



## ROCHESTER AREA FOUNDATION POLICIES FOR ESTABLISHMENT AND OPERATIONS OF FUNDS AND SUPPORTING ORGANIZATIONS

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# PROCEDURES FOR ESTABLISHMENT AND OPERATION OF FUNDS AND SUPPORTING ORGANIZATIONS

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THE ROCHESTER AREA FOUNDATION has established the following procedures in order to carry out its mission:

Building and enhancing the quality of life in the greater Rochester area through philanthropic leadership and community partnerships.

## PART A. RULES GOVERNING ALL FUNDS AND SUPPORTING ORGANIZATIONS

### Section 1. Definitions

The following terms are defined below:

- a. RAF: The Rochester Area Foundation, governed by the Board of Trustees, with operational and strategic support provided by Committees of the Board and Staff.
- b. Board: The Rochester Area Foundation Board of Trustees, composed of volunteer community leaders, is responsible for governance of the Foundation, including establishing policy and overseeing the Foundation's operations. The Board Treasurer, if serving as Chief Financial Officer, may be compensated.
- c. Committee: Committees of the Board as established by the RAF Bylaws.
- d. President: The President of RAF, serves as the executive staff member.
- e. Staff: The employees of the Rochester Area Foundation.
- f. Governing Documents: RAF is governed by its Articles of Incorporation, Bylaws, and by any resolutions, policies, and procedures adopted by the Board.
- g. Fund: A Fund is a component part of RAF, created by a legally binding fund agreement signed by both the Donor and RAF. Grants are made from each Fund to carry out the charitable purposes specified by the Donor. Supporting Organizations and Split-Interest Trusts are not Funds and generally constitute separate legal entities. Types of funds are listed below in Part B, Section 1.
- h. Donor: Any of the following are considered donors after RAF has accepted contributions from them:
  - Individuals and their family members
  - Corporations/Partnerships/Limited Liability Companies (also known as Corporate Donor)
  - Nonprofit Organizations
  - Private Foundations
  - Various Branches of Government
  - Collective private groups of concerned citizens and associations
  - Estates and Trusts
- i. Donor Advisor: A person appointed or designated by the donor to have advisory privileges for a Fund.

- j. Advisory Committee: Two or more people appointed or designated by the Donor or the Board of Trustees to have advisory privileges for a Fund.
- k. Educational Institution – An institution that has a regular faculty, a curriculum, and an organized body of students in attendance at the place where the educational activities are held.
- l. Qualified Educational Expenses – Certain expenses incurred in attending an educational institution. They are:
  - Tuition and fees for enrollment and attendance.
  - Course-related expenses – fees, books, supplies, and equipment required of all students for courses of instruction.
- m. Related Persons – The term includes both a donor or advisor’s family members and businesses they control:
  - Family Members – An individual’s parents, grandparents, great grandparents, spouse, siblings, nieces, nephews, children, grandchildren, great grandchildren, and the spouses of all of the above.
  - Controlled Businesses – Corporations, partnerships, and trusts or estates if the donor or advisor and family members own more than 35 percent of the total combined voting power (corporations), 35 percent of the profits interest (partnerships, limited liability companies), or 35 percent of the beneficial interest (trusts or estates).
- n. Supporting Organization: A charitable corporation or trust described in Sections 509(a)(3) of the Internal Revenue Code, that supports a publicly supported charity.
- o. Split-Interest Arrangements: Financial vehicles used to make a gift that provides interest to the Donor by establishing a Fund, examples of which are Charitable Gift Annuities, Charitable Remainder Annuity Trusts, Charitable Remainder Unitrusts, Charitable Lead Trusts, and Retained Life Estates.

## **Section 2. Acceptance of Contributions**

### a. General Policies and Approval

Requests to establish Funds, Supporting Organizations, or Split-Interest Arrangements with RAF will be reviewed by the Staff (and by the Board or a designated Committee if the Staff determines such a review is necessary) for consistency with RAF’s charitable purposes and specific charitable needs. The President of RAF has the authority to approve the establishment of individual Funds and affiliated relationships/agreements/contracts. With respect to Supporting Organizations, the President has the authority to recommend approval of a particular Supporting Organization relationship to the Board, but the Board shall have the final authority to formally approve the relationship by appointing the requisite number of members to the Supporting Organization’s board.

### b. Review and Approval of Contributions

All contributions are subject to review and approval by RAF prior to acceptance. Staff generally has the authority to accept contributions of cash and marketable securities (those that are

actively traded and saleable on the open market). The President, before acceptance, will review contributions of all other assets that are not readily marketable and shall consider the value of the asset, the likelihood that the asset can be quickly liquidated, and the charitable nature of the gift, potential risks to RAF, carrying costs, and unrelated business income tax consequences. Contributions of illiquid assets include, but are not limited to, closely held securities, limited liability companies (LLC's), limited partnerships, and tangible personal property and require prior approval per gift acceptance policies as established and approved by the Board. Contributions of real estate are subject to the review and approval by the Board.

Contributions that would violate the excess business holdings rule for donor advised funds under the Pension Protection Act of 2006 are generally prohibited, but may be accepted in special circumstances if reviewed and approved by the President. Any interest in an entity in which any interest is owned by a Donor or a Donor Advisor, by a family member of any such person, or by an entity in which any of the foregoing persons has an interest shall be referred to RAF's counsel for an opinion on the possible application of Code section 4943.

For hard-to-value assets, the Donor will be required to sign a gift agreement whereby the Donor agrees to indemnify and reimburse RAF for, from, and against all taxes owed or expenses and liabilities incurred because of RAF's ownership of the asset. The Donor must also agree to contribute additional funds to their Fund as necessary to cover such obligations should sufficient liquidity not be available in their Fund.

c. Written Acknowledgement of Acceptance of Contributions

RAF will provide written confirmation at the time of acceptance of any contribution that is required by the IRS to be documented by an acknowledgement for the Donor's tax reporting purposes. RAF, in its discretion, may also provide written confirmation of contributions that are not otherwise required by the IRS to be acknowledged. Contributions not accepted will be returned as soon as practicable. The confirmation will include the fair market value of the contribution of any cash gifts and marketable securities such as publicly traded stocks, bonds, and mutual fund shares. Acknowledgement of private securities and other illiquid assets will only include a description of the gift but will not include a market value of the donated asset. Donors will be encouraged to obtain a qualified independent appraisal prior to making such a contribution.

d. Donor's Counsel

RAF encourages each prospective Donor to have the terms of all proposed agreements reviewed by the Donor's legal counsel and/or financial advisors. RAF does not provide legal, tax, or financial advice. The Donor is informed that it is the Donor's responsibility to obtain any necessary appraisals, file appropriate tax returns, and defend against any challenge to claims of tax benefits.

e. Minimum Initial Contributions

The minimum amounts necessary to establish a Fund vary by the type of the Fund and are set by the Board or a designated Committee. The current RAF Schedule of Minimum Initial Contributions and Fees will be made available upon request.

The minimum amounts to establish a Split-Interest Agreement are:

1. Charitable Gift Annuity	\$100,000
2. Charitable Remainder Annuity Trust	\$100,000
3. Charitable Remainder Unitrust	\$100,000
4. Charitable Lead Trust	\$100,000

The minimum amounts necessary to establish a Supporting Organization will be mutually agreed upon by the Board and Donor or the governing body of the Supporting Organization.

f. Additional Contributions

Additional contributions of cash and actively traded marketable securities to an established Fund may be made in any amount at any time. Gifts of other assets (illiquid assets) require advanced approval per gift acceptance policies approved by the Board or a designated Committee. However, federal tax laws prohibit additional contributions to a charitable remainder annuity trust or a charitable gift annuity. In these cases, a new trust or annuity agreement will be necessary.

g. Contributions are Irrevocable

Any contribution made to RAF, once accepted, represents an irrevocable charitable contribution to the Rochester Area Foundation. Contributions to RAF are not refundable.

h. Donor Restrictions on Use of Property

Federal tax laws provide that a Donor to RAF may not impose any “material restriction” (as defined in Treasury Regulations), which prevents RAF from freely and effectively employing the contributed assets, or the income derived there from, in furtherance of its charitable purposes. Any restriction (beyond the specified charitable purposes state in the instrument of transfer) sought to be imposed by a Donor is subject to review and approval by RAF.

i. Policy to Sell Contributed Property

The general policy of RAF is to sell all contributed property as soon as practicable after receipt to minimize market risk. For non-publicly traded securities or other assets for which no readily liquid market exists, RAF will exercise discretion as to the timing and price of sales. Closely held stock or other assets for which no readily liquid market exists that are retained for any reason and that are valued in excess of \$1,000,000 (or, in the aggregate, are of material value compared to the other assets of RAF), shall be revalued using a qualified appraisal every three (3) years from the date of the gift to RAF. The cost of the qualified appraisal shall be an expense of the Fund, Supporting Organization, or Split-Interest Arrangement holding such asset. Any costs incurred by RAF necessary for the disposition of securities and other assets (i.e., legal and

appraisal fees) and for the management of such assets prior to disposition will be an expense of the Fund. Exceptions to this general policy will be made only in unusual circumstances and only with the prior approval of the President and in accordance with policies as established and approved by the Investment Committee.

j. Tax Deduction vs. Net Proceeds from Sale of Contributed Property

For income tax purposes, an individual can deduct a charitable contribution only in the year in which the contribution is actually paid or ownership has transferred (excess contributions above adjusted gross income percentage limitations may be carried forward for up to five additional years). Tax laws generally provide rules on how the value of the contribution deduction is to be determined. Gifts to RAF are deductible at the highest "public charity" level allowed by law.

The value of the contribution for tax deduction purposes may vary from the net proceeds realized by RAF upon the sale of the contributed property. Donors are encouraged to consult with their professional tax advisors to determine the appropriate value for tax deduction purposes.

k. Confidentiality

All agreements with Donors and all information concerning Donors and prospective Donors shall be held in strict confidence by RAF, subject to legally authorized and enforceable requests for information by government agencies and courts. All other requests for or releases of information concerning a Donor will be honored or allowed only if permission is obtained from the Donor prior to release of such information.

### **Section 3. Investment Policies**

RAF's investment program shall seek to provide competitive market returns with reasonable levels of risk. The officers of RAF so empowered or the Investment Committee shall direct the investments of these Funds consistent with the objective. Copies of RAF's investment program and policies will be made available upon request.

### **Section 4. Administrative Expenses**

Each Fund will be charged in accordance with the current administrative fee schedule as approved by the Board of Trustees (or a designated Committee) to cover the cost of administration and to continue RAF's mission. If an expense is directly associated with a specific Fund, Supporting Organization or Split-Interest Arrangement, then the expense will generally be directly charged to the applicable fund. The current RAF fee schedule is available to any interested party upon request.

### **Section 5. Charitable Purpose**

For the purposes of these Procedures, a "charitable purpose" is an educational, religious, scientific, literary, public, or other purpose permitted to be carried on by organizations described in Sections 170(c)(1) and 170(c)(2)(B) of the Internal Revenue Code of 1986, as amended.

### **Section 6. Amendments**



The Procedures for Establishment and Operation of Funds and Supporting Organizations may be amended by a majority vote of the Board at any regular or special meeting.

## **PART B. FUNDS**

### **Section 1. Types of Funds**

Categorization by Charitable Purpose:

- a. Donor Advised Funds: The Donor, Donor Advisor(s), or Advisory Committee may recommend charitable grant recipients from time to time.
- b. Donor 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).
- c. Nonprofit Endowment Funds: This type of fund is established by nonprofit organizations to help manage endowment assets.
- d. 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.
- e. Scholarship Funds: Donors can support Qualified Expenses for worthy students at an institution (high school, college, technical), students in a particular field of study, students from a particular geographic area, or students who have attended a specific high school or school district.
- f. Unrestricted Funds: Donors may choose an unrestricted fund that allows the Rochester Area Foundation to determine where grant distributions will do the most good.

### **Section 2. General Policies**

Each Fund, whether administered directly by RAF or through a separate trust, custodial account or agency agreement, shall be considered part of RAF and shall be governed by its Governing Documents. RAF 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. RAF reserves the right, however, to reject names that it finds inappropriate.

### **Section 4. Distributions**

- a. Grants Shall Follow Donor's Intent

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 Governing Documents, or (2) the "variance power" (described below in Section 5.b, 8.c, 9.c, 10.d or 11.h) is exercised, then the Donor's instructions shall be modified to a degree that is necessary for compliance with the Governing Documents. To the extent practicable or feasible, the Board shall distribute amounts for purposes that are consistent with the Donor's charitable interests.

b. Grants Will Normally Identify the Name of the Fund

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

RAF will not make a grant that provides a financial benefit to 1) Donor; 2) Donor Advisor; 3) Advisory Committee member; 4) Any person in whose honor a fund is created or named; or any Related Persons to those named in 1) through 4). (The preceding sentence does not apply to grants made out of a Nonprofit Endowment Fund to the Nonprofit for which the Fund was established.)

Distributions from RAF may not be used in whole or in part for any pre-existing legally binding pledge or for any private benefit such as dues, sponsorships, membership fees, benefit tickets, and the non-charitable portion of fundraising dinners, or good and services bought at charitable auctions.

RAF 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 or material benefit.

d. Other Limits on Distributions

Additional rules apply to funds classified as “donor advised funds” under the Pension Protection Act of 2006. The legal definition of a donor advised fund under this law is a fund or account that (i) is separately identified by reference to contributions of a donor or donors; (ii) is owned and controlled by a “sponsoring organization” (i.e., RAF); and (iii) the Donor, Donor Advisor, or Advisory Committee has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in the fund or account by reason of the Donor’s status as a Donor. This definition could include funds that RAF has classified as Donor Advised Funds, Donor Designated Funds, or Field of Interest Funds.

RAF will not make any grant, loan, compensation, or similar payment (including expense reimbursement) to a Donor, Donor Advisor, Advisory Committee member, or any person in whose honor a Fund is created or named or any Related Persons from any Fund.

RAF will also not make any grant directly to an individual or to an organization for the benefit of a specified individual from any fund other than a Scholarship Fund.

If a distribution is proposed from any Fund that is classified as a Donor Advised Fund under the law to a non-charitable entity or to a Type III Supporting Organization that is not “functionally integrated” with its supported organization as defined by law, then such distribution will not be allowed until it has been reviewed by Staff or designated Committees and, if required by law, procedures are in place so that RAF can exercise “expenditure responsibility” over such

distribution. Expenditure responsibility generally requires RAF to exert all reasonable efforts and establish adequate procedures to (i) see that the distribution is spent solely for the charitable purpose for which it is made, (ii) obtain full and complete reports from the distributee regarding the use of such distribution and (iii) make full and detailed reports regarding such distribution to the Secretary of the Treasury as required.

- e. 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 Fund is vested in the Board. 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 distribution should be made annually (or more frequently). If distributions are limited to income, income shall be annually computed based on the current Investment Policy of RAF.

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

- a. RAF to Follow General Donor Intent if Variance Power is Exercised

If the Board of Trustees exercises the variance power described below in Section 8.c, 9.c, 10.d, or 11.h to modify a Donor Designated Fund, Nonprofit Endowment 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 recommendation from a Donor Advised Fund has been terminated in accordance with Section 7.h, then the Board of Trustees 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 Trustees 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 unless the Board of Trustees, in its discretion, has chosen to deposit all of the Fund's assets into RAF's Unrestricted Fund.

- c. RAF to Monitor Beneficiary's Performance of Terms of Grant

In addition to monitoring functions hereinafter stated, the Board, Committees, and staff may periodically review the effectiveness with which agencies that receive grants from Funds and Supporting Organizations are performing their responsibilities in the utilization of these grants toward attainment of RAF's and the Donor's objectives. When necessary, the Board shall initiate corrective action.

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

a. General Rules

A Donor or the Board may appoint an Advisory Committee for a Donor Advised, Designated, Nonprofit Endowment, or Unrestricted Fund.

With respect to a Field of Interest Fund, the Donor may recommend an Advisory Committee (which may include the Donor) be appointed by RAF, in which case the President shall have the authority to appoint the Advisory Committee on behalf of the Board.

The rules governing an Advisory Committee for a Scholarship Fund are set forth in Section 11(c)(3) of Part B below.

The Advisory Committee may make recommendations to the Board of Trustees 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 RAF.

b. Usually Majority Vote is Required

Unless contrary instructions have been made by the Donor or by RAF, whenever two persons are designated to make recommendations they shall act by unanimous consent; whenever more than two persons are so designated, a recommendation by a majority of such persons shall constitute an effective recommendation for consideration by RAF. For other matters regarding its operation, each Advisory Committee may operate under such procedures as it finds appropriate.

c. Divorce/Separation of Current Donor Advisors

This policy generally will only affect Donor Advisors whereby either spouse may request grant distributions from a Fund.

In the event two spouses serve as the only members of an Advisory Committee to a Donor-Advised Fund, and a legal action either for divorce, separation, or annulment is pending between the spouses, RAF may, upon receiving notice of such action:

1. Suspend processing any grant distribution recommendation for such Fund(s) unless and until both spouses agree in writing to approve the grant distribution recommendation, or
2. Suspend processing any grant distribution recommendation for such Fund(s) unless and until the spouses have jointly agreed in writing to alternative procedures, acceptable to RAF, to provide for the future administration of such Fund(s). Subject to the approval of RAF, the spouses may jointly authorize RAF to bifurcate any Fund(s), designating each spouse to serve as the sole advisor to each fund.

In the event that the spouses 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 RAF, RAF may, in its sole discretion, bifurcate any

Fund(s) so affected into equal shares and designate each spouse to serve as the sole advisor to each fund. However, RAF 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.

d. Authority to Act as Agent of RAF Restricted

RAF generally encourages Donors to solicit contributions to RAF and its funds. However, no person has the authority to act as the agent of RAF unless he or she has received written authority from RAF. In particular, RAF does not authorize any volunteer or advisor to accept contributions on its behalf, to commit RAF resources to any activity, or to engage in fundraising activities in the name of RAF or on behalf of any of its Funds without written permission from the President or authorized Staff.

e. Fundraising

RAF is 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 RAF and its Funds to fines and penalties). RAF needs to be informed about activities being done in the name of RAF (and its funds) and to monitor any obligations associated with those activities.

1. Donations (with no RAF Acknowledgement)

Fundraising groups raising funds without giving individual contributors an acknowledgement for his/her gift can present the net income from a fundraiser in a lump sum to RAF for deposit in a specific Fund. Individual contributors are not provided with an acknowledgment by RAF.

Fundraising groups NOT offering acknowledgement to donors must notify RAF at least 45 days prior to the beginning of the activity to ensure RAF is aware of such efforts in case of inquiries by others. In these situations, RAF:

- Will accept the net proceeds from the fundraising activity, event, effort, or solicitation.
- Will not acknowledge individual contributors.
- Will generally not allow RAF's identity and/or logo to be used in promotion, publicity, or other aspects of the fundraising effort without prior approval
- May allow, upon review of fundraising materials and with RAF's permission, the fundraising group to state in its fundraising materials that "The net proceeds of this event will be contributed to the XYZ Fund of the Rochester Area Foundation."

## 2. Tax Deductible Donations

Some fundraising groups may want to use RAF's tax-exempt status to offer contributors a charitable deduction for their support. For this to occur, such fundraising must be done on behalf of, not by, the Rochester Area Foundation.

### *i. Foundation Approval of Fundraising Events or Efforts*

Fundraising events or efforts, including the printing of materials, must be approved prior to RAF's receipt of contributions to a fund. Fundraising groups wanting to offer a charitable tax deduction to donors through RAF must submit a Fundraising Application Form for approval at least 45 days prior to each event or effort. RAF will inform all applicants of acceptance or rejection of the application within 10 business days.

### *ii. Fundraising Requirements*

RAF allows and encourages promoting an existing fund through various forms of marketing including, but not limited to, brochures, posters, information sessions, or a request for donations through an appeal letter to friends and associates. In general, RAF staff is not able to provide assistance in the production of these materials, nor can RAF handle on-going administration of websites or pay for materials or postage.

### *iii. For-Profit Fundraiser*

If a fundraising group wants to use a for-profit fundraiser to solicit funds for a Fund of RAF, the contract for the for-profit fundraiser must be between RAF and the fundraiser for the work involved. The Board or a designated committee may refuse to enter in to any such contract.

### *iv. RAF Identification*

- Fundraising or event materials must be approved in advance by RAF.
- If requested, an electronic logo will be provided for use on approved materials.
- All materials must clearly state "XYZ Fund of the Rochester Area Foundation"
- All fundraising materials must clearly state that funds are being raised on behalf of the Fund, not by RAF.

### *v. Direct Gifts by Check, Cash, or Stocks*

In response to fundraising efforts, a donor may make a gift directly to the fund.

- *Checks:* The check should be made payable to the Rochester Area Foundation/(Name of Fund) or RAF/(Name of Fund).
- *Cash:* Cash donations may not be used to pay expenses such as prizes, food, etc., leaving the net cash amount for deposit in the fund.
- *Stocks and Bonds:* Gifts of stocks or bonds may also be made directly to RAF with indication of the fund to benefit.

- All proceeds, checks and cash, must be delivered to RAF along with an accounting of all monies received *within five business days following the fundraising event or effort.*

*vi. Online Gifts*

Solicitors are welcome to promote RAF's online giving platform as a convenient method for donors to give to a Fund. All credit card transactions are charged merchant services fees per current policy and the fees will be deducted from the component fund's balance. RAF will send acknowledgement letters for these gifts.

*vii. Tax Requirements and Acknowledgments*

If the steps outlined below are not taken, donors may be denied a tax deduction, and the fundraising group might find itself unexpectedly subjected to taxes on funds raised.

In order for Donors to claim a tax deduction for the contribution, RAF will provide the appropriate acknowledgment to the donors. The following must be provided by the fundraising group in order to do so:

1. The donor's complete name and address;
2. The date and the amount of the contribution;
3. A detailed description of any goods and services provided in exchange for the contribution.

Donors will receive a gift acknowledgement/receipt letter from RAF indicating the gift is tax deductible as permitted by law. RAF plans to issue acknowledgements within ten business days of receiving the gift, assuming all documentation related to the gift is received.

*viii. Special Considerations for Tax Deductibility*

- The value of services is not generally tax deductible.
- A Donor must receive a receipt stating the value of goods or services of more than nominal value received in exchange for a donation of \$75 or more. For example, if the group is sponsoring a dinner, the donor can only deduct the excess of the ticket price above the fair market value of the dinner.
- This limitation on the deduction, known as a "quid pro quo disclosure," must be disclosed at the time of the solicitation. Disclosure on the ticket to the event is a typical method for making this disclosure.
- Prior to the solicitation activity, the fundraising group must work with RAF to provide information pertaining to the event or effort such as the ticket prices and the value of the goods or services that donors are to receive in determining the fair market value amounts and the appropriate disclosure language for the event or effort.

- The fundraising group must confirm that the required quid pro quo disclosures are made at the time of the solicitation.
- The cost of raffle tickets is not tax deductible. This must be clearly stated on the face of the distributed ticket. Groups wishing to sell raffle tickets must check all local, state, and federal laws pertaining to the selling of such tickets, and provide evidence of compliance including, but not limited to, applications for raffle permits and all required reporting to RAF.
- Rummage or garage sale purchases are not tax deductible.
- RAF shall review, on a case-by-case basis, any proposed ideas for an auction. RAF is not responsible for valuing charitable deductions for items purchased at an auction or similar event.

ix. *Notification of Gifts to Fundraising Groups*

RAF generally will report to Fund Advisors noted in the fund agreement the names of donors, unless anonymity is requested. Individual gift amounts are reported.

x. *RAF and Fundraising Groups' Responsibilities*

RAF will be responsible for:

- The management of the money and property which it may accept from donors, other contributors and sources;
- The application of income and principal to charitable uses, all in accord with the Governing Documents of RAF;
- Providing appropriate acknowledgments to donors in compliance with IRS guidelines and regulations.

Fundraising groups will retain responsibility for all public fundraising events or efforts and matters related to them including:

- Compliance with laws;
- Reporting and other requirements of every kind, such as licensing, tax payments, and liability insurance covering RAF;
- Payment of all costs and expenses (How expenses will be paid must be *arranged* and *approved* by RAF prior to the event or effort. Regardless of who pays for expenses, copies of invoices and receipts must be provided to RAF for its record keeping. Unauthorized expenditures will be the responsibility of the fundraising group.)
- Submission of a budget for approval to RAF prior to the fundraising effort;
- Approval by RAF of deviations from the approved budget of more than 10% in each line item;
- Provision to RAF of the names of one or two people who will authorize expenditures for the fundraising effort;
- Maintenance of appropriate financial controls and records related to fundraising efforts.



xi. *Liability Insurance and Liability for Losses*

The fundraising group *must* contact RAF prior to having a fundraising event or effort to assess the need to secure liability insurance for the group and for RAF. Insurance coverage must be reviewed and approved by RAF. Fundraising groups may be required to purchase additional insurance.

The fundraising group will be responsible for all losses incurred by events. RAF will not be held responsible for such losses. RAF may require the fundraising group to purchase a letter of credit or provide a written personal guarantee.

## **Section 7. Special Rules for Donor-Advised Fund**

a. Establishment and Purpose

A Donor may establish a Donor Advised Fund whereby the individual Donor(s) and/or designated Donor Advisors retain a lifetime privilege to recommend charitable recipients to RAF. Donor Advised Funds established by corporations are permitted to advise on charitable distributions as long as the Corporation continues to operate.

The Board sets the minimum amount required to establish a fund. These amounts are subject to change at any time.

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 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 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 may establish a minimum grant amount for Donor Advised Funds.

d. Grant Activity Policy

As the legal owner of assets contributed to RAF and held in its Funds, RAF is responsible for ensuring the Funds are used for grantmaking, exclusively for charitable purposes, and do not confer any private benefit on the Donor or any other person. With Donor Advised Funds,

RAF works with the Donor and/or Donor Advisor(s) to determine when grants will be made from those funds. To that end, RAF monitors the use of donor advised funds to ensure their activity leads to charitable distributions.

#### 1. Examples of Fund Activity

The following are examples of Fund activity that lead to distributions. If this Policy ever conflicts with federal law or state law (including the Uniform Prudent Management of Institutional Funds Act, commonly known as UPMIFA), the relevant law controls. A Fund is considered active when there is regular communication between a Donor or Donor Advisor(s) (or named successors) and RAF regarding the existence and purpose of that Fund. Examples of some of the activities that would deem a Fund active include, but are not limited to:

- i. Regular Grant Recommendations. Donor Advisor generally recommends grants at least annually to qualified charitable organizations. The amount of grantmaking can vary from year to year.
- ii. Developing a Philanthropic Program. Donor makes a substantial contribution to a Fund, for example upon the sale of his or her business, and refrains from recommending grants for a given initial period while the Donor consults with RAF and/or does his or her own research to determine what types of grants will best meet community needs and/or the Donor's philanthropic goals.
- iii. Long-term Giving Plan. Donor Advisor deliberately reduces the frequency or size of grant recommendations from the Fund, for example:
  - During his or her working years, with the intention of increasing the Fund balance to support grantmaking during retirement when the Donor Advisor expects his or her income to change.
  - To build a Fund over time so the Donor's children can make grants later (the idea being the Donor is leaving a charitable legacy for the next generation to administer).
  - When the Fund is invested in an illiquid or undervalued investment and the Donor Advisor intends to begin making grant recommendations when the investment can be sold at a reasonable price.
- iv. Project Grants. Donor makes a substantial contribution to a Fund and determines to recommend grants to a specific qualified charitable organization over a period of years so that the Donor can monitor how the charitable organization performs, and to consider whether another organization would better achieve the Donor's charitable objectives.
- v. Starter Fund. Donor wants to build the Fund balance to make substantial grants to the community. Therefore, there may be no distributions made until the Fund balance reaches an amount stated in the Fund file based on the RAF's conversations with the Donor and/or Donor Advisor(s).
- vi. Specific Occasion Grant. Donor Advisor refrains from recommending grants for a number of years with the specific charitable goal of recommending a grant upon a specific occasion. Examples may include, but are not limited to:

- Donor is incapacitated with no successor Advisor(s) named so RAF waits until the Donor's death to distribute the Fund according to the Donor's original intent on file with RAF;
  - The Fund has transitioned to named successor Advisors but they are minors and no adult representative is named to represent them (so grants resume when successor Advisors are adults);
  - Founders of Fund who are also the Donor Advisors are getting divorced so that grants are suspended until both the spouses agree on grants, which may include splitting the Fund into two separate funds, one for each spouse to advise, or eventually dissolving the Fund by the making of charitable grants;
  - Grants are suspended during litigation involving a Fund (e.g., the Donor left his/her estate to a Fund, but the Donor's heirs are disputing the bequest so RAF does not allow grants until the litigation is resolved); or
  - Donor leaves a bequest to a Fund and distributions are made periodically to the Fund during the estate settlement process, but grants are not made until the estate is fully settled and the Fund receives a final distribution from the estate.
2. Reactivating Grantmaking. Should there be no grant activity in a Donor Advised Fund for at least three years; steps will be taken by the staff of RAF to activate the Fund. These steps may include, but are not limited to:
- i. Notifying the Fund Advisor regularly and periodically (at least annually over a period of three years) to encourage the Advisor to activate the Fund.
  - ii. Distributing grants from the Fund to qualified grant recipients that align with the Donor's intent, but if RAF determines such intent is obsolete, incapable of being fulfilled, impractical, or inconsistent with the community's charitable needs, then RAF shall exercise its variance power to enable RAF to continue to use its resources to meet the needs of the community and to address the charitable purposes for which the funds were committed.

e. Eligible Advisors During a Donor(s)' Lifetime

Recommendations for distributions shall be subject to the following rules:

1. Generally, a Donor may designate any adult 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. Donor(s) may designate additional and/or alternative Advisors at any time during the Donor(s)' lifetime.
2. 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 descendants) 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 any time during the Donor(s)' lifetime through a written addendum to the fund agreement.

3. 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.

f. 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 6 of Part B above. In particular, the children shall select one individual who will have the authority to deliver grant recommendations to RAF. Such selection shall be in writing to RAF and signed by all successor family Advisors.
2. After the Donor's death (or Donors' deaths), RAF will contact the successor Advisors in writing to inform them that they have been named as successor Advisors for the Fund. If after three years from the date of RAF's initial written correspondence to the successor Advisor(s) there has been no response or action from the successor Advisor(s), and RAF has tried to contact the successor Advisors at least annually during that three-year period, then RAF will become the successor Advisor for the Fund. In that case, RAF will endeavor to use the Fund in a way that is consistent with the original Donor's/Donors' charitable interests that may be known to RAF.
3. Funds of \$100,000 or more may name succeeding generations as advisors. If the fund's balance falls below the \$100,000 successive generation minimum Fund balance at any time, then the privilege to advise the Fund's grant distributions shall terminate. This provision shall apply only to those Donor Advised Funds established after the date of this Policy enactment.

g. 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, RAF 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.

h. 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 RAF to an Unrestricted Fund or a Field-of-Interest Fund as provided for in Part B, Section 5.

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

Designated Funds may either be classified as Endowed or Non-Endowed based on the donor's preference.

### a. Endowed Designated Funds

#### i. Establishment and Purpose

A Donor may establish an Endowed 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.

An Endowed Designated Fund is a permanent endowment fund at RAF, which has the purpose of providing annual support for one or more public charities in the community.

The Board sets the minimum amount required to establish a fund. These amounts are subject to change at any time.

#### ii. Distributions

Distributions of income from Endowed Designated Funds are made annually based on the current RAF Spending Policy and can be made to the designated charities or reinvested in the Fund.

#### iii. Monitoring Function and Variance Power

RAF shall monitor the performance of the designated charitable organization to determine that it is using payments for charitable purposes consistent with the RAF's purposes and the Donor's intention at the time the contribution was made. If the Board 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 Part B, Section 5 above.

### b. Non-Endowed Designated Funds

#### i. Establishment and Purpose

A Donor may establish a Non-Endowed 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.

The Board sets the minimum amount required to establish a fund. These amounts are subject to change at any time.

ii. Distributions

Donors and/or Donor Advisors may make written recommendations of the timing and amounts of grants to the designated tax exempt charitable organization(s) 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 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 has the absolute right to direct all distributions of income and/or principal from Funds.

iii. Eligible Advisors During a Donor(s)' Lifetime

Recommendations for distributions shall be subject to the following rules:

- i. Generally, a Donor may designate any adult 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. Donor(s) may designate additional and/or alternative Advisors at any time during the Donor(s)' lifetime.
- ii. 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 descendants) 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 any time during the Donor(s)' lifetime through a written addendum to the fund agreement.
- iii. 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.

iv. Monitoring Function and Variance Power

RAF shall monitor the performance of the designated charitable organization to determine that it is using payments for charitable purposes consistent with the RAF's purposes and the Donor's intention at the time the contribution was made. If the Board 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 Part B, Section 5 above.

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

a. Establishment and Purpose

An Organization described in Section 509(a)(1), (a)(2) or (a)(3) may establish a Nonprofit Endowment Fund (also referred to as an agency fund) for its benefit.

A Nonprofit Fund is a permanent endowment fund at RAF, which has the purpose of providing annual support for a single public charity in the community.

b. Distributions

Distributions of income from Nonprofit Endowment Funds are made annually based on the current RAF Spending Policy and go to the designated nonprofit identified in the Fund agreement.

c. Monitoring Function and Variance Power

RAF shall monitor the performance of the designated charitable organization to determine that it is using payments for charitable purposes consistent with the RAF's purposes and the Donor's intention at the time the contribution was made. If the Board of Trustees 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 Part B, Section 5 above.

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

a. Establishment and Purpose

A Donor or RAF may establish a Field of Interest Fund from which payments are made to multiple named organizations or 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 a neighborhood, section of city, county, or metropolitan area.

A Field of Interest Fund is a permanent endowment fund at RAF.

b. Distributions

Distributions of income from Field of Interest Funds are made annually based on the current RAF Spending Policy and are awarded through RAF's competitive grant cycles, managed by the Grant Distribution Committee.

c. Geographic Affiliate

The RAF Board maintains oversight and control over Funds held by a Geographic Affiliate and Community Endowed Funds. A Geographic Affiliate is a Fund (or collection of Funds), established within or by RAF, serving a defined geographic region under a common advisory board. Grants recommended by the advisory board of a Geographic Affiliate shall be subject to the same due diligence process exercised by RAF for all other Field of Interest funds.

d. Monitoring Function and Variance Power

The Board or a designated Committee 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 Part B, Section 5 above.

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

a. Establishment and Purpose

A Donor or RAF may establish a Scholarship Fund from which grants are made to provide scholarship grants to individuals, including high school, college, and graduate school students. These scholarship grants enable the recipients to complete an undergraduate or graduate education in the field of their choice at the college or graduate school of their choice. RAF may also hold and administer certain Funds that make grants to students in primary and secondary school to attend various educational programs and to other individuals for vocational or other training.

Scholarship grants must be used for Qualified Educational Expenses at an educational institution. RAF reserves the right to impose additional, minor reasonable restrictions and/or requirements upon the awarding of Scholarship Grants and the administration of such grants. Any substantial or material changes will be made only with approval of the Board.

RAF values and encourages the interest and involvement of donors. Donor involvement may include developing criteria for awards, serving on grant selection committees and recommending others for places on selection committees.

b. Distributions

Distributions of income from Scholarship Funds are made annually, and calculated as 4% of the average Fund balance for the last twelve (12) quarters. The amount of the Scholarship Grant will be predetermined by each individual scholarship fund agreement, but must be at least \$1,000,



and 4% or less of the opening balance. Any income over and above the predetermined scholarship grant amount will be reinvested in the Scholarship Fund.

c. Selection Process

Scholarships must be awarded in accordance with a selection process that is consistent with RAF's tax-exempt status and consistent with the allowance of tax deductions for individuals making contributions to RAF. In addition, the selection process must include the following:

1. A sufficiently broad pool of potential grantees.

The pool of scholarship applicants must be sufficiently broad so that the making of grants to the members of the group will be considered as furthering a charitable purpose and not merely benefiting private interests. However, if the scholarship program requires the selection of an exceptionally qualified individual to carry out its purposes and the pool of such individuals is small, the Fund shall include documentation of the efforts made to determine qualified members of the class of potential recipients. Any proposed limitation on the pool of grantees that is based on race or any other characteristic that the Internal Revenue Service might deem to be counter to public policy and inconsistent with RAF's tax-exempt status shall be reviewed by RAF's corporate counsel.

2. Objective and non-discriminatory selection criteria.

The criteria used in selecting scholarship recipients shall be objectively related to the purpose of the scholarship and applied equally to all applicants. Criteria might include, but need not be limited to: prior academic performance, recommendations from professors, financial need, or evidence of an applicant's motivation, character, ability, and potential. 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 section of city, county or metropolitan area. Scholarships may be awarded for students to attend a specific institution (elementary through high school, college, and 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.

3. A sufficiently independent selection committee.

- i. A Fund's donors may not control the selection committee. This means that no combination of Donors, Donor Advisors, and Related Persons may constitute a majority of the committee, be given a veto power, be allowed to chair the committee or otherwise be permitted to control the committee's decisions. If a Donor/Donor Advisor recommends a person for appointment to a selection

committee based on objective criteria related to the expertise of such person, such person will not be deemed to be appointed or designated by the Donor/Donor Advisor.

Donor/advisors and related persons may provide advice with respect to the selection of grant or award recipients solely as members of a selection committee. This means that donors may not pre-screen applications and choose those to be referred to the committee. It also means that Donors may not make a final selection from among candidates approved by the committee.

- ii. Every member of the selection committee must adhere to the relevant policies of RAF as they may be adopted and amended from time to time, including without limitation the RAF's Conflict of Interest and Confidentiality Policy. Each member of any scholarship selection committee must disclose any personal knowledge of and relationship with any potential grantee under consideration and refrain from participation in the award process in a circumstance where he or she would derive, directly or indirectly, a private benefit if any potential grantee or grantees are selected over others.
- iii. Scholarship grants may not be awarded to any member of the Board, any substantial contributor to RAF, any employee of RAF, or any other disqualified person with respect to RAF. Grants also may not be awarded to any Donor/Donor Advisor or substantial contributor to the Fund making the award, to any member of a selection committee for such award, or to any Related Persons of any of the above.
- iv. Grants covered by this Policy may not be made for a purpose that is not charitable.

#### 4. Board Approval

- i. Per the Governing Documents, the Chair of the Board shall appoint a Chair of the Committee, who shall then appoint all members of any selection committee charged with the evaluation of candidates for scholarship grants.
- ii. Each selection committee established under this Policy shall forward its recommendations to the Chair of the Scholarship Committee, who will forward them to the Chair of the Board in such form and on such schedule as the Board shall establish. The Board shall approve or deny each Scholarship Grant.

#### b. Employer-Sponsored Scholarship Funds

Any proposed Scholarship Fund that will be sponsored by an employer and awarding scholarships to employees or family members of employees shall be reviewed and approved in advance by the RAF's corporate counsel to ensure compliance with additional Internal Revenue Service rules governing such scholarship programs.

c. Grant Renewals

Scholarship Grants will ordinarily be awarded for a one-year period, but may be for a shorter or longer period. Scholarship Grants may be renewable for a period appropriate to the purposes of the Fund under which the grant is established.

d. Supervision of Grants

1. Scholarship Grants Paid Directly to the Educational Institution

Unless otherwise provided in the fund agreement, RAF will pay Scholarship Grants directly to the educational institution for the use of the scholarship recipient. The educational institution must agree in writing to use the grant funds to defray the scholarship recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his or her standing at such educational institution is consistent with the purposes and conditions of the grant.

Unless otherwise provided in the fund agreement establishing a scholarship grant, a condition of each scholarship grant is that it will be used only for Qualified Educational Expenses.

2. Investigation of Jeopardized Grants

RAF is not required to investigate the use of scholarship grants paid directly to an educational institution unless the award is used to pay for something that is not a Qualified Educational Expense. However, RAF does have a duty to investigate possible diversions of scholarship grants paid directly to the recipient. Where the reports submitted or other information (including the failure to submit reports), indicate that such a grant is not being used for its intended purpose, RAF is under a duty to investigate. While conducting its investigation, RAF will withhold further payments to the extent possible until any delinquent reports required under these procedures have been submitted. RAF also will take reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant.

The phrase "all reasonable and appropriate steps," includes legal action where appropriate, but may not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

e. Recordkeeping Requirements

RAF shall retain the following records in connection with all grants covered by this Policy:

- All information obtained by RAF to evaluate the qualifications of potential grantees,
- The identification of grantees (including any relationship of any grantee to RAF or to a Trustee, Committee member, or Staff)

- The purpose and amount of each grant, and any additional information RAF obtains in complying with its grants administration procedures.

Information pertaining to unsuccessful applicants for awards shall be kept along with information on successful applicants. Records pertaining to any Scholarship Grant made pursuant to this Policy shall be kept for no less than three years after the filing of the Foundation's annual tax return for the period in which the last installment of such grant was paid.

f. Monitoring Function and Variance Power

The Board shall periodically evaluate all Scholarship Funds. If the Board determined 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 Part B, Section 5.

## **PART C. SUPPORTING ORGANIZATIONS**

### **Section 1. Establishment and Purpose**

#### a. Tax Status

The tax laws provide that a Supporting Organization will be a public charity, even if all contributions have come from related parties or even if it has not received any contributions over a period of years (either situation would normally cause a charity to be a private foundation).

#### b. Technical Requirements Under the Tax Laws

In order to be a Supporting Organization of RAF under Section 509(a)(3) of the Internal Revenue Code, the establishing Donor seeking Supporting Organization status must prove to the IRS that it:

1. Is organized to support RAF
2. Is not controlled by “disqualified persons”. Disqualified persons include substantial contributors to the Supporting Organization (donors who gave more than 2% of the organization’s total contributions), members of that person’s family and businesses controlled by the person. By law, they cannot have 50% or more of the voting power of the governing body or a veto power over the actions of the organization since that would constitute “control.”
3. Is operated, supervised, or controlled “by” or “in connection with” RAF
  - i. “by” means that RAF appoints a majority of the governing body of the Supporting Organization, OR
  - ii. “in connection with” is a much more complicated procedure by which the Supporting Organization must show that:
    - a) RAF appoints at least one member of the governing body of the Supporting Organization, and
    - b) Through its operations, the Supporting Organization does either one of the following:
      - Engages in activities that RAF would otherwise do itself but for the Supporting Organization, or
      - Distributes 85% or more of its income to or for the use of RAF in such a way that RAF is “attentive” to the Supporting Organization.

#### c. Tax Advantages of Supporting Organizations

Supporting Organizations offer specific tax advantages under IRS regulations.

##### 1. Avoid Private Foundation Taxes and Administrative Requirements

A Supporting Organization is treated as public charity and is free from private foundation excise taxes and administrative requirements of a private non-operating foundation.

## 2. Greater Tax Benefits for Donors

A Donor to a Supporting Organization can frequently claim greater tax benefits than if the same property was given to a private non-operating foundation:

- i. A larger tax deduction for gifts of real estate or closely held stock (fair market value vs. cost basis)
- ii. A larger deduction can be claimed each year, if the Donor is subject to the annual charitable deduction limitation.

### **Section 2. Policies Applicable to a Supporting Organization**

The terms of the relationship to become a Supporting Organization of RAF and the benefits and services that one organization may provide to the other shall be mutually agreed upon by the governing bodies of both organizations. In general, this relationship requires the active oversight and involvement of RAF. Consequently, the following information must be obtained from the Supporting Organization:

- 1) Copies of the organization's articles of incorporation and bylaws, if in corporate form, or trust instrument if in trust form, and tax exemption letter from the Internal Revenue Service.
- 2) Copies of all board meeting notices and minutes of the board meetings;
- 3) Notification when any board member appointed by RAF finishes his or her term, resigns or otherwise ceases to serve;
- 4) Financial reports at least quarterly (unless all of the Supporting Organization's assets are already held at RAF);
- 5) Copies of all account statements upon request of RAF (if the Supporting Organization's assets are not all held at RAF);
- 6) Copies of the annual 990 reports to the Internal Revenue Service; and
- 7) Information concerning all grants so that the grants can be processed through RAF.

In return, RAF's role is to provide the Supporting Organization with the following primary services (additional services may be separately negotiated):

- 1) Appointment of the requisite number of members to the Supporting Organization's board as required by the organization's governing document(s);
- 2) Periodic financial statements;
- 3) Information upon request regarding grant-making opportunities; and
- 4) The processing of all grants.

The tax laws require that organizational documents (articles of incorporation or trust instrument) of the Supporting Organization must (1) specify that RAF will be the supported organization and (2) specify charitable purposes that are supportive of, and not broader than, those of RAF.

In addition, the Supporting Organization's activities must support RAF. This does not mean that the Supporting Organization must pay all (or any) of its income to RAF. It may instead make grants to other charities and for charitable programs that are in furtherance of RAF's charitable purposes. However, as discussed above, RAF generally requires a Supporting Organization to process all grants through the RAF.

### **Section 3. Termination of Relationship**

Either the Board or the governing body of the Supporting Organization may terminate the relationship upon such notice as is prescribed in the agreement between RAF and the supporting organization. Termination may cause the Supporting Organization to lose its public charity tax status and be reclassified as a private non-operating foundation.

## PART D. SPLIT-INTEREST ARRANGEMENTS

### Section 1. Definitions

Split-interest arrangements are sometimes referred to as "deferred gifts". They generally pay income to a Donor (or someone else who is named by the Donor) over the person's life and then distribute the assets to a charity upon death. Available options include:

- a. Charitable Gift Annuity (Immediate or Deferred) - A contract with RAF to receive a fixed dollar amount each year over a person's life; the annuity contract must meet the tax requirements of Section 514(c)(5) of the Internal Revenue Code. Payments are generally based upon the American Council on Gift Annuities approved tables in effect at the time that the gift is made.

The rate of return the Donor(s) receives depends upon the age of the Donor (and, if applicable, the age of the spouse) at the time of the gift. The older the Donor, the higher the rate of return will be. Payments may be made annually or in more frequent intervals. The remaining proceeds are distributed to a named charitable Fund established by the Donor at RAF, excluding a Nonprofit Endowment Fund.

- b. Charitable Remainder Annuity Trust - A trust that pays a fixed dollar amount (at least 5% of the value of the property contributed to the trust). Payments are made annually (or more frequently) to one or more income beneficiaries for life (or for a fixed term of years -- maximum 20). The remaining proceeds are distributed to a named Fund established by the Donor at RAF, excluding a Nonprofit Endowment Fund.
- c. Charitable Remainder Unitrust - A trust that pays a fixed percentage (at least 5%) of the value of the trust's assets each year (as valued at the beginning of each year) to one or more income beneficiaries for life (or for a fixed term of years -- maximum 20). The remaining proceeds are distributed to a named Fund established by the Donor at RAF, excluding a Nonprofit Endowment Fund.
- d. Charitable Lead Trust - This is the inverse of a charitable remainder annuity trust or unitrust. Income is distributed to RAF, into a named charitable Fund established by the Donor, (over a period of years or the lifetime of the Donor) and the remainder is usually distributed to members of the Donor's family. Such a trust can be a useful part of an estate plan to keep a rapidly appreciating asset (such as real estate or stock) within a family.
- e. Retained Life Estate - Donors may leave their principal residence, vacation home, or farm to a named charitable Fund established by the Donor or to an existing Fund at RAF and retain the right to live in the house or farm for the Donor's lifetime (the life of a surviving spouse can also be added). The Donor receives a sizable charitable income tax deduction the year the property is donated through the Retained Life Estate. The amount of the tax deduction is dependent on the age(s) of the Donor and the value of the home or farm. A gift of a personal residence now, with retained life residency for the Donor and/or spouse, gives the Donor the same estate tax benefits as a gift by will plus an immediate income tax deduction.



**Section 2. RAF as Trustee; Minimum Contribution; Other Conditions**

a. RAF as Trustee of Split-Interest Gifts

RAF offers Charitable Gift Annuities to Donors. RAF can also serve as trustee for charitable remainder annuity trusts, charitable remainder unitrusts, and Charitable Lead Trusts.

b. Minimum Contributions

1. Charitable Gift Annuity	\$100,000
2. Charitable Remainder Annuity Trust	\$100,000
3. Charitable Remainder Unitrust	\$100,000
4. Charitable Lead Trust	\$100,000

c. Other Conditions

1. Charitable Gift Annuities

Under the tax laws, the entire remainder interest of a charitable gift annuity must be distributed to RAF. The proceeds will generally be used to establish (or be added to) a named Unrestricted Fund.

2. Charitable Remainder Trusts

In order for it to serve as the trustee, RAF must be named as the beneficiary of the remainder interest of a charitable remainder annuity trust or a charitable remainder unitrust. A Donor may establish or add to an Unrestricted Fund with the remainder proceeds of the charitable remainder trust.

d. Policies Concerning Contributions

The general rules described in Part A (concerning contributions to RAF) generally apply to contributions to split-interest arrangements (particularly Section A.2 that gives RAF the authority to reject assets that are hard to sell or carry potential liabilities).

e. Independent Review by Legal Counsel

A Donor is encouraged to consult independent legal counsel concerning contributions to Split-Interest Arrangements including the drafting and review of all documents establishing the split-interest gift.

## APPENDIX A: SCHEDULE OF MINIMUM INITIAL CONTRIBUTIONS AND ADMINISTRATIVE FEES

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FUND TYPE	MINIMUM INITIAL CONTRIBUTION	ADMINISTRATIVE FEES
Geographic Affiliate Endowment Fund	\$25,000	.45%
Donor Advised Fund	\$10,000	<\$500,000 – 1.0% \$500,000-\$1.5M – 0.85% >\$1.5M – 0.60%
Donor Designated Fund	\$25,000	1.0%
Field of Interest Fund	\$25,000	1.0%
Scholarship Fund	\$25,000	1.25%
Nonprofit Endowment Fund	\$25,000	<\$500,000 – 0.8% \$500,000-\$1.5M – 0.65% >\$1.5M – 0.50%