

Statement of Policies and Procedures of the Evangelical Free Church of America Foundation

Introduction

The Evangelical Free Church of America (“EFCA”) has established an internal program for managing certain outright and deferred gifts to the EFCA. It is referred to as the “EFCA Foundation” (“Foundation”). It was established to meet certain objectives relating to long-term financial planning by the EFCA and its Donors. All assets of the Foundation are owned by and under the exclusive legal control of the EFCA. The Foundation and its assets do not constitute a trust, trust funds, or an entity or entities otherwise separate from the EFCA.

1. *Mission Statement.* The Foundation is an internal program of the EFCA for managing funds of the EFCA set aside, by action of the EFCA or at the request of Donors, for the long-term support of the EFCA, its related entities and ministries, or other charities whose activities directly further the EFCA’s ministries. The Foundation provides professional stewardship services in the areas of charitable gift planning, charitable trust management and gift distribution for the EFCA and its Donors.
2. *Foundation Assets.* The Foundation assets exist and are structured according to the gifts received by the Foundation. See the EFCA Gift Policy for more information on different giving opportunities (i.e. annuities, trusts, pooled income funds, donor-advised funds, etc.), and how these opportunities translate into Foundation Assets. See the EFCA Investment Policy for more information on how Foundation Assets are invested.

Foundation assets will be used primarily to support the EFCA and its related, affiliated or supported Christian ministries, programs and charities. Donors will be encouraged to make gifts to the Foundation for those purposes. However, the Foundation also expands giving options for Donors committed to the EFCA by utilizing some donated funds for the broader Christian and charitable community in ways which directly further EFCA’s ministries. In accomplishing this, the Foundation will follow all rules regarding charitable gifts as set forth in the Internal Revenue Code of 1986, as amended (“the Code”), and its regulations. Among these rules are the requirements that gifts to the EFCA:

- * become the sole property of the EFCA;

- * are subject to the exclusive legal authority and control of the EFCA as to use and distribution;
- * may not be subjected by the Donor to a "material restriction or condition" as defined in the tax laws.

All gifts to the EFCA and its Foundation are contributed subject to these requirements and are accepted by the Board of Directors of the EFCA subject to these requirements and the terms of this Statement of Policies and Procedures, the EFCA Gift Policy, and the EFCA Investment Policy (collectively "EFCA's Gift Policy Documents").

3. Creation of and Contributions to Funds.

3.1 Creation and Naming of Fund. A Donor or group of Donors may establish a specific gift fund ("Fund") with the Foundation by completing a Fund Agreement. The Donor may select a name for the Fund, subject to the Foundation's approval, or ask the Foundation to name it. A Fund is officially active as a part of the EFCA when the Fund Agreement is signed by the Donor and EFCA and assets are transferred to the Fund, either during the Donor's life or following his or her death.

3.2 Fund Purposes. The Donor may state the purpose of the Fund by choosing to:

- * designate certain EFCA programs or ministries, or describe areas of ministry, as recipients of distributions from the Fund; or
- * periodically recommend distribution to certain charitable recipients or ministries or programs of the EFCA, subject to future changes in recommendation and EFCA's approval/selection of recipients; or
- * designate the EFCA as recipient of the gift or of distributions from a Fund, without limitation; or
- * designate a Christian organization outside the EFCA as long as the mission and values of the organization directly further the purposes of the EFCA; or
- * select more than one of the above options; or
- * make no recommendation or designation.

3.3 Non-Cash Contributions. Donations of non-cash gifts, such as securities, real property, insurance policies, etc., typically require more documentation and physical delivery of the property or title, including:

3.3.1 A completed property donation form provided by the EFCA;

3.3.2 Documented evidence of fair market value, including a qualified appraisal where required by IRS Regulations;

3.3.3 Documented transfer of ownership, including conveyance of title to the EFCA;

3.3.4 Actual transfer of possession to the EFCA in the case of tangible property;

- 3.3.5 Disclosure and documentation of all encumbrances on the property, in addition to any other liabilities, contractual obligations, or lease agreements to which the property is subject; and
 - 3.3.6 A professionally prepared environmental assessment for real property before acceptance by the EFCA as a gift or in trust. This requirement may be waived by action of the EFCA (see EFCA Gift Policy for more details).
 - 3.3.7 EFCA shall not accept any donation to a Donor Advised Fund, as defined in Section 4.2.2 below, which would constitute an excess business holding of that Donor Advised Fund within the meaning of Section 4943(e) of the Code. Exhibit A summarizes the excess business holdings prohibition for Donor Advised Funds.
- 3.4 Prohibition on Significant Restrictions. The Donor may not prevent the EFCA from furthering or carrying out the exempt purposes of the EFCA by imposing any material restriction or condition, including, but not limited to:
- 3.4.1 The Donor's reservation of a right to control or direct distributions from a particular Fund;
 - 3.4.2 A requirement that EFCA assume leases or other liabilities, or accept assets subject to such, for purposes inconsistent with the purposes or best interest of the EFCA;
 - 3.4.3 The requirement that assets be retained;
 - 3.4.4 An agreement granting an option to purchase or a right of first refusal to the Donor or other person with the respect to gift assets;
 - 3.4.5 An agreement requiring the EFCA to establish irrevocable relationships with banks, brokers or other advisors in regard to the maintenance and management of assets; and
 - 3.4.6 Any other conditions that prevent the EFCA from exercising exclusive legal control over the use of gift assets to further its exempt purposes.
4. Distributions from Funds.
- 4.1 Limitations on Distributions.
 - 4.1.1 Within Scope of Exempt Purpose. All distributions from Funds of the Foundation must be made within the scope of the EFCA's exempt purpose as provided in EFCA's Gift Policy Documents. The EFCA interprets its exempt purpose to allow distributions to support a limited variety of legitimate charitable, scientific, literary, and educational causes which are not overtly Christian in nature but which directly further EFCA's purposes. Distributions will not be made to support causes which the EFCA deems to be antithetical to the mainstream of historical Christian faith.

- 4.1.2 Establishing Guidelines. In order to make distributions from Funds which are in furtherance of its exempt purposes, the EFCA shall establish and revise annually (or more often as needed) a statement of priority guidelines which specifies the needs and/or causes which directly further one or more of its exempt purposes. This statement of priority guidelines is based on investigation and recommendation by its staff, officers, Board of Directors, Donors and other sources. The EFCA will make this statement available to Donors to assist them in making designations and recommendations with respect to Funds.
- 4.1.3 Minimum Gift to EFCA. At least 20% of the aggregate value of annual distributions of any Fund must be devoted to the EFCA and EFCA-affiliated charities.
- 4.2 Donor's Role in Distributions from Funds. Subject to Sections 4.3 and 4.4 below:
- 4.2.1 Donor Designation of Charitable Recipients. A Donor may, upon the creation of a Fund, choose to designate that distributions from that Donor's Fund be distributed to specific charitable organizations, or for specific purposes, at a certain time or times. This method of selecting recipients of Fund distributions does not leave any discretion with a Donor to redirect a gift after it has been contributed to the Foundation. The designation of such recipients may be made within the Fund Agreement or in writing accompanying the transfer of a gift to the Foundation. Each designated recipient must be a Section 501(c)(3) exempt organization that is not a private foundation, and such recipient's charitable activity must directly further the EFCA's exempt purpose.
- 4.2.2 Donor Recommendation of Charitable Recipients – Donor Advised Funds. If a Donor does not designate specific recipients of gifts the Donor contributes to the Foundation to establish or add to a Fund, then the Donor may, upon creation of the Fund, reserve the right to make periodic written recommendations as to recipients, purposes, timing and amounts of distributions. Such Funds are known as Donor Advised Funds. If the Donors of a Donor Advised Fund are a married couple, they must make recommendations jointly unless they specify otherwise. The Donor(s) of a Donor Advised Fund may also name a third party (a "Successor Advisor") to make recommendations in the event of the death or incapacity of the Donor(s). Upon the death of the last survivor of all Donors and Successor Advisors, the balance of such a Fund will be added to the unrestricted Funds of the EFCA.
- 4.2.3 Donor Advised Funds – Permissible Distributions. The EFCA shall make distributions from Donor Advised Funds according to the rules provided in this Section 4.2.3 and subject to the general limitations set forth in this Statement of Policies and Procedures.
- 4.2.3.1 Permitted Distributions. Subject to the limitations established by Section 4.2.3.2, EFCA may make distributions from a Donor Advised Fund to organizations described in Sections 170(b)(1)(A) and 501(c)(3) of the Code. Distributions may not be made from a Donor Advised Fund to individuals or to organizations not described in Section 170(b)(1)(A) and 501(c)(3).

4.2.3.2 *Limitations.* Notwithstanding Section 4.2.3.1, EFCA shall not make any of the following distributions from a Donor Advised Fund except as provided in Section 4.2.3.4:

- i. A distribution to a supporting organization described in Section 509(a)(3) of the Code.
- ii. A distribution which results in more than an incidental benefit to a Disqualified Person.
- iii. A distribution which constitutes a grant, loan, payment of compensation or similar payment to a Disqualified Person.

4.2.3.3 *Disqualified Person.* For purposes of this Section 4.2.3, the term “Disqualified Person” means the following with respect to a Donor Advised Fund:

- i. Any Donor;
- ii. Any Successor Advisor;
- iii. A member of the family an individual described in clause (i) or (ii); and
- iv. An entity in which persons described in clause (i) (ii) or (iii) own greater than 35 percent of the voting power if a corporation, profits interest if a partnership or beneficial interests if a trust or estate.

4.2.3.4 *Exceptions.* Notwithstanding the provisions of Section 4.2.3.2, EFCA may make a distribution from a Donor Advised Fund which would otherwise be prohibited by that Section if, prior to making such distribution, EFCA has consulted with its legal counsel and has determined that such distribution complies with applicable federal and state law.

4.2.4 *Foundation's Role in Distributions from Donor Advised Funds.* EFCA will review all recommendations regarding distributions from Donor Advised Funds and will decide whether to make distributions pursuant to such recommendations only after investigation and approval by EFCA’s staff as described in this Section 4.2.4. The EFCA staff will investigate all recommendations for distributions from Donor Advised Funds. Normally, such investigation will consist of the following:

4.2.4.1 Determine that the distribution is permissible under Section 4.3.3 above and other applicable provisions of this Statement of Policies and Procedures.

4.2.4.2 Evaluate whether the proposed distribution will directly further the exempt purposes of the EFCA and is permitted by applicable state and federal law.

4.3 *Foundation’s Discretion Regarding Designations and Recommendations.* The EFCA Board of Directors shall have the power to modify or disregard any restriction or condition on any Fund if the EFCA Board of Directors, in its sole discretion and without the need for approval of any person, determines that such restriction or condition has become obsolete or impractical or no longer directly furthers the exempt purposes or best interests

of EFCA. EFCA shall have the power, for any reason whatsoever, to modify or disregard any recommendation regarding a proposed distribution from any Donor Advised Fund.

5. Minimum Amounts.

5.1 Contributions. The minimum initial contribution to a Fund is \$5,000, and the minimum additional contribution to a Fund is \$1,000. In the case of illiquid donations, EFCA may require that they be accompanied by a cash gift of at least 10% of their appraisal value.

5.2 Distributions. The minimum distribution from a Fund at one time to any single charity is \$250. Distributions can occur as often as monthly and must occur at least annually. The minimum aggregate annual distribution shall be 5% of the total value of the Fund. The total value of a Fund for purposes of computing this minimum distribution shall equal the net fair market value of that Fund's assets as of the inception date of the Fund, in the case of its first year, and the first business day of January each year thereafter until the termination of the Fund. The end of each year for purposes of measuring whether a minimum annual distribution has occurred shall be December 31st. In any year EFCA may, in its sole discretion, make an aggregate distribution from a Fund in excess of the minimum annual distribution for that Fund.

5.3 Minimum Total Value. The minimum total value for a Fund is \$5,000, and the Foundation may, but is not required to, close any Fund that falls below this minimum. This policy regarding minimum total value shall not apply in the case of a Fund established to receive a distribution under a committed deferred or split interest gift arrangement. Also, if the total value of a Fund falls below \$5,000 it is considered to be a non-invested Fund and any interest received is added to the General Fund of the EFCA Foundation.

5.4 Exceptions. These minimum amounts may be adjusted in individual cases only by decision of the EFCA Gift Acceptance Committee (see EFCA Gift Policy for more details on the EFCA Gift Acceptance Committee).

6. Investment of Funds.

6.1 Investment Policy. The EFCA and Foundation will invest Fund assets in conformity with its separately promulgated Investment Policy. Fund assets will be commingled with other EFCA assets for investment.

6.2 Donor Advised Funds – Excess Business Holdings. Donors to Donor Advised Funds may recommend one of four asset allocation strategies for the Donor Advised Fund, but EFCA shall have exclusive authority to select an asset allocation strategy for each Fund. EFCA shall not invest any portion of a Donor Advised Fund in assets which would constitute excess business holdings of that Fund within the meaning of Section 4943(e) of the Code. Exhibit A summarizes the excess business holdings prohibition for Donor Advised Funds.

7. Administrative Fees and Expenses.

7.1 Administrative Fees. The EFCA is able to operate as a publicly supported charity by covering its cost of operations through unrestricted gifts and the assessment of fees against Funds subject to restrictions. Administrative Fees are set forth on the Administrative Fee Schedule, which may be adjusted from time to time. See the EFCA Gift Policy for more information on fees.

7.2 *Additional Expenses.* The costs of holding, maintaining, investing, protecting, defending or otherwise providing for assets of a Fund, which are separate from administrative fees assessed by the Foundation, shall be charged directly to that Fund. Such costs include but are not limited to real estate taxes, closing fees, attorney fees, and investment manager fees.

8. *General Provisions.*

8.1 *Reporting.* The Foundation intends to report to certain Donors on the status of Funds to which they have made gifts. This is not an obligation of the Foundation, but an informational courtesy extended to certain Donors. The Foundation's current practice is to issue quarterly reports on investment and distribution activity to Donors who establish Donor Advised Funds and/or charitable remainder trusts. Such level of reporting is subject to change by the Board of Directors.

8.2 *Provision for Governing Law.* These Policies and Procedures and the Fund Agreements executed by Donors shall be governed by Minnesota law. All Gift Fund Agreements are deemed to be entered into in the State of Minnesota, and all Funds are intended to be administered and managed in the State of Minnesota.

8.3 *Construction of Terms.* The following terms, as used in these Policies and Procedures and in Fund Agreements, shall have the following meaning. (a) References to the "Donor" shall be deemed to include the plural if there are two or more Donors with respect to a particular Fund, and acts by more than one Donor must be taken jointly in writing signed by all such joint Donors unless otherwise explicitly provided herein; provided that Funds established by a husband and wife may be acted upon by only one of them without the consent of the other being required; (b) References to the Internal Revenue Code shall be deemed to include the corresponding provisions of any future United States Internal Revenue Law; (c) Captions are for convenience of reference only and shall not be construed as part of these Policies and Procedures or of the Fund Agreements.

8.4 *Severability.* The provisions of these Policies and Procedures and Fund Agreements shall be severable, and any provision found to be invalid shall not invalidate the remainder.

8.5 *Procedure for Amendment.* Amendments to these Policies and Procedures may be made in writing by the EFCA from time to time.

8.6 *Integration of the Whole Agreement.* These Policies and Procedures, together with the other EFCA Gift Policy Documents and the applicable Fund Agreement, shall constitute the entire agreement between a Donor and the Foundation.

8.7 *Other Restrictions.*

8.7.1 *Exempt Purposes.* No distribution shall be approved or made unless it directly furthers one or more of the exempt purposes of the EFCA and is consistent with the Governing Instruments of the EFCA and applicable state and federal law.

8.7.2 *No Private Benefit to Donor.* Except in the case of charitable remainder trusts and other split interest charitable gifts, EFCA shall make no distribution which inures directly or indirectly to the benefit of any private individual or which

violates any prohibition on distributions established by these Policies and Procedures or applicable state and federal law.

8.7.3 *No Discrimination in Grants or Distributions.* No distribution shall be approved or made in a manner that discriminates in violation of federal or applicable state law.

EXHIBIT A
EXCESS BUSINESS HOLDINGS
DONOR ADVISED FUNDS

1. General Rule

The general rule against excess business holdings limits the aggregate amount of interests in a business which a Donor Advised Fund and all of its “disqualified persons” together can own. Under this rule the Donor Advised Fund can own no more than:

- (i) 20 percent of the voting stock (in the case of a corporation) or 20 percent of the profits interest (in the case of a partnership or limited liability company) or 20 percent of beneficial interest (in the case of a trust or similar entity); minus:
- (ii) The percentage of voting stock, profits interest or beneficial interest, as the case may be, owned in the aggregate by all disqualified persons.

2. Disqualified Persons

The disqualified persons with respect to a Donor Advised Fund are the following:

- (i) The donors
- (ii) All advisors appointed by the donors to the Donor Advised Fund
- (iii) Members of the family of individuals described in (i) or (ii)
- (iv) An entity in which individuals described in (i), (ii) and (iii) own, collectively more than 35 percent of the voting power in the case of a corporation, more than 35 percent of the profits interest in the case of a partnership or similar entity, or more than 35 percent of the beneficial interest in the case of a trust or estate.

3. Exceptions

If a transfer to a Donor Advised Fund would cause it to have excess business holdings under the general rule stated above but either of the two following conditions is present, EFCA will consult with its legal counsel to determine whether an exception to the general rule applies.

- (i) The Donor Advised Fund and all disqualified persons, in the aggregate, will own no more than 35 percent of the voting stock or profits interest, as the case may be.
- (ii) The Donor Advised Fund will own no more than two percent of the voting stock or profits interest as the case may be, and no more than 2 percent in value of all outstanding shares of stock or all unincorporated business interests, as the case may be.