

CAF CHARITABLE TRUST

Terms and conditions

Definitions

The definitions set out in the Schedule (pages 5-6) to these Terms and conditions apply to all references to the terms defined in the Schedule where they appear in these Terms and conditions and throughout the Guide.

Terms and conditions

1 Nature of a CAF Charitable Trust

1.1 All Funds donated by a Donor to a CAF Charitable Trust constitute an irrevocable and outright gift by the Donor to CAF of all right, title and interest in such Funds. CAF agrees to hold such Funds together with any Income and to apply them solely for Charitable Purposes and to provide such information to the Donor about the Funds and Income as is provided for in this Agreement. CAF further agrees that it will make the Forms available to the Donor so that they may notify CAF of their wishes in respect of the investment of the Funds and/or the distribution of the Funds and Income for Charitable Purposes. CAF will subject to the terms of this Agreement and in particular to clause 2 below, endeavour to act in accordance with the Donor's wishes as set out in the Forms.

1.2 For the avoidance of doubt:

- 1.2.1 once a donation has been made to a CAF Charitable Trust, such donation cannot be repaid to the Donor; and
- 1.2.2 at no time will the Donor (nor any Connected Person) be able to derive any benefit from the Funds or Income in the CAF Charitable Trust.

2 CAF's general authority

2.1 When distributing or investing the Funds or Income, CAF will, subject to the terms of this Agreement (and in particular clauses 3 and 6) and to CAF's procedures, policies and applicable law and regulation from time to time, take into account the Donor's wishes as set out in the Forms. However, and notwithstanding any other terms of the Agreement, CAF shall at all times have final discretion as to whether or when to distribute or invest Funds and/or Income in pursuance of CAF's Charitable Purposes. To this end, CAF may make such enquiries as it deems necessary to ensure that such Funds are applied for Charitable Purposes, and shall not make any distribution until it is satisfied that the outcome of such enquiries satisfies its Charitable Purposes.

3 CAF's authority to distribute funds

3.1 Without prejudice to the more general provisions of clause 2, CAF may, in the following circumstances, distribute Funds and any Income from a CAF Charitable Trust for Charitable Purposes without seeking or having regard to the Donor's wish, request or purported instruction:

- 3.1.1 where no valid Letter of Wishes or valid Giving Request for all Funds or Income in their CAF Charitable Trust is held by CAF and;

- 3.1.1.1 Funds or Income are held in the CAF Charitable Trust but have not been distributed from the CAF Charitable Trust for a period of at least six years (provided that this is not solely due to any act or omission of CAF). Deduction of fees, costs, contributions or expenses shall not be considered a distribution from the CAF Charitable Trust for these purposes;
- 3.1.1.2 the Donor has indicated that it does not wish to or cannot complete any of the Forms or otherwise make a request or express a wish on how the Funds and Income should be distributed; or
- 3.1.1.3 in CAF's reasonable opinion the Donor's capability or capacity to complete any or all of the Forms or otherwise make a request or express a wish on how the Funds and Income should be distributed is in doubt.

- 3.1.2 where, in CAF's reasonable opinion, the wish, request or purported instruction of the Donor in respect of the CAF Charitable Trust is no longer possible, practical, ethical or viable or does not fulfil a Charitable Purpose;
- 3.1.3 where the CAF Charitable Trust is closed in the circumstance set out in clause 6; and
- 3.1.4 where the Donor has not complied with any material obligation under or in respect of this Agreement.

4 Donor obligations and rights

- 4.1 A Donor may not market or publicise its CAF Charitable Trust or fundraise for it unless it does so with the prior written consent of CAF and only then where the Donor agrees to act in accordance with CAF's policies and procedures.
- 4.2 A Donor may make a Giving Request as to how the Donor wishes CAF to distribute the Funds and/or Income for Charitable Purposes at any time and by such means as CAF shall make available from time to time.
- 4.3 A Donor may set out how it wishes CAF to distribute the Funds and Income for Charitable Purposes after its death, insolvency, dissolution or winding up (as appropriate) in a Letter of Wishes.
- 4.4 Where a Donor is an individual, he/she may set out who he/she wishes CAF to treat as their Successor on an Appointment of Successor Form.
- 4.5 A Donor may make an Investment Request as to how the Donor wishes CAF to invest the Funds and/or Income at any time and by such means as CAF shall make available from time to time.
- 4.6 Where a Donor is an individual he/she may request CAF to accept requests in respect of his/her CAF Charitable Trust from another person as well as the Donor by submitting an Additional Signatory Form.

4.7 A Donor may replace any of the Forms by completing and submitting a new Form to CAF. This will take effect only after CAF has received the Form and had reasonable time (being not less than five working days after receipt) to verify it and the wishes set out therein. In no circumstances will the submission of a new Form affect any distribution or investment which CAF has agreed to make prior to receipt of such Form.

4.8 In the event of more than one Form being submitted to CAF at the same time and containing conflicting information, then CAF shall be entitled to take account of the request contained in the Form most recently received by them.

4.9 A Donor shall be entitled to receive statements of its CAF Charitable Trust provided by CAF every quarter.

4.10 Where applicable, a Donor shall be entitled to change its service option (namely, the Premier Service or the Standard Service) it receives in respect of its CAF Charitable Trust by submitting a Change of Service Option Form.

5 Operating the CAF Charitable Trust

5.1 Donors will be able to provide Funds to their CAF Charitable Trust using the methods set out in the Guide.

5.2 Unless otherwise set out in this Agreement, CAF may act upon requests and information that it believes in good faith to have been received from the Donor or an Additional Signatory whether made in writing, electronically or verbally. CAF shall confirm in writing any request that it receives relating to any distribution, investment and/or account transfer of Funds greater than £100,000. In all other circumstances the Donor shall be responsible for monitoring activity in its CAF Charitable Trust to ensure that it is being operated to its satisfaction.

6 Closure of a CAF Charitable Trust

6.1 If at any time, a Donor wishes to close its CAF Charitable Trust, it shall, on 30 days' notice to CAF, be entitled to request that all Funds and Income within its CAF Charitable Trust are distributed for Charitable Purposes by completing a Giving Request and by providing written notice that it wishes to close the CAF Charitable Trust and terminate this Agreement.

6.2 CAF shall be entitled to close a CAF Charitable Trust on giving 30 days' notice in writing to the Donor in the following circumstances:

6.2.1 where the Funds and Income held in a CAF Charitable Trust have fallen below the Minimum Balance and have remained there for a period of 24 months;

6.2.2 where there are insufficient monies in the CAF Charitable Trust to pay the applicable fees, costs, contributions or expenses which become due under this Agreement; and/or

6.2.3 where CAF decides in its absolute discretion that its ability to advance its Charitable Purposes is best served by the closure of a CAF Charitable Trust.

6.3 Upon closure of the CAF Charitable Trust CAF shall distribute the Funds and Income in accordance with the Donor's then current Giving Request. Where no valid Giving Request is in place, CAF shall request that the Donor completes a Giving

Request and submit it to CAF and shall give the Donor ten working days in which to do so. If this is not received then CAF shall transfer the Funds and Income to the General Fund in order to meet CAF's Charitable Purpose.

6.4 If the Donor wishes to donate further Funds to a CAF Charitable Trust after it has been closed by CAF, the Donor will be requested to submit a new Application Form.

7 Investment of Funds and Income

7.1 CAF shall manage the investment of the Funds and Income in accordance with the CAF Charitable Trust investment policy (including social or programme related investment) as in force from time to time.

7.2 If an Investment Request is submitted by a Donor then CAF shall, subject to the terms of this Agreement and in particular clause 2, consider the request and may arrange for the Funds and/or Income to be invested in accordance with the wishes of the Donor, provided such request does not fall outside the investment policy agreed by CAF for the investment of CAF's assets from time to time.

7.3 A Donor may request that Funds and/or Income are applied to make social or programme related investments subject to CAF's policies and procedure on social and programme related investments then in force.

7.4 A Donor with a Premier Service may request either that a third party discretionary fund manager is appointed by CAF to manage some or all of the Funds and Income or that CAF places some or all of the Funds on deposit with a third party. CAF may agree to such request on the basis that:

7.4.1 the Donor agrees that all costs of such appointment or placing of Funds outside CAF are to be deducted from the Funds and/or Income in the Donor's CAF Charitable Trust;

7.4.2 that CAF's policies and procedures in place at that time will be followed;

7.4.3 the terms of the appointment of such fund manager or third party are acceptable to CAF; and

7.4.4 that CAF is satisfied with the risk presented by such fund manager and/or any associated suppliers, bankers and advisers.

CAF will be free to reject or terminate any such appointment, at their sole discretion. In addition, the investment of the Funds must continue to comply at all times with CAF's Charitable Trust investment policy in force from time to time.

7.5 In circumstances where CAF holds all or part of the Funds, CAF shall credit to the Donor's CAF Charitable Trust an amount equivalent to interest at the rates and tiers on such accounts as are set out on CAF's Website. Such rates and tiers may be subject to change by CAF in accordance with market conditions and outlook without notice to the Donor.

7.6 CAF shall exercise due care and diligence in managing and monitoring the investment of Funds and Income and may take any and all such actions as are required in connection with the investment of Funds or Income in order to meet its obligations. CAF shall have no liability to the Donor in respect of the performance of any investment and no act or

representation made or alleged to have been made by CAF or representatives of CAF shall be taken as implying or accepting that CAF has any liability to the Donor in connection with the performance of any investment or any failure to invest or to monitor the Funds or Income.

8 Limitation of liability

- 8.1 The Donor accepts that any duty of care CAF owes in respect of the Funds and Income is owed to the charitable beneficiaries of the CAF Charitable Trust. The Donor further acknowledges and accepts that as the Funds and Income in the CAF Charitable Trust are owned by CAF, CAF owes no duty of care to the Donor in respect of the Funds and/or Income under this Agreement or in law and that neither CAF nor the Donor can foresee any losses that can be suffered by the Donor in respect of the Funds and Income in the CAF Charitable Trust and that none are within the contemplation of the parties.
- 8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 8.3 Nothing in this Agreement limits or excludes CAF's liability for death or personal injury resulting from CAF's negligence; any damage or liability incurred by the Donor as a result of fraud or fraudulent misrepresentation by CAF or the Trustees; or for any other matter for which the limitation or exclusion of liability is prohibited by law.
- 8.4 Other than as provided in clause 8.3 above CAF shall not be liable for loss of anticipated savings; loss of opportunity; loss of or corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 8.5 To the extent that liability is not lawfully excluded by this clause 8 the total liability of CAF in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance or failure to perform under or in respect of the Agreement shall be limited to the amount deducted from the Funds in order to pay CAF's fees, costs, contributions or expenses during the year in which the liability arose.

9 Successors, Letters of Wishes, Additional Signatories and Authorised Signatories

- 9.1 Where a Donor is an individual he/she may appoint a Successor to operate his/her CAF Charitable Trust by completing the Appointment of a Successor Form (which is available on request) and obtaining the consent of the relevant Successor on such Form. On receipt of formal notification of the death or permanent incapacity of the Donor, the appointed Successor shall acquire the rights and obligations of the Donor under these terms and conditions, save that the Successor shall not have the authority to replace or amend any Letter of Wishes that the Donor has submitted.
- 9.2 Where a Donor is an Organisation, it may complete a Letter of Wishes in order that CAF may distribute the Funds in accordance with such party's wishes in the event of the insolvency, dissolution, winding up or appointment of administrators or receivers of the Donor.

9.3 Where a Donor is an Organisation, it may appoint or replace an Authorised Signatory to operate its CAF Charitable Trust by completing the Authorised Signatory Form.

9.4 Where an Additional Signatory is appointed to act for or alongside the Donor in operating the CAF Charitable Trust, such Additional Signatory shall not have the authority to revoke or amend a Letter of Wishes or the appointment of a Successor.

9.5 In the event of any conflict between the requests received from a Donor (including its Authorised Signatories where applicable), or any Additional Signatory, then CAF shall take account of the most recent request.

9.6 Where a Successor is appointed and the Donor has completed a Letter of Wishes, the Successor shall be bound by the terms of the Letter of Wishes and CAF shall give effect to the terms of the Letter of Wishes notwithstanding any request from the Successor.

10 Fees and recovery of costs

- 10.1 The Donor agrees that CAF shall be entitled to recover from its CAF Charitable Trust any sums of money which may be required to be paid to Her Majesty's Revenue and Customs for any reason in relation to such trust (including, without limitation, costs caused by infringements of any requirements, including the 'benefits rules', which apply to Gift Aid).
- 10.2 The Donor agrees that CAF may deduct from its CAF Charitable Trust all costs, fees, contributions and expenses that it incurs in connection with the operation and administration of the Donor's CAF Charitable Trust. The Donor accepts that CAF will recover its costs by means of a deduction from the CAF Charitable Trust of a sum equivalent to the costs, fees, contributions and expenses set out in the Fee Schedule. Such sums are deducted quarterly in arrears from the CAF Charitable Trust in return for CAF's provision of the service option selected by the Donor on their Application Form or subsequent Change of Service Option Form.
- 10.3 The Donor agrees that CAF may deduct from its CAF Charitable Trust all costs, fees, contributions and expenses that become due to third parties or CAF in connection with the operation and administration of the Donor's CAF Charitable Trust and in particular those incurred in the course of investing the Funds and/or Income.
- 10.4 The Donor agrees that the fees for operating and administering the CAF Charitable Trust will be calculated as if the relevant Minimum Balance had been maintained in the CAF Charitable Trust at all times.
- 10.5 The Donor agrees that CAF may also deduct from its CAF Charitable Trust the fees, costs, contributions or expenses associated with the provision of any additional features or additional services that the Donor may request from time to time at the rate or price then prevailing.

10.6 For the avoidance of doubt, the Donor agrees and acknowledges that the Funds and/or Income that are required to pay for the costs, fees, contributions and expenses referred to in these terms and conditions will not be available for distribution in accordance with a Giving Request or Letter of Wishes.

10.7 Amongst the costs that CAF is entitled to recover from the CAF Charitable Trust is the contribution that CAF is required to make to its founder, the National Council of Voluntary Organisations.

11 Notices

Notices in connection with the CAF Charitable Trust are to be provided to CAF's head office at 25 Kings Hill Avenue, Kings Hill, West Malling, Kent ME19 4TA and to the Donor at the address set out for the Donor in the Application Form or as subsequently notified to and acknowledged by CAF in writing.

Any notice or other communication given under or in connection with the CAF Charitable Trust shall be in writing and:

- delivered by hand;
- sent by pre-paid recorded delivery;
- sent by facsimile; or
- sent by email (with a copy sent by pre-paid recorded delivery within 24 hours of sending the email) to the relevant party.

Any notice or communication given under or in connection with the CAF Charitable Trust shall be deemed to have been served:

- if delivered by hand, at the time of delivery;
- if sent by pre-paid recorded delivery, at 9am on the second day after the date of posting;
- if sent by facsimile, at the time of confirmation of completion of transmission by way of a transmission report; and
- if sent by email, at the time of sending (except that if an automatic electronic notification is received by the sender informing the sender that the email has not been delivered to the recipient or that the recipient is out of the office, that email shall be deemed not to have been served). Any Donor shall provide any new contact details to CAF as soon as practicable.

Only signatories appointed by a Donor on an Additional Signatory Form or an Authorised Signatory Form may make requests on behalf of the Donor. If at any time a Donor wishes to change the signatories in connection with its CAF Charitable Trust, it must submit to CAF a completed Authorised Signatory Form or Additional Signatory Form and the amended authority for a signatory shall come into effect as soon as practicable thereafter. If a Donor wishes to update the contact details of a signatory, the same Form must be submitted to CAF and the new contact details shall be effective on receipt.

12 Complaints

CAF will make every effort to resolve a complaint quickly and fairly. If a Donor has a complaint in relation to any aspect of its CAF Charitable Trust, CAF will follow the procedure set out in the CAF complaints procedure prevailing at that time.

13 Changes to terms

13.1 CAF may change any of the terms set out in these terms and conditions on providing one month's written notice to the Donor at the address held on file for such person or Organisation save where CAF is required to change such terms for legal or regulatory reasons. Where a change is required for legal or regulatory reasons, this may be made immediately.

13.2 Where the Donor regards any proposed change as unfair or unreasonable in law the Donor shall notify CAF of this view within the one month notice period giving reasons for its views. CAF shall review the Donor's concerns and respond in writing as soon as is practical indicating whether it accepts or rejects the Donor's views. The parties may discuss what alternatives, including termination of this Agreement, may be pursued if the proposed change is unfair or unreasonable in law.

14 Data Protection

CAF will not share information about a Donor with any outside person or organisation, except where this has been authorised by the Donor or a person acting with their authority or where this is required in order to provide a product or service to the Donor, or where CAF is legally obliged to do so.

15 General

15.1 When a Donor contacts CAF, or is contacted by CAF, by phone, such calls may be recorded for security and training purposes, and in making the call, or proceeding with a call that CAF makes to you, you are consenting to this.

15.2 A delay in exercising or failure to exercise a right or remedy under or in connection with the Agreement shall not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy. Similarly the single or partial exercise of a right or remedy shall not prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default shall only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and shall not constitute a waiver of any other right, remedy, breach or default.

15.3 This Agreement constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of their subject matter and neither party has entered into such agreement in reliance upon, and it shall have no remedy in respect of, any representation or statement which is not expressly set out in this Agreement. The only remedies available for breach of any representation or statement which was made prior to entry into this Agreement and which is set out in this Agreement shall be for breach of contract and nothing in this condition shall be interpreted or construed as limiting or excluding the liability of either party for fraud or fraudulent misrepresentation.

15.4 If any term of this Agreement is found by any court or body of authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term shall be deemed to be severed from this Agreement and this shall not affect the remainder of this Agreement which shall continue in full force and effect.

15.5 This Agreement and any non-contractual obligations arising out of or in connection with it will be governed by English law. The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales for the determination of any dispute arising out of or in connection with this Agreement (including (without limitation) in relation to any non-contractual obligations) save that any party may seek specific performance, interim or final injunctive relief or any other relief of similar nature or effect in any court of competent jurisdiction. For such purposes each party irrevocably waives any objection to the jurisdiction of those courts, and each party irrevocably agrees that a judgment or order of those courts in connection with this Agreement is conclusive and binding upon it.

Schedule

Additional Signatory means the person or persons appointed by an Original Donor on an Additional Signatory Form to assume certain of the rights and responsibilities of the Original Donor under this Agreement alongside the Original Donor and any Successor.

Additional Signatory Form means the form made available by CAF from time to time in which a Donor can notify CAF of an Additional Signatory and/or update such Additional Signatory contact details (as applicable) to its CAF Charitable Trust.

Agreement means these Terms and conditions, the Application Form and the Fee Schedule which together represent the agreement between the Donor and CAF.

Application Form means the form made available by CAF from time to time in which a Donor can apply to open a CAF Charitable Trust.

Appointment of Successor Form means the form made available by CAF from time to time in which a Donor can notify CAF of the appointment of a Successor to its CAF Charitable Trust.

Authorised Signatory means the person or persons appointed by an Organisation on an Authorised Signatory Form to act on its behalf in relation to every aspect of the administration of its CAF Charitable Trust.

Authorised Signatory Form means the form made available by CAF from time to time in which a Donor which is an Organisation can notify CAF of the appointment or replacement of an Authorised Signatory and/or update such Authorised Signatory's contact details (as applicable) to its CAF Charitable Trust.

CAF means the Charities Aid Foundation, an unincorporated charitable trust (registered charity number 268369), and where applicable 'CAF' shall mean the Trustees of the Charities Aid Foundation and those acting with their authority.

CAF Charitable Trust means whichever of the Premier Service and the Standard Service the Donor requested in the Application Form, and any subsequent Change of Service Option Form, and CAF agreed to provide when accepting such Form.

Change of Service Option Form means the form made available by CAF from time to time in which a Donor, who is an individual, can change the service option they receive in relation to their CAF Charitable Trust.

Charitable Purpose(s) shall have the meaning given to it in English law as set out in section 2 of the Charities Act 2011 (as amended or superseded).

Connected Person means a spouse, close relative or such other acquaintance as Her Majesty's Revenue and Customs shall from time to time regard as connected to the Donor.

Donor means the Original Donor, being a person or persons or an Organisation, and any Successor.

Fee Schedule means the schedule made available by CAF from time to time in which the fees, costs, contributions or expenses applicable to a CAF Charitable Trust are set out.

Forms means any or all of the Application Form, Appointment of a Successor Form, Giving Request, the Letter of Wishes, Additional Signatory Form, Authorised Signatory Form, the Change of Service Option Form and the Investment Request submitted by the Donor as the context may require.

Funds means all assets including cash, stocks, shares and/or non-cash assets given to CAF by or on behalf of a Donor for inclusion in the CAF Charitable Trust.

General Fund means the fund or funds from time to time established by the Trustees for Charitable Purposes for distribution by CAF in support of its mission.

Gift Aid means the amount equal to basic rate tax that CAF can reclaim on a gift made to CAF by a UK taxpayer who has paid more than the value of the amount being so reclaimed in income tax during the tax year in question, and who has made a declaration to this effect in the form required by Her Majesty's Revenue and Customs from time to time.

Giving Request means a request made to CAF from time to time by a Donor or an Additional or Authorised Signatory regarding distribution of the Funds and Income for Charitable Purposes.

Guide means the additional information and explanatory notes relating to the operation of the CAF Charitable Trust, made available by CAF from time to time.

Income means any earnings or interest which accrues on the Funds in a CAF Charitable Trust.

Investment Request means a request made to CAF from time to time by a Donor or an Additional or Authorised Signatory regarding the investment or use of Funds or Income in the period prior to distribution for Charitable Purposes.

Letter of Wishes means the form made available by CAF from time to time in which a Donor can communicate any request to CAF regarding distribution of the Funds and Income on their death or in the event of its insolvency, dissolution, winding up or appointment of administrators or receivers to the Donor (as appropriate) for Charitable Purposes.

Minimum Balance means the minimum balance for either of the Standard Service or Premier Service (as applicable) as set out in the Fee Schedule from time to time which CAF requires to be held in such CAF Charitable Trust.

Organisation means a Donor which is a company, partnership, incorporated or unincorporated organisation. An Organisation is obliged to use the Premier Service option.

Original Donor means the person or persons, or Organisation (as appropriate) noted as such on the CAF Charitable Trust Application Form.

Premier Service means the service option for the CAF Charitable Trust described in the Guide and the applicable fees as set out in the Fee Schedule.

Standard Service means the service option for the CAF Charitable Trust as described in the Guide and the applicable fees as set out in the Fee Schedule.

Successor means the person or persons appointed by an Original Donor on an Appointment of Successor Form to assume the rights and responsibilities of the Original Donor under this Agreement in place of the Original Donor and any person or persons appointed in turn by such person or persons in their place.

Trustees means the Trustees from time to time of CAF.

Website means the website provided by CAF from time to time which is currently at: www.cafonline.org

Charities Aid Foundation
25 Kings Hill Avenue
Kings Hill
West Malling
Kent
ME19 4TA
www.cafonline.org/trusts

Registered charity number 268369

CAF Charities Aid
Foundation