from payment of mortgage installments by the Foundation, and if the mortgage is considered a material restriction.

Unacceptable Conditions:

- Accurate valuation of the property is not possible through a professional appraisal.

- Acceptance of the property by the Foundation will inure to the benefit of the donor, or a staff or board member.

- The gift has material donor-imposed restrictions that do not adhere to the Foundation's charter, or defined terms for acceptance of a gift.

- The property has significant environmental hazards or conditions deemed by the Board as likely to offset any potential financial benefit.

- The property is debt financed, or otherwise encumbered, where the Foundation will be subject to substantial unrelated business income tax, where the donor will receive a benefit from the contribution in excess of the allowable tax deduction , or where the debt or encumbrance is considered to be a material restriction.

- The property has significant current or pending zoning or city plan ordinances which would likely make the property difficult or impossible to sell.

- Commercial or industrial property that is not in compliance with municipal code, including a structure that does not meet earthquake standards.

- The title search does not clearly identify the donor or his/her/their trust as the owner of the property.

- The property has substantial easements or restrictions, liens, or leasehold liabilities.

- The property is located in an undeveloped, economically depressed, or bad location, and it is deemed that the property will be difficult or impossible to sell.

Other Conditions:

The Board has the right and obligation to consider any and all factors which may exist and which are not listed in the conditions outlined in this policy, and may accept or reject gifts of real property based on the Board's best judgment at the time of the gift.

Unrelated Business Income Tax (UBIT):

The acceptance of income producing donated property, which is debt financed, may result in UBIT. In addition, acceptance of income property that is not related to the non-profit purpose of the Foundation may also result in UBIT. It is the policy of the Foundation not to accept such donations of real property, unless special circumstances justify paying the tax, and then only after professional review of the transaction by a qualified CPA and/or attorney, at the cost of the donor or to be charged against the revenues of the asset.

Title Review:

A title search will be conducted by a professional title company for all donated real property, to ensure title vests in the donor. Title insurance will be obtained by the Foundation prior to acceptance of the property. The title report must include both a legal and common description of the property, and must disclose any monetary encumbrances, leasehold liabilities, easements or restrictions on the property. The title report also must indicate if there are any memorandums of lease recorded (leases of record) on the property.

When it is anticipated that property will be sold in a short period of time, the Foundation should consider obtaining a Title Binder in lieu of title insurance that is non-transferable. The title binder delays issuance of title insurance, and is transferable to the purchaser who can then have title insurance issued in the name of the purchaser. This provides additional incentive to the buyer.

Physical Inspection:

Staff, volunteers, or a professional inspector will conduct a physical inspection on all proposed donations of real property. The inspection will verify the title report's common description of the property, and reveal any major repairs, hazardous conditions, and potential environmental matters that require consideration.

It is appropriate to request from the donor a written statement as to the condition of the property being donated, including disclosure of any defects or problems with the property. The owner is required to reveal to the buyer all defects and problems with the property, prior to entering escrow.

If the donation is commercial real estate, a professional engineering survey and a Phase I environmental review is required to determine if structural defects exist, to discover possible encroachment by neighboring property owners or encroachment of the structure onto neighboring properties, and to identify any environmental concerns. If environmental concerns are identified, a Phase II environmental review is necessary. Inquiry should first be made of the donor, to determine if a previous recent survey and environmental review exist.

Appraisal:

The donor must have a professional appraisal completed for all donations of real property to the Foundation, at the donor's expense. This is an IRS requirement to determine the fair market value of the donation. A copy of the appraisal must be provided to the Foundation.

Deed:

A warranty deed is required for transfer of the property to the Foundation. Acceptance of a quit claim deed requires approval of the Board, and will be accepted in special circumstances only with agreement by the title company to issue a commitment that the donor has not impaired the title to the property.

Property Management:

Before accepting gifts of real property, the Foundation shall analyze the amount of internal administration and costs required to acquire and dispose of the property, or to manage the property if retained by the Foundation. Issues to evaluate are structural and cosmetic repairs, holding costs including property taxes, insurance and maintenance, staff time to manage leases and tenants relations if applicable, and outside professional management costs if it is deemed not financially appropriate for staff to manage the property.

Before acceptance of property with tenant leases, the Foundation should analyze the feasibility of internal management of the property, the quality of the leases, and any unusual lease conditions. If the Foundation determines it is necessary to retain an outside management firm, costs of a management contract and additional insurance must be calculated, and the additional liability exposure evaluated. Additionally, the Foundation must ensure that the manager hired is licensed as required in Delaware, and has adequate experience in managing that type of property.

Environmental Concerns:

A qualified professional consultant will evaluate any donated property that might be subject to environmental concerns. Environmental issues analyzed will include, but are not limited to, hazardous substances, toxic waste, buried tanks, chemicals, and sensitive habitat of wildlife or endangered species.

A Phase I review consists of searching government records, reviewing aerial photos, checking previous title ownership, and inspecting the site. If an environmental impact is identified, a Phase II review will further analyze environmental contamination by sampling the soil and other materials on the premises, including ground water.

All environmental reviews should include properties within a one-half mile radius of the donated property, to ensure the use of the property is not restricted within the border zone of hazardous waste disposal sites.

Costs for environmental review can be substantial. Indications of potential environmental concerns should be immediately evaluated in light of expected proceeds from future sale of the property, to determine if acceptance of the gift is advisable.

Funds at the Delaware Community Foundation:

If the donor would like the to use the proceeds from the sale of the donated real property to set up a fund at the Delaware Community Foundation, then before the real property can be accepted the new fund must be approved and established by the Delaware Community Foundation according to DCF procedures.