

THE COMMUNITY FOUNDATION
of Shelby County

**Gift Acceptance Policy
for Potential Gifts of Life Insurance**

I. PURPOSE.

As a trusted philanthropic partner, The Community Foundation of Shelby County (“CFSC”) inspires current and future generations to invest in a more vibrant and prosperous Shelby County where everyone can thrive. The purpose of this policy is to govern the acceptance of gifts of life insurance to best serve the interests of CFSC and the donor. This policy is to provide guidance to donors and their professional advisors in completing gifts of life insurance. CFSC must ensure that the donor’s wishes will be fulfilled through the acceptance of the gift.

II. GENERAL GUIDELINES.

A. Gift Review. Proposed gifts of life insurance will be evaluated on a case-by-case basis. The Executive Director will have the overall authority to handle inquiries, negotiate with donors, assemble documentation, and execute agreements on behalf of CFSC. Gifts of life insurance will be accepted only after the requirements of CFSC’s policies and procedures have been satisfied. CFSC may refuse any offered gift that is judged not to be in the best interest of CFSC. Assuming such activities follow approved policies and procedures, this authority to act will not require review or further approval by the Governing Board. The staff reserves the right to involve CFSC’s legal counsel and/or Executive Committee in reviewing agreements prior to accepting them. Such review is not mandatory.

B. Gift Parameters. CFSC is pleased to become the owner and beneficiary of a life insurance policy and requests that at least \$25,000 be added to or establish an endowed fund at CFSC. The remaining portion of the death benefit may benefit any other fund at CFSC or the donor may suggest that grants be considered to specified nonprofit organizations at the time the death benefit is received. The list of suggested grants may be maintained in CFSC’s files during the donor’s life. This list of suggestions may be updated during the donor’s life, provided that CFSC’s portion of the death benefit does not fall below the parameters noted above.

C. Evaluation of Potential Gifts.

1. **Types of Life Insurance.** CFSC may accept various types of life insurance. CFSC may accept policies for which: (i) CFSC is the owner and/or permanent beneficiary of the policy; (ii) the premiums are paid up; or (iii) if the life insurance policy is not fully paid up, CFSC may cash it in for the current surrender value, have premiums paid out of the value or make arrangements with the donor to have the premiums paid. The insurance policy shall have a minimum face value of \$25,000.

If an encumbered life insurance policy is accepted, it may be evaluated as a bargain sale.

2. Options. For all policies, CFSC should determine if it is prudent to:
 - a) Immediately surrender the policy for the cash value,
 - b) Sell the policy to a settlement company,
 - c) Hold the policy until the insured's death,
 - d) Modify the policy through exchange or other non-forfeiture options (e.g., reducing the death benefit), and/or
 - e) Continue making premium payments when necessary.

3. Documentation. The donor should assist CFSC in collecting any necessary information from the agent/insurance company. CFSC will review any relevant documentation in consideration of the proposed gift which may include, but is not limited to: a qualified appraisal, statements on the policy or premiums, proposed transfer instruments, and any proposed agreements or arrangements pertaining to the life insurance. Such documentation may be reviewed by CFSC's legal counsel.

4. Premium Payments and Fee Schedule. Prior to accepting a gift of life insurance, CFSC will negotiate with the prospective donor to establish an appropriate arrangement to cover the premium payments, if necessary. CFSC will also determine the type of component fund that will receive the gift and its applicable fee schedule. CFSC and the donor may agree to direct the accrued dividends or accumulated cash value of the policy to pay the premiums in full or part.

All paid dividends will be used to offset all or a portion of the fee charged to the account in the same year ending with the anniversary date of the gift. Dividends will be credited to the donor's fund only to the extent that they are offsetting fees. If the insurance premiums are not forthcoming or if the life insurance is not paid up and if CFSC determines that annual distribution income is insufficient to cover the premium payments or produce a reasonable rate of return for the recipient component fund, CFSC may elect to do any of the following: re-negotiate with the donor to impose a higher fee schedule on the recipient component fund, direct the accrued dividends or accumulated cash value of the policy to pay the premiums in full, sell the insurance, convert the insurance to paid up, or exchange the insurance for cash value.

5. Sale or Liquidation. It should appear reasonably certain that the life insurance proposed to be transferred to CFSC will generate annual income sufficient to provide a reasonable rate of return for the component fund into which it is received.¹ For purposes of this policy, the definition of "a reasonable rate of return" shall be

¹Treasury Regulations require that CFSC assure that its funds produce a reasonable rate of return. This can be particularly important for property held in designated funds, because while this requirement is applied based on the aggregate performance of most funds, it is made on a fund-by-fund basis for designated funds. See Treas. Reg. Section 1.170A-9(f)(11)(v)(F) and 1.170A-9(f)(13)(x). See Hoyt, Legal Compendium for Community Foundations 90.

determined by CFSC, in its sole discretion. The Executive Director shall have the authority to determine whether the requirements of this paragraph have been met. The donor will be advised that if the insurance is sold, liquidated, or otherwise disposed of within three years of receipt, per the IRS, CFSC is required to file IRS Form 8282 ("Donee Information Return"). See Treas. Reg. 1.6050L-1.

6. **Tax Deductibility.** The allowable tax deduction for gifts of life insurance will be subject to the rules of the IRS relating to life insurance, including partial interests or bargain sales. CFSC will provide the donor with any substantiation required for the donor to obtain a tax deduction.

III. RESPONSIBILITIES OF THE DONOR.

A. Appraisal. If the gift is worth more than \$5,000, the donor will be responsible for obtaining a qualified appraisal in compliance with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes, including the preparation of Form 8283 ("Noncash Charitable Contributions"). This is the donor's responsibility and should be paid for by the donor. See Treas. Reg. 1.170A-13(c).

B. Transfer Instruments. It is the donor's responsibility to provide the appropriate instruments which are necessary to gift the life insurance to CFSC.

C. Acceptance Agreement. Prior to or upon acceptance of the gift, the donor and CFSC must agree in writing to all the terms of the gift which will include the following (See Attachment 1 for a Sample Agreement for the Terms of a Gift of Life Insurance):

1. **No Material Restrictions.** Prior to acceptance of a gift of life insurance, the donor and CFSC will sign an agreement (approved by legal counsel) stating the terms of the gift, which must specify that there are no restrictions on CFSC's right to manage or convey the life insurance.

2. **Expenses Associated with the Gift.** Prior to acceptance of a gift of life insurance, CFSC and the donor must agree in writing on arrangements for paying all expenses associated with the life insurance such as premiums payments or other expenses. The donor should commit to paying all future premiums as scheduled or understand that CFSC will be compelled to determine appropriate action (see *General Guidelines*, paragraph C.2.).

3. **Administrative Fees.** Prior to the acceptance of life insurance, CFSC and the donor must agree on an appropriate fee schedule for the administration and investment of the component fund that will receive the gift. The donor should provide adequate assurance that the affected fund will have adequate cash to pay administrative fees, either from the investment itself or from further contributions from the donor. Note, however, that generally no fee is charged for a future fund holding **only** an insurance policy.

D. Expenses in Preparation of Gift. The donor is responsible for all expenses incurred in gifting life insurance.

E. Discuss Gift with Professional Advisors. The donor is encouraged to and responsible for discussing all benefits, liabilities, and tax consequences derived from the gift of life insurance with their professional advisors before the gift is made.

F. Discuss Gift with Family or Interested Parties. Donors will be encouraged to discuss contemplated gifts of life insurance with their family or other interested parties before the gift is made.

IV. WHAT CFSC WILL NOT DO.

A. Donor Expenses. Except in extraordinary circumstances, CFSC will not pay premium payments from its Operating Fund nor pay for other services on behalf of the donor. In extraordinary circumstances, the expenses will be paid from accrued dividends, the accumulated cash value, or otherwise charged against the fund holding the policy.² Donors may give to CFSC cash sufficient to cover the annual premiums. Such gifts may result in an income tax charitable deduction.

B. Corroboration of Value. CFSC will not establish or corroborate the value of any policy for the purpose of substantiating the donor's income tax charitable deduction.

C. Insured Party Not the Donor. CFSC will not accept gifts of life insurance policies for which the donor does not have an insurable interest in the insured.

D. Best Interest. CFSC will not accept gifts that would not be in the best interest of CFSC.

² Payment of the premium, on behalf of the donor, may result in no allowable deduction. See 26 U.S.C. section 170(f)(10). Discharge of such expenses by CFSC may be treated as taxable income if the payment of the liability would not have given rise to a deduction. See 26 U.S.C. section 108. Discharge of such expenses may also create a material restriction on the gift. See Treas. Reg. 1.507-2(a)(8)(iv)(B). See also Hoyt Legal Compendium for Community Foundations 69-70 FN 356.

Sample Agreement for the Terms for a Gift of Life Insurance

_____, 20__

Community Foundation of Shelby County
100 S. Main Ave, Ste 202
Sidney, Ohio 45365

Re: Gift of Life Insurance

Dear _____:

In connection with my gift of _____ life insurance to
The Community Foundation of Shelby County (CFSC), please be advised:

(1) I agree that there will be adequate cash in the fund holding the policy to pay administrative fees, either from the investment itself or from further contributions which I will make. Further, I agree that I will make additional contributions to cover other expenses associated with the policy, such as premium payments.

(2) There are no material restrictions which would prevent CFSC from freely and effectively using or conveying the property in furtherance of its charitable purposes.

(3) I acknowledge that I am responsible for obtaining a qualified appraisal and/or summary appraisal in compliance with IRS regulations for the purposes of establishing the value of the contribution, and that if the insurance is sold, liquidated, or otherwise disposed of within three years of its receipt by CFSC, CFSC is required to file IRS Form 8282 ("Donee Information Return").

Very truly yours,

Agreed to and Accepted by:

The Community Foundation of
Shelby County

By _____