



# Community Fund Management Foundation

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## ATTORNEY'S REFERENCE AND INSTRUCTIONS FOR COMPLETING MASTER TRUST JOINDER AGREEMENTS

### **Quick Checklist: Master Trust**

- Completed original Joinder Agreement and Application for Admission as Grantor
- W-9 for Beneficiary
- W-9 for each Grantor
- Two Forms of Proof of Identity/Address for each Grantor
- Check made payable to "Equity Trust, Trustee fbo [Beneficiary's Name]" for CFMF Setup Fee and Trust Funding
- Optional: A separate check for the CFMF Setup Fee
- Court order, trust agreement, last will and testament and letters of administration, or power of attorney document if a court, trustee of another trust, executor, or agent is establishing the Trust

### **Acceptable Forms of Proof of Identity/Address**

A Master Trust Joinder Agreement must be accompanied by two (2) forms of proof of identity or address for each Grantor. CFMF recommends submitting a copy of the Social Security card or other government-issued documentation that includes the Social Security Number to avoid errors. A copy of the following will be accepted as proof of identity/address:

Driver License	Credit Card Statement
Passport	Billing Statement from Nursing Home
State ID	Medicare Card
Birth Certificate	Medicaid Card
Social Security Card	Social Security Award Letter
Letters of Guardianship	Statement from Residential Provider
Utility Statement	

CFMF and our Trustee will also accept a signed statement from the attorney of record confirming the attorney knows the Grantor and the Grantor is a U.S. Citizen, an Ohio Resident, and resides at the address identified on the Joinder Application as one proof of identity/address for the Grantor.

## **Instructions for Completing Joinder Agreement**

All sections of the Joinder Agreement must be completed before the Trust Advisor and Trustee will review and accept the Joinder Agreement. Incomplete Joinder Applications may be returned to the attorney of record via regular U.S. mail.

### **1. Agreement Number – Item 1**

Please leave this line and the lines at the top of each subsequent page blank. CFMF, as Trust Advisor, will assign an Agreement Number upon our approval of the Joinder Application and enter this data.

### **2. Trustee – Item 2**

Please confirm you are using a Joinder Agreement that names "Equity Trust Company of Westlake, Ohio" as Trustee effective 06/2017. CFMF will not accept Joinder Applications submitted on outdated forms.

### **3. Trust Advisor – Item 3**

Community Fund Management Foundation (CFMF) is the Trust Advisor. No action is needed.

### **4. Name of Grantor(s) – Item 4**

Anyone other than the Beneficiary can serve as the grantor. If the person signing the Joinder Agreement is a fiduciary, CFMF requires a copy of the trust agreement, last will and testament, or court order. CFMF will also accept a Joinder Agreement signed by an agent under a valid power of attorney if the power of attorney document grants the agent the express authority to establish (not just fund) a trust, subject to changes in Ohio law. If an agent is establishing the Sub-Trust, Item 4 should state the Beneficiary/Principal's information. All initials and signatures should be made by the agent on behalf of the Beneficiary and the signatures should clearly indicate the person is signing as an agent.

### **5. Beneficiary Information – Item 5**

The Beneficiary is the person with a disability for whom the Sub-Trust is being established; in other words, the individual with a disability who benefits from the Trust. Please indicate the Beneficiary's disability. CFMF does not independently verify this information; it is the responsibility of the person establishing the trust, usually with advice of counsel, to follow federal and state law regarding what constitutes a disability and defending any determination that the Beneficiary is not a person with a disability. See 42 U.S.C. 1382c.

### **6. Designated Advocate – Item 6**

The Designated Advocate and Successor Designated Advocate(s) may be a relative, friend, organization, or the Beneficiary if he/she is competent. CFMF strongly recommends that several successor Designated Advocates be named to avoid a situation where there is no person or entity serving.

## **7. Fees – Item 7**

Please visit our website or call our Administrative Office to confirm the fee schedule in place at the time of establishment.

## **8. Distributions to the Beneficiary – Item 8**

CFMF as Trust Advisor shall direct the Trustee to distribute income and/or principal to benefit the Beneficiary.

## **9. Distributions Upon Death of Beneficiary – Item 9**

The Grantor(s) may elect to allow payment for the Beneficiary's funeral expenses and attorney fees at the Beneficiary's death before distributing the remainder to named distributees. For example, if the Grantor agreed to pay for the Beneficiary's funeral expenses but not the Beneficiary's Administrative expenses at death, the Grantor should initial the line next to "Beneficiary's Funeral and Interment Expenses" but leave the line next to "Attorney Fees and Expenses for Administration of Deceased Beneficiary's Estate" blank.

The Grantor(s) should identify the individuals or entities who should receive the balance remaining at the Beneficiary's death along with the percentage to each. Counsel for the Grantor(s) may attach additional pages or instructions if needed. In the alternative, CFMF maintains partnerships with specific nonprofits and a separate Joinder Agreement is available to name one of our partners as the remainder distributee. Please visit our forms page or call our Administrative Office for more information.

## **10. Revocability of Trust – Item 10**

The Grantor(s) may elect for the Trust to be revocable or irrevocable. All Master Trusts become irrevocable at the death of the last Grantor.

## **11. Property Transferred to Trustee – Item 11**

CFMF accepts check deposits. We do not accept title to real property or in-kind transfers at the present time. Please contact the Executive Director to discuss CFMF's policy if your client wishes to transfer non-cash assets to the trust.

## **12. Grantors' Application – Item 12**

All Joinder Applications must be accompanied by two forms of identity/address for both the Grantor(s) and Beneficiary as stated on page 1 of these instructions.

All trusts are invested. As such, there is the possibility of gains and the risk of loss. The Investment Policy may be requested from the CFMF's Administrative Office.

CFMF makes every effort to be aware of rules and policies governing special needs trusts and government benefits. CFMF and the Trustee do not, however, guarantee the receipt or continuation of benefits.

**13. Grantors' Certification – Item 13**

This section must be signed and dated by the Grantor(s).

**14. Witness or Notary Declaration – Item 14**

Each Joinder Application must be either witnessed by two eligible witnesses or notarized. The date identified in Item 14 must be consistent with the dates written under Item 12.

**15. Attorney's Declaration – Item 15**

This section must be completed and signed by the attorney of record for the Grantor(s). CFMF will send confirmation when the sub-trust has been accepted to the attorney identified in Item 15.

By signing this section, the licensed attorney is verifying the beneficiary is a person with a disability as defined in 42 USC 1382c(a)(3) and that a CFMF Trust is appropriate for the beneficiary. The attorney is also verifying that the person establishing the trust has the authority to do so and the correct joinder agreement was completed.

The attorney of record should discuss with his or her client who will be responsible for notifying government agencies of the existence of the trust. CFMF does not notify any agency that the trust has been established. CFMF strongly suggests that any notice be in writing via tracked mail. CFMF also recommends that a copy of the notice and proof of delivery be provided to CFMF for retention in our files should any agency request proof of disclosure in the future. The proof of prior disclosure is often a key piece of evidence should an agency question the establishment or funding of a trust.

**16. Trust Advisor's Approval – Item 16**

This section will be completed by CFMF upon successful acceptance of the Joinder Agreement.

**17. Trustee's Approval – Item 17**

This section will be completed by the Trustee upon successful acceptance of the Joinder Agreement.

**18. Asset Transfer and Beneficiary Designation Record – Item 1**

Please identify how the sub-trust will be funded. If the trust is being funded with periodic payments, life insurance, pension plan, please provide a copy of the contract or policy. It is also helpful to provide CFMF with the financial advisor or broker's name to help facilitate the receipt of assets at the Grantor's death.

**19. Asset Transfer and Beneficiary Designation Record – Item 2**

This section asks for each check number and amount to be identified. It also requires the signature of the person establishing the trust, a representative (such as the attorney of record or agent), or other transferor.

### **20. Asset Transfer and Beneficiary Designation Record – Item 3**

Please identify if a second check for the CFMF setup fee has been submitted. If “no” is checked, then CFMF will deduct its setup fee from the initial deposit.

#### **Frequently Asked Questions**

CFMF does not provide legal advice, but our experience allows us to suggest answers to the following questions:

#### **Q: Who should serve as Designated Advocate?**

A: This answer is specific to the Beneficiary and his/her situation. The Designated Advocate has a significant role as he/she: completes and submits distribution requests and the beneficiary resource record; receives monthly or quarterly trust statements as well as tax documents; is the only person who can request specific information regarding the Sub-Trust from CFMF; and acts as the beneficiary surrogate. The Designated Advocate is also often called upon to help CFMF wrap up the Trust at the Beneficiary's death by providing a death certificate or other information.

Ideally, the Designated Advocate should be someone who knows the Beneficiary and is familiar with his/her disability and the benefits received. The Designated Advocate should be trustworthy and able to follow-through with the responsibilities of being a Designated Advocate. It is not necessary for the Designated Advocate to be an Ohio resident so long as he/she can fulfill the duties of a Designated Advocate.

#### **Q: Will CFMF waive the requirement for an attorney to sign the Joinder Agreement?**

A: No.

#### **Q: I am an attorney and I am unsure if the Joinder Application will be accepted. Will you review the packet in advance?**

A: Yes. Please fax or mail a copy of the entire packet to CFMF's Administrative Office and we will gladly review it in advance and provide you with a provisional acceptance (subject to CFMF's receipt of the original packet by 9:30 a.m. on the last business day of the month) or a list of items that need to be addressed. We advise against emailing the packet to CFMF unless it is redacted or submitted by secure email due to the confidential nature of the documents.

#### **Q: Will CFMF accept a Joinder Application by email or fax?**

A: No. CFMF only accepts original Joinder Applications sent to CFMF's Administrative Office. We suggest utilizing FedEx or UPS if sending via overnight mail as the United States Postal Service may not deliver overnight or express mail packages directly to our suite, which can lead to delivery delays.

**Q: May I submit a Distribution Request with the Joinder Application or do I need to tell the Designated Advocate to wait?**

A: CFMF is happy to process a distribution request as soon as the Sub-Trust is established and the Trust is distributable. It is not necessary to wait until you have confirmation the Sub-Trust was accepted. Please remember, however, to also include the beneficiary resource record as any distribution request submitted without a current beneficiary resource record will not be processed.

**Q: Will you attend a meeting with my client and me to discuss the trusts offered by CFMF?**

A: Absolutely. Please contact the CFMF office closest to you or contact our Administrative Office, and our Executive Director or one of our Associate Directors will schedule an appointment to meet with you and your client by phone or in-person at the location of your choosing.

**Q: Does CFMF notify government agencies of the establishment of the trust?**

A: No. CFMF will, however, provide information at the Designated Advocate's request for redeterminations or agency inquiries.

**Q: I am the attorney identified in Item 15, but CFMF will not release information to me.**

A: Once the trust is established, CFMF will only provide information to the grantor (if a master trust) or the Designated Advocate (if it is a funded master trust). The grantor or Designated Advocate may send written consent to CFMF allowing CFMF to disclose information to the attorney or other third-party. CFMF will provide an authorization form upon request. CFMF will also accept a written authorization not submitted on our form if it meets our criteria. CFMF will provide limited information to a beneficiary or the beneficiary's guardian or power of attorney unless otherwise instructed by the designated advocate or the beneficiary's guardian. This information may include the balance in the trust and the name and contact information for the designated advocate.

**Q: Should I send correspondence directly to the Trustee?**

A: No. All communication should be directed to CFMF's Administrative Office.

**Q: My client has been notified that the Trust is a countable resource. What should he/she do?**

A: The first item is to identify due dates and submit the necessary documents to preserve the appeal. You or your client should then contact CFMF's Executive Director to discuss how to proceed and be prepared to fax every page of the notice to CFMF. CFMF may offer to direct the case to our outside counsel at no charge to your client if the Trust is the reason for the denial or termination of benefits, and not due to another reason (failure to comply, fraud, countable resources outside of trust, etc.). If you elect to represent your client, we ask that you notify CFMF of the issue as we may be able to offer assistance. CFMF's Trusts are on file with the Social Security Administration's trust precedents file. We want to help ensure that positive local precedents are set as well.