

# Model Gift Acceptance Policy

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*Prepared for the Development Committee  
<NFP-NAME>*

*By  
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Revised: 04/2021

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*Schedule M (Non Cash Contributions) of Form 990 asks whether the filing organization has a gift acceptance policy. Schedule M must be filed by organizations that either: (1) received more than \$25,000 in non-cash contributions; or (2) received contributions of art, historical treasures, or similar assets, or qualified conservation contributions. Even if an organization is not required to complete Schedule M, it should consider adopting a gift acceptance policy.*

*This model policy is presented as an example and should not be adopted, in whole or in part, without legal review.*

**HIGHLIGHTED PROVISIONS ARE DERIVED FROM AND REQUIRED BY UPMIFA**

## Generic Gift Acceptance Policy

### THE <NFP- NAME> GIFT ACCEPTANCE POLICIES AND GUIDELINES

The <NFP- NAME>, a not for profit <NFP-Type> organized under the laws of the State of <State>, encourages and accepts gifts for purposes that will help further its mission. The purpose of the policies and guidelines set forth below (the “Policy”) is to govern the acceptance of charitable gifts by <NFP- NAME> and its affiliated entities, and to provide guidance to prospective donors and their advisors when they are contemplating making gifts to the <NFP-Type>. The Policy will apply to gifts offered to the <NFP-Type> to support any of its programs or services.

### THE GIFT ACCEPTANCE COMMITTEE

The Gift Acceptance Committee shall consist of a designee from the offices of the **General Counsel, External Affairs and the Chief Operating Officer**.

The Gift Acceptance Committee is charged with reviewing inter vivos gifts, pledges and bequests offered to the <NFP-Type> where and as appropriate, in accordance with this Policy and with such laws, rules and regulations as may become effective from time to time. The <NFP-Type> reserves the right to refuse or return gifts containing restrictions that are inconsistent with the <NFP-Type>’s purpose or that otherwise may be deemed inappropriate by the Gift Acceptance Committee. No less frequently than semi-annually, the Gift Acceptance Committee shall report to the Finance Committee of the <NFP-Type>’s Board of Trustees regarding gifts that have been accepted by the <NFP-Type>.

### APPRAISALS; INDEPENDENT ADVISORS

It is generally the donor’s responsibility to determine whether it is necessary to obtain an appraisal of a proposed gift and, if so, to secure such appraisal. It is also the donor’s responsibility to secure independent legal, tax, financial and estate advice for all gifts to the <NFP-Type>. The <NFP-Type> will not act as advisor to any donor in any of these respects, though the <NFP-Type> will work with a donor’s advisors in furtherance of approved gifts.

### RESTRICTIONS ON GIFTS

The <NFP-Type> will accept gifts with restrictions in accordance with this Policy, as reviewed and approved by the Gift Acceptance Committee. Where the gift is a **work of art**, it will be reviewed by the relevant Trustee acquisition committee, in accordance with the <NFP-Type>’s Collections Management Policy. All final decisions on the restrictive nature of a gift and its acceptance or refusal, other than a gift of **art** governed by the Collections Management Policy, shall be made by the Gift Acceptance Committee. All restricted gifts, including restricted gifts in the form of endowment funds, must be governed by a written agreement executed by the donor and the <NFP-Type>. The minimum amount necessary to establish an endowment is \$50,000.

Endowments may be funded with outright contributions, including contributions pledged over a maximum period of 5 years, which term may be extended by agreement between the donor and the <NFP-Type>, at the recommendation of the Gift Acceptance Committee. Endowments may also be funded with deferred contributions from bequests, life insurance policies, retirement plan designations, charitable remainder trusts and similar instruments and arrangements.

Unless otherwise stated by the donor, endowment contributions will be utilized for their intended purpose only when they are funded with cash (or cash equivalents) equaling 50% of the actual anticipated total gift commitment, or total contributions otherwise reach the required minimum for an endowed fund.

Endowments created by testamentary transfer shall be administered in accordance with the donor's wishes as set forth in the relevant testamentary document, provided that the donor clearly establishes an endowment and the intended use is not prohibited by law or <NFP-Type> policy and is otherwise acceptable to the <NFP-Type>.

Endowment principal will be pooled and invested, and the income expended, in accordance with the prevailing investment and spending policies of the <NFP-Type> and applicable laws and regulations.

## **GIFTS**

Gift vehicles include inter vivos gifts, pledges and bequests. A donor may pledge an amount for a specific purpose or designation to be satisfied with periodic scheduled payments acceptable to the <NFP-Type> not to exceed 5 years, absent special circumstances approved by the <NFP-Type>. Donors are encouraged to make bequests to the <NFP-Type> under their wills and trusts. Such bequests will be recorded as gifts, at their present value, when the gift becomes irrevocable.

The following forms of gifts, among others, are acceptable when otherwise in accord with this Policy:

- Cash
- Tangible Personal Property
- Securities
- Real Estate
- Remainder Interests in Real Property
- Life Insurance
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Retirement Plan Beneficiary Designations

The following general criteria will be considered by the Gift Acceptance Committee when deciding whether to accept each form of gift:

**Cash** – Cash is acceptable in any form. Checks should be made payable to “The <NFP-NAME>.” Credit card payments and funds transfers (including wire and ACH transfers) are also acceptable. The Gift Acceptance Committee shall adhere to all applicable anti-money-laundering statutes and the US Patriot Act when accepting cash or near cash instruments.

**Tangible Personal Property** – Tangible personal property may be accepted as long as the property fulfills the mission of the <NFP-Type> or can readily be liquidated to produce cash. Gifts of works of art that fulfill the mission of the <NFP-Type> will be considered according to the Collections Management Policy. The Gift Acceptance Committee will consider the following criteria when deciding whether to accept a gift of other tangible personal property:

- Is the property marketable?
- Are there any undue restrictions on the sale, use or display of the property?
- Are there any carrying costs for the property?

**Securities** --- The <NFP-Type> may accept both publicly traded securities and closely held securities.

- **Publicly Traded Securities** – The <NFP-Type> may accept gifts of marketable securities. As a general rule, all marketable securities will be sold upon receipt unless otherwise decided by the <NFP-Type>. Where otherwise marketable securities are restricted by applicable law, final determination of the acceptability of a gift of such securities shall rest with the Gift Acceptance Committee.
- **Closely Held Securities** – Closely held securities, including debt and equity positions in non-publicly traded companies as well as interests in LLPs, LLCs or other ownership forms, can be accepted upon approval of the Gift Acceptance Committee. Every effort will be made to sell closely held securities as soon as possible, unless otherwise decided by the <NFP-Type>. The Gift Acceptance Committee will consider the following non-exclusive list of factors in deciding whether or not to accept such a gift:
  - Legal and/or contractual restrictions on resale and company policy on resale (e.g. window periods);
  - Expectations for marketability;
  - Tax consequences for the <NFP-Type> that would arise from acceptance of the gift (including unrelated business income implications); and
  - The nature of the company’s business.

**Real Estate** – In rare instances, the <NFP-Type> may accept gifts of developed or undeveloped real estate. In deciding whether to accept such property, the <NFP-Type> will consider whether the property is useful for the purposes of the <NFP-Type>, whether it is marketable, and whether the donor agrees that the property can be sold at the <NFP-Type>’s discretion. In addition, prior to acceptance of any real property, the donor shall do the following, the results of which shall be shared with the <NFP-Type> and shall also be considered by the <NFP-Type> in its decision:

For all real estate, allow for a visual environmental site inspection by an approved representative

of the <NFP-Type>, which must result in at least a satisfactory evaluation;

- For non-residential real estate, perform, at the donor's expense, a Phase 1 Environmental Audit;
- Provide the <NFP-Type>, at the donor's expense, with a qualified appraisal;
- Provide the <NFP-Type>, at the donor's expense, with the results of a title search, recent tax statements, and a tax map;
- Disclose and satisfy any mortgage or encumbrance on the property; and
- Disclose any carrying costs (including maintenance, insurance, condominium or co-op fees).
- Under special circumstances, as determined by the Gift Acceptance Committee, the expenses allocated to the donor above may be borne by the <NFP-Type>.

**Remainder Interests In Real Property** – The <NFP-Type> may accept a remainder interest in real property, subject to the preceding paragraph. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor or stated life, the <NFP-Type> may use the real property or reduce it to cash. Where the <NFP-Type> receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or beneficiary prior to transfer to the <NFP-Type>.

**Life Insurance** – The <NFP-Type> accepts gifts of new and existing whole life insurance policies. Generally, the <NFP-Type> will not accept gifts of term policies. Donors are encouraged to name the <NFP-Type> as beneficiary of their existing whole life insurance policies of which they are owners. Such designations will be recorded as gifts, at their present value, when the gift becomes irrevocable. Alternatively, where the <NFP-Type> is named as both beneficiary and irrevocable owner of a whole life insurance policy, it can be recorded as a gift. If the donor of a whole life policy contributes future premium payments, the <NFP-Type> will include the entire amount of the additional premium payment as a gift in the year that it is made. If the donor does not continue to make gifts to cover premium payments, the <NFP-Type> may, at its discretion, continue to pay the premiums, convert the policy to paid up insurance, or surrender the policy for its current cash value. At all times, the <NFP-Type> reserves the right to cash in any insurance policy or retain it as an investment, at its option.

**Charitable Remainder Trusts** – The <NFP-Type> may accept designation as remainder beneficiary of a charitable remainder trust. The <NFP-Type> will not serve as the trustee of a Charitable Remainder Trust.

**Charitable Lead Trusts** – The <NFP-Type> may accept designation as income beneficiary of a charitable lead trust. The <NFP-Type> will not serve as a trustee of a Charitable Lead Trust.

**Retirement Plan Beneficiary Designations** – Donors are encouraged to name the <NFP-Type> as beneficiary of their retirement plans. Such designations will be recorded as gifts, at their present value, when the gift becomes irrevocable.

## BARGAIN SALES

The <NFP-Type> may enter into bargain sales of <Properties> that are consistent with its mission and purposes. In a bargain sale, the <NFP-Type> purchases property from a seller/donor at a discounted price and simultaneously accepts as a gift from the seller/donor the amount of the discount. Prior to any bargain sale, the <NFP-Type> will obtain an independent appraisal substantiating the value of the property.

The <NFP-Type> may also enter into bargain sales of other property, where the bargain sale would further the mission of the <NFP-Type>. Factors considered in determining the appropriateness of a proposed transaction include, among others:

- The results of an independent appraisal obtained by the <NFP-Type>;
- The utility or salability of the property;
- Carrying costs of the property.

## DONOR-ADVISED FUNDS AND PRIVATE FOUNDATIONS

The <NFP-Type> accepts gifts from donor advised funds (“DAF”) and private foundations. However, where benefits (including membership) are provided in return for a contribution from a DAF or private foundation and the donor does not waive the benefits, the <NFP-Type> cannot sign an acknowledgement representing that no goods or services were provided in return for the contribution, even if the individual pays separately for the non-deductible portions. In such circumstances, the <NFP-Type> will issue a receipt stating that goods and/or services were received and indicating both the tax-deductible and non-deductible portion of the gift. Similarly, the <NFP-Type> will not accept contributions from a DAF or private foundation to satisfy an individual’s legally-binding pledge obligation to the <NFP-Type>.

## RECEIPTS

All charitable gifts to the <NFP-Type> are recorded by name of donor and include gift date, gift purpose, and value. Acknowledgements are sent to donors by the **Department of External Affairs** and receipts are issued to donors for gifts that qualify for income tax charitable deductions as allowed by the Internal Revenue Service. Receipts for gifts that provide goods and services include a description of such goods and services and list both the deductible and non-deductible portions of the gift. No receipts are issued for gifts that, while greatly appreciated, do not qualify for income tax charitable deductions, such as legal or other professional services donated to the <NFP-Type>, loans of property to the <NFP-Type>, free advertising, or discounts on rents or purchases.

### Real Estate Gift Acceptance:

Gifts of Real Estate

A gift of real estate may be a principal residence or vacation residence, a farm, a



commercial building, a subdivision lot, or unimproved land. The gift may be the entire property or a fractional interest in the property. All gifts of real estate require approval by <NFP- NAME>'s Gift Acceptance Committee.

<NFP- NAME>'s **Office of Gift Planning** can walk you through the approval process.

Before accepting a gift of real estate, <NFP- NAME>'s Gift Acceptance Committee will consider the following:

1. The fair market value of the property;
2. The marketability of the property;
3. Potential liability for environmental risks associated with the property;
4. The existence of restrictions, reservations, easements, and other limitations;
5. The existence of encumbrances such as mortgages and mechanics liens;
6. Carrying costs, such as property owners' association dues, taxes and insurance;
7. The usefulness of the property for the <NFP-Type>'s purposes;
8. Other factors that may be relevant to a particular property;

The <Gift-Acceptance-Committee> will ask you to provide the following:

**Appraisal:** Please submit a qualified appraisal of the property as early in the process as possible. The cost of the appraisal is the responsibility of the donor.

**Environmental Survey or Audit:** Because of the potential liability assumed by charitable institutions for environmental hazards on donated property, you may be required to provide, at your expense, an environmental audit prepared by a licensed environmental engineer in advance of the gift. In the case of gifts of residential real estate located in long-established residential neighborhoods, an environmental survey may be sufficient. Download <NFP- NAME>'s environmental survey (.doc format).

**Indemnification letter:** When <NFP- NAME> accepts a gift of real estate, the <Gift-Acceptance-Committee> requires a signed letter indemnifying and holding <NFP- NAME> harmless for any and all liability arising from acts occurring prior to <NFP- NAME>'s ownership of the property.

**Other documents:** In addition to the information requested above, you will be asked to provide <NFP- NAME> with all surveys, title policies, and other documentation relating to the subject property.

<NFP- NAME>'s general policy is to sell property as soon as practicable after it has been gifted. Once the property is sold, the proceeds—minus any costs associated with the selling, holding, or maintaining of the property—will be used by <NFP-NAME> as directed by



the donor. Gifts of real estate can be used to create or build endowment funds or to support any number of needs across <NFP- NAME>'s campus.

When you make a gift of real estate, you can claim a charitable tax deduction for the full fair market value of the real estate and avoid capital gains taxes on the appreciation. <NFP- NAME> will issue a gift receipt without a gift value, and you can substantiate the fair market value of the property for tax purposes through a qualified appraisal.

Your gift of real estate can be used to create a charitable remainder unitrust at <NFP- NAME>. A charitable remainder unitrust can provide you and/or your loved ones with an annual income and may provide a hedge against inflation. Learn more.

## **Endowment Fund General & Gift Acceptance Policies**

### **General Information**

The following general policies are established to enable the Endowment Committee (<NFP- NAME>) to effectively proceed with the management and administration of the Endowment Fund. It is the intent of this listing of general policies to work in conjunction with the previously adopted Endowment Fund Charter. The following policies are addressed either in the Endowment Charter or within additional, freestanding policy statements:

- Investment policy
- Spending policy
- Definition of income
- The composition of and election guidelines for the <Gift-Acceptance-Committee>
- Powers and duties of the <Gift-Acceptance-Committee>
- Borrowing from the endowment fund
- Changing the designation of a previously received gift
- Request process for grants

Additional policies and clarifications are included in the following content:

### **Receipt of Gifts**

The <Gift-Acceptance-Committee> welcomes and encourages gifts and bequests to be designated to the Endowment Fund. Gifts shall include, but not be limited to, cash, stocks, bonds, certificates of deposit, real estate, and personal property. The donor may transfer such property to the Endowment Fund by outright gift, life estate gift, or any one of several deferred giving arrangements (planned gifts).

The Endowment Committee must approve any gift offered to the Endowment Fund before being officially accepted. The <Gift-Acceptance-Committee> reserves the right to decline or otherwise refuse any gift offered to the Endowment Fund, with or without cause. Reasons that a gift may be declined include, but are not limited to, the following:

- The <Gift-Acceptance-Committee> does not believe it is in the best interest of the <NFP-Type> or Endowment Fund to abide by the restrictions placed on the gift by the donor.
- The costs to maintain the gift, or to meet the restrictions placed on the gift by the donor, are considered to be excessive for the Endowment Fund.
- The gift is considered to be inappropriate or unrelated to the tax-exempt purposes of the Endowment Fund or the <NFP-Type>
- The gift may result in inappropriate or undesirable publicity.
- The <Gift-Acceptance-Committee> cannot accept a gift that is designated to benefit or be channeled to an individual staff member of the <NFP-Type> or to any other individual.

The <Gift-Acceptance-Committee> will develop programs to encourage gifts to the Endowment Fund.

The <Gift-Acceptance-Committee> will maintain complete and accurate records on all gifts and abide by all related federal, state and local rules and regulations.

### **Priority of Donor's Interest**

The <Gift-Acceptance-Committee> shall exercise care and caution in accepting and abiding by the interest of the donor for the endowed use of their gift. A written letter of designation, in the absence of a Will or other legally drafted document, from the Donor must exist to assure the Donor's interest is being honored.

No member or representative of the <Gift-Acceptance-Committee> shall use any form of pressure on a prospective donor. However, education and the provision of informational materials is encouraged and shall be provided to the prospective donor to aid in making an informed decision concerning their Endowment gift.

### **Confidential Information**

All information concerning donors and prospective donors, including but not limited to their names, names of beneficiaries, the amount and type of the gift, aspects relating to their estate, shall be kept strictly confidential.

The use of any of this confidential information can only be done with prior, written permission of the donor.

## **Use of Legal Counsel**

The <Gift-Acceptance-Committee> shall seek legal counsel, where appropriate, in matters pertaining to its deferred giving program and shall execute no deferred giving agreements without the advice of the <NFP-Type>'s legal counsel.

All prospective donors shall be urged to seek their own legal counsel and/or tax counsel in matters relating to their deferred gifts, tax and estate planning.

## **Serving as Trustee**

The <Gift-Acceptance-Committee>, or any member of the <Gift-Acceptance-Committee>, shall not serve as trustee of any trust created by any donor for the benefit of the Endowment Fund.