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**ARTICLE III
Section XIII**

Donor Advised Fund Policy

What is a Donor Advised Fund?

A donor advised fund defined under the Internal Revenue Code possesses three characteristics:

- The Fund is separately identified with reference to the contributions of a donor or donors. For example, the Smith Family Fund was established by the Smith family children.
- The Fund is owned and controlled by a sponsoring organization such as the Foundation.
- The donor or persons appointed by the donor expect to have the privilege of providing advice with respect to the fund's investments or distributions.

Minimum Fund Size

In order to establish a donor advised fund, whether endowed or not, a minimum gift of \$5,000 is required. The funds in an endowed donor advised fund are invested and the spendable portion of the earnings and gains on the funds are used to make grants. The remaining earnings and gains are reinvested in a manner intended to allow the endowment funds to grow over time. The spendable amount in an endowed donor advised fund is determined by the Foundation's Spending Policy. The spendable amount in a non-endowed donor advised fund is the entire fund balance. However, in order to ensure the viability of a non-endowed donor advised fund, a minimum \$5,000 balance must be always maintained. If the balance drops below \$5,000, the Foundation staff will communicate with the donor-advisor to ascertain his/her intention to maintain or close the fund. If the fund is to be maintained, it is expected that an additional gift to bring the balance to at least \$5,000 will be soon received. If the fund is to be closed, distributions from the remaining balance will be made as appropriate.

Contributing to a Fund

A contribution to a donor advised fund is an irrevocable charitable contribution that is legally owned by the Midland Area Community Foundation. These funds are institutional funds of the Midland Area Community Foundation—not a personal savings account of the donor—and may only be used for charitable purposes which do not confer any private benefit on the donor or any other person. As long as the Fund meets the minimum balance requirements, contributions to a fund may be made in any amount and at any time. Contributions may be made using cash, publicly traded securities or other property, in accordance with the Foundation's Gift Acceptance Policy. Contributions are subject to acceptance by the Foundation. Contributions should be clearly designated by fund name: "The XYZ Fund of Midland Area Community Foundation." Many donors make contributions using appreciated, publicly traded stock that has been held for longer than a year, to enjoy maximum tax benefits. Contributions of property that may not have immediate liquidity are accepted at the discretion of the Foundation, and subject to completion of our due diligence procedures. Donors considering a gift in

any form other than cash should contact the Foundation to discuss its appropriateness and to obtain delivery instructions.

Variance Power

Some donors advised fund agreements restrict distributions to a specific charitable purpose, such as education or the environment. Others may limit distributions to named organizations. These restrictions may apply from the inception of the fund or may come into effect at the conclusion of the advisory period. Any such restrictions are subject to modification by the Foundation if it determines, in its sole discretion, that the restriction or condition is unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

Fund Advisors

The initial advisors to the fund are those people named in the fund agreement. If provided in the fund agreement, an initial advisor who is an individual may appoint a successor advisor, who must no more than one generation removed from the initial advisor (e.g., a child, spouse, or parent). Initial advisors who are entities, such as corporations or trusts, may appoint advisors based on position, such as president or trustee, and may change the people who occupy those designated positions from time to time.

Recommending a Grant

Donor-advisors may recommend distributions (grants) from the fund to any organization described in Section 170(c)(1) or (2) of the Internal Revenue Code of 1986, as amended (and any successor provision of the Code). These may include any organization described in section 501(c)(3) of the Internal Revenue Code (except private foundations) and most units of government (e.g., public schools, colleges and universities, town and municipal governments, police departments, etc.). These organizations may be located anywhere within the United States of America. Please note: Grants may not be made from a donor advised fund to an individual (this prohibition includes not only checks written to individuals but also situations where the check is written to an entity, such as a school, if the check is for the benefit of an individual).

- a. Grants from donor advised funds must be for a charitable purpose.
- b. Grants may not be made to private, non-operating foundations without taking certain steps to ensure that the funds are being used for their charitable purpose (this is known as exercising expenditure responsibility).
- c. Donors, advisors, and related parties may not receive grants, loans, compensation, or similar payments from donor advised funds.
- d. Donors, advisors, and related parties may not use grants from donor advised funds to fulfill pledges.
- e. Donor-advisors must use the Donor Advised Grant Recommendation Form provided by the Foundation for all grant requests.

The Foundation does not make grants from donor advised funds, even for charitable purposes, to other types of nonprofit organizations (non-charities) or to businesses. Examples of organizations to which the Foundation will not grant include social welfare organizations (501(c)(4)); veterans' organizations;

cemeteries; Chambers of Commerce and similar business associations; fraternities and sororities; social clubs; and fraternal organizations such as Elks and Moose.

The Foundation makes grants to US organizations that carry on their work in other countries. However, the Foundation does not make grants from donor advised funds to non-US organizations or governmental entities.

Recommendations for distributions from donor-advised funds will come to the Foundation's Program Officer for review and recommendation. If requested grant is going to a first-time grantee of the foundation, the Program Officer will present the proposed grant to the President and CEO for final recommendation. The Board of Trustees or Executive Committee will review grantee and dollar amount, but not the donor-advised fund from which the grant would be made. (This assures the advisor that their personal giving patterns are not intended to be public knowledge.) When the distribution request is to a fund within the Midland Area Community Foundation (internal transfer), or to an organization to which the Board of Trustees (or Executive Committee) has approved grants in the past, the staff has the authority to act affirmatively on these requests, after performing appropriate due diligence. The staff will report such actions at the next meeting of the Board of Trustees (or Executive Committee), and this report will be included in the minutes of the meeting. Note that while the Foundation would expect to follow the recommendations of donor advisors, it reserves the right to accept or reject them.

From time to time the Foundation may bring to the advisor's attention grant making opportunities in which the advisor may have an interest. The advisor is not obligated to recommend a grant for the identified program. Donors shall be furnished with a quarterly newsletter that includes a list of the unmet charitable needs of the community as determined by the Foundation from time to time.

Grant Restrictions

The Internal Revenue Code prohibits grants to individuals from donor advised funds. Also prohibited are grants for political contributions or to support political campaigns. Grants may not result in benefits, goods, or services to the donor, the fund advisor, members of their families, and businesses they control. Failure to observe this restriction can subject the fund advisor to tax penalties. Benefits include the payment of pledges, event tickets, meals, sponsorships, registration fees, discounted merchandise, preferred parking and/or seating, and memberships unless the membership confers nothing of value. Please contact the Foundation if you have specific questions about whether a grant you are considering recommending will result in a prohibited benefit.

Payments from a Donor Advised Fund

Expense reimbursements, loans, compensation, and other similar payments are not permitted from a donor advised fund to a donor, fund advisor, or related party.

Grant Acknowledgment

Unless other arrangements have been made (e.g., anonymity requested), the grant letter will indicate that the contribution is from "The XYZ Fund of Midland Area Community Foundation," and that it has been given upon the recommendation of the named advisor. The recipient organization is encouraged to acknowledge the gift to the advisor and to the Foundation. Additional language confirms that no benefits have been offered or provided to the Foundation or the advisor in exchange for the accompanying grant. If the recipient organization publishes a news release or a list of donors, it is

asked to indicate the contribution as a grant from “The XYZ Fund of Midland Area Community Foundation.”

Fundraising

Donors sometimes want to raise money to add to their advised funds. The Foundation has adopted a policy on donor-initiated fundraising. Fundraising, if permitted, must strictly adhere to the guidelines in the policy and to any additional restrictions imposed as a condition of the Foundation’s consent.

Investments

The Foundation has the sole responsibility and authority for the investment of the assets of each Donor Advised Fund. Decisions with respect to the retention, investment, or reinvestment of assets and with respect to commingling of assets shall be made by the Foundation’s Investment Committee in accordance with the investment policies adopted by the Board of Trustees. Donor Advised Funds are customarily invested and commingled with assets of other funds of the Foundation.

The Foundation’s long-term investment objective is to preserve the real value of its permanent funds. This means that the Foundation seeks a total rate of return that supports the Foundation’s grantmaking, expenses, investment fees, and inflation. The Foundation will normally measure whether it has achieved that objective over a rolling five-year period.

The Foundation appoints an investment consultant and investment managers from time to time to carry out some of its investment management responsibilities with respect to its invested asset pool.

Fees and Minimums

The Foundation assesses fees, including investment management fees, against all its funds to cover the cost of administration and to continue the Foundation’s important work in our community. Fees provide the necessary resources to operate efficiently and effectively, ensuring fiscal responsibility in grant due diligence, donor and nonprofit education, research, and other activities. The Foundation’s current administrative fee schedule for donor advised funds is:

Less than \$1 Million:	1.5% Annual Fee
\$1 Million - \$2 Million:	10 bps reduction in fee (.10)
\$2 Million - \$3 Million:	20 bps reduction in fee (.20)
Over \$3 Million:	30 bps reduction in fee (.30)

Acceptable Types of Fund Activity

A fund is considered active when there is regular communication between a donor (or named successors) and Midland Area Community Foundation 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**):

- **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.
- **Developing a Philanthropic Program.** Donor advisor makes a substantial contribution to donor advised fund, for example, upon the sale of his or her business, and refrains from recommending grants for a given initial period while the fund advisor consults with the

- sponsoring charity and/or does his or her own research to determine what types of grants will best meet community needs and/or her philanthropic goals.
- Long-term Giving Plan. Donor advisor deliberately reduces the frequency or size of grant recommendations from fund, for example:
 1. During his or her working years with the intention of increasing the donor advised fund balance to support grantmaking during his or her retirement, when the advisor expects his or her income to change.
 2. A donor may want 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).
 - Project Grants. Donor advisor makes a substantial contribution to a donor advised fund and determines to recommend grants to a specific qualified charitable organization over a period of 20 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.
 - Starter Fund: Donor advised funds may need time 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 donor advised fund file.
 - Specific Occasion Grant. A donor advisor refrains from recommending grants for several years with the specific charitable goal of recommending a grant upon a specific occasion. Examples may include:
 1. Donor is incapacitated with no successor advisor(s) named so the community foundation waits until the donor's death to distribute the fund according to the donor's original intent.
 2. 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).
 3. Founders of fund who are also the donor advisors are getting divorced so that grants are suspended until both the husband and wife 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.
 4. Grants are suspended during litigation involving a fund (e.g., the donor has left his/her estate to a fund, but the donor's children are disputing the bequest, so the community foundation does not allow grants until the litigation is resolved).
 5. Donors leave 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.

Activating Funds

If a fund is established specifically with the intent of acceptable inactivity (according to the guidelines listed above) for a period that exceeds your foundation's agreed upon minimum period of time, an addendum should be included in the original fund agreement with an explanation as to why that is the case.

Should grant activity stop for more than a 2-year period, steps will be taken by the staff or the board to activate that fund. These steps may include such activities as:

- Notifying the fund advisor regularly and periodically (for example, three times over a period of 2 years) to encourage the fund advisor to activate the fund.

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- Distributing grants from the fund to qualified grant recipients that align with donor intent, but if the community foundation determines such intent is obsolete, incapable of being fulfilled, impractical, or inconsistent with the community’s charitable needs, then exercise of the Midland Area Community Foundation’s overriding variance power to enable the community foundation 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.
- Closing of a “starter” fund if the “starter fund” balance does not reach the Foundation’s required minimum amount within a stated period, and, for example but not limited to, re-allocating of the fund proceeds to the Midland Area Community Foundation’s unrestricted fund or issuing the balance as a charitable grant to a qualified recipient.

Termination

Unless otherwise specified in the fund agreement, upon the death, resignation or incapacity of the last advisor to the fund, or if the fund is determined to be inactive, the assets of the fund will become a part of the Foundation's Community Investment endowment fund.