

UNIVERSITY OF ARIZONA FOUNDATION PLANNED GIVING ACCEPTANCE POLICIES

I. Program Purpose and Policy Objectives

The purpose of the Foundation's planned giving program is to secure valuable long-range gifts that further the mission of the institution. By offering and encouraging planned gifts, the Foundation seeks to enable a broader group of supporters to make significant gifts to the institution, either during their lifetime or as part of an estate plan than they could otherwise make through outright gifts. While planned gifts often enable donors to accomplish both financial and philanthropic goals, the Foundation seeks to encourage gifts that have significant philanthropic motivation. Donors should be reminded that the Foundation is not a financial institution offering commercial investment vehicles.

This document is part of the comprehensive Gift Policies adopted by the Foundation. Planned gifts are also governed by Investment Guidelines for Planned Gifts adopted on March 7, 2006.

The objectives of these policies are to:

- Direct development staff efforts towards those gift opportunities that will be most beneficial to the University;
- Secure valuable gifts that benefit both the University and its donors;
- Ensure that the University's interests are being protected; and
- Ensure that donors are treated in a professional, ethical, and fair manner.

These policies define the criteria and processes by which proposed gifts will be considered for acceptance. The Foundation reserves the right to refuse any gift that does not provide sufficient financial benefit to the institution, is incompatible with the University's mission, puts the assets or reputation of the University or Foundation at risk, or is prohibited by law.

II. Code of Ethics

Every effort should be made to ensure that gifts accepted by the Foundation are in the best interests of the institution *and* the donor. The Foundation subscribes to the *Model Standards of Practice for the Charitable Gift Planner* (see Appendix A). Key principles include safeguarding the confidentiality of the donor relationship, full disclosure to the donor, and encouraging the review of any planned gift by the donor's independent advisors.

As a protection to the donor and the Foundation, the development officer working with a donor shall document for the donor's review and approval the donor's intentions, motivations, and objectives for creating the planned gift under discussion.

III. Serving as Trustee

The Foundation will agree to serve as trustee of a planned gift as long as the terms and

conditions outlined in these policies are met. The decision to accept the trusteeship or successor trusteeship of a planned gift shall be subject to the approval of the Office of Planned Giving, according to the terms and conditions outlined in this policy document.

If a donor wishes to direct or restrict the investment of a trust's assets, the donor should be encouraged to serve as his or her own trustee or to secure the services of another trustee or administrator. The Foundation will not serve as co-trustee of a trust with a donor.

With the Foundation's Investment Committee approval, the Foundation may agree to serve as an agent for asset management and trust administration purposes for a charitable remainder trust for which it is not the initial trustee. In certain cases, the Foundation may decide not to act as agent or accept responsibility for the management or disposition of real estate held by trusts yet will agree to serve as agent with respect to other, non-real estate, trust management and administration purposes.

IV. Types of Gifts Accepted

The following types of planned gifts are acceptable under the terms and conditions set forth below. Gifts described in sections 3 and 4 below must have the prior approval of the Foundation's Investment Committee.

1. **Gifts** under a will or trust.
2. **Beneficiary designations** in a retirement plan (such as an IRA or 401(k)), an annuity, payable at death account or a life insurance policy.
3. **Retained life estate in real property.** The Foundation may agree to accept remainder interests in real property, including personal residences and farms. Gifts of interests in real property subject to a retained life estate are subject to the same review process as is set forth below for other gifts of real property.
4. **Bargain sales.** Bargain sales shall be negotiated individually with the donor, and are subject to review and approval by the Foundation's Investment Committee.
5. **Charitable remainder trusts, including annuity trusts and standard, net income and flip unitrusts.** The Foundation will agree to serve as the Trustee of a charitable remainder trust so long as it is named a 50 percent or more remainderman of the trust. The minimum amount needed to fund a unitrust or an annuity trust is \$100,000. An exception to the minimum funding threshold is to allow charitable remainder annuity trusts to be established for \$25,000 in states where the University of Arizona Foundation is not registered to issue charitable gift annuities. A unitrust must have a minimum payout rate of 5 percent. An annuity trust must have an annual payout of at least 5 percent of the initial funding value of the trust. Additions to a unitrust shall be in the amount of at least \$5,000. Income payments of any amount may be contributed back to a unitrust. Additions to an annuity trust are not permitted by law. Payments from a unitrust or an annuity trust may be made monthly, quarterly, semiannually or annually on the last day of the payment period.

The expected horizon of a charitable remainder trust at the time it is established

should not exceed 40 years. Charitable remainder trusts shall have no more than five (5) total income beneficiaries. Charitable remainder trusts shall have an expected net present value equal to at least 35 percent of the initial funding amount of the trust and shall have a charitable deduction of not less than 30 percent of the initial fair market value of the trust. Net present value for gift acceptance purposes shall be calculated by the following method. The initial value of the trust will be grown over the trust's expected time horizon using the long-term expected return associated with the investment objective chosen for the trust. Payments to beneficiaries and all other costs incurred by the trust will be deducted each year. Costs paid by the Foundation will be grown at the projected endowment earnings rate and deducted from the future value of the trust. The future value of the trust (after expenses) will then be discounted by the Foundation's expected inflation rate in order to arrive at the net present value of the Foundation's interest in the trust. The assumptions to be used in determining net present value shall be reviewed and approved annually by the Vice President of Finance and Chief Investment Officer. Documentation supporting compliance with these guidelines shall be prepared prior to final documents being executed.

The preferred arrangement to be used when an illiquid or non-income producing asset is contributed to a charitable remainder trust is a net income unitrust with a "flip" provision. Alternatively, a standard unitrust may be used if the donor agrees to contribute liquid assets on a timely basis in order to meet the beneficiary payout requirements and cover all other costs incurred by the trust (this should be documented in a letter of agreement signed by the donor and the Foundation). Gifts of assets giving rise to unrelated business taxable income (UBTI) will not be accepted into charitable remainder trusts or charitable lead trusts.

6. **Gifts to the Pooled Income Fund.** No new gifts shall be made to Pooled Income Funds I, II or III. These funds are closed, and no new pooled income funds may be established without the advance approval of the Foundation's Investment Committee.
7. **Current and deferred charitable gift annuities.** The Foundation shall offer gift annuities to donors in all states except where prohibited.

Current and deferred charitable gift annuities may be established with at least \$10,000. Additional gift annuities may be established with at least \$5,000. Under IRS regulations, there may be no more than two annuitants. Each beneficiary should be at least 65 years old at the time the gift annuity is funded or, in the case of a deferred annuity, at the time the annuity is to start. Gift annuity payments are made first day of each payment period. Current and deferred charitable gift annuities shall have an expected net present value equal to at least 35 percent of the initial funding amount of the contract and shall have a charitable deduction of not less than 30 percent of the initial fair market value of the contract. Net present value for gift acceptance purposes shall be calculated by the following method. The initial value of the contract will be grown over the contract's expected time horizon using the long-term expected return associated

with the investment objective chosen for the gift annuity pool. Payments to beneficiaries and all other costs incurred by the trust will be deducted each year. Costs paid by the Foundation will be grown at the projected endowment earnings rate and deducted from the future value of the contract. The future value of the contract (after expenses) will then be discounted by the Foundation's expected inflation rate in order to arrive at the net present value of the Foundation's interest in the contract. The assumptions to be used in determining net present value shall be reviewed and approved annually by the Vice President of Finance and Chief Investment Officer. Documentation supporting compliance with these guidelines shall be prepared prior to final documents being executed.

8. **Ownership of a life insurance policy.** The Foundation will accept transfers of ownership of existing life insurance policies. The Foundation reserves the right to cash in a policy or take other actions available to the owner of a policy at any time. The Foundation will not undertake to secure insurance on the life of a donor or otherwise at the request of a donor, nor will it accept ownership of policies subject to a loan or in connection with a "split dollar" or similar arrangement where the proceeds are to be divided between charitable and non-charitable interests.

9. **Miscellaneous Issues**

Testamentary funded gifts. The charitable gift annuity, and various charitable trusts described above may be funded during the lifetime or at the passing of the donor. The decision for the Foundation to serve as the trustee of a testamentary funded trust requires approval by the Office of Planned Giving as long as the above outlined criteria are met. If the criteria outlined above are not met, approval by the Foundation's Investment Committee is required.

Trust types not accepted. The Foundation will not serve as trustee of a funded revocable trust, a nonqualified trust or charitable lead trust.

Serving as Executor of an Estate. A donor may appoint the Foundation as Personal Representative or successor trustee of a living trust that benefits the Foundation so long as the Foundation is a 50 percent or more beneficiary of the estate and provided the Foundation is given the right to name an alternate. The Foundation will not act as successor trustee during the donor's lifetime.

V. Acceptable Assets

The following assets may be accepted as funding for an outright or planned gift, subject to the terms and conditions outlined below.

1. **Cash.** Any gift of cash or equivalent (check, wire, etc.) for a charitable remainder trust shall be deposited directly into the appropriate trust account at Charles Schwab. The payee shall be the name of the charitable remainder trust. Gift of cash in exchange for a charitable gift annuity shall be made payable to The University of Arizona Foundation. Gift payments may not be made using a

credit card.

2. **Marketable securities.** Marketable securities (including mutual fund shares) contributed to fund a charitable trust shall be transferred to the appropriate trust account at Charles Schwab and will be sold according to the terms of the Foundation's *Investment Guidelines for Planned Gift Assets*. Marketable securities (including mutual fund shares) contributed for a charitable gift annuity will be sold according to the terms of the Foundation's *Investment Guidelines for Planned Gift Assets*. Securities may not be held without the prior approval of the Vice President of Finance. Shares subject to restrictions on sale, whether by contract, SEC rules, an underwriter's "lock-up" or other restriction, or as the result of corporate policy applicable to the donor, will be given special review and accepted only if the Foundation's Investment Committee determines it is in the best interest of the Foundation to do so. Efforts should be made to have the restrictions removed prior to the gift.
3. **Closely held stock.** Closely held stock in a "C" corporation will be accepted as funding for a flip unitrust, a standard unitrust (along with cash or marketable securities), or, in more limited circumstances, a gift annuity, upon the approval of the Foundation's Investment Committee. Subchapter "S" corporation stock should not be used to fund a charitable remainder trust, or a charitable lead trust. However, in limited circumstances, with approval of the Foundation's Investment Committee, "S" corporation stock may be used to fund a gift annuity or be used in a bargain sale arrangement if there is a sufficient likelihood of near-term liquidity.
4. **Partnership interests.** Partnership interests (either publicly traded or non-publicly traded) will be accepted only with the approval of the Foundation's Investment Committee.

Special care should be given to ensure that interests in non-publicly traded partnerships are in fact limited and not general partnership interests and that no current or future obligation exists under which additional funds may be required to be provided to the partnership. If a general partnership interest is to be considered for acceptance, arrangements should be made to secure adequate indemnification and hold harmless protections from the donor or some third party with the capacity to fulfill such protection obligations.

5. **Tangible personal property.** Tangible personal property may in certain circumstances be accepted as funding for a charitable gift annuity, a net income unitrust with a flip provision, or a standard unitrust (along with cash or marketable securities) with the approval of the Foundation's Investment Committee.
6. **Retirement plan assets.** Retirement plan assets may be used to fund a charitable remainder trust or a gift annuity currently or at the donor's death.
7. **Real property.** Real property may be accepted into a charitable remainder trust or charitable lead trust, and in some cases may be contributed as funding for a gift annuity, subject to the prior approval of the Foundation's Investment Committee. Mortgaged real property will not be accepted. A gift of real property

will be subject to the following requirements:

- Personal inspection by staff
- Title search
- Minimum of level one environmental audit if the property is other than a residence
- Marketability review
- Qualified appraisal obtained by the donor
- Written agreement by the donor to provide additional funds to the trust, if necessary, to provide for ongoing expenses and maintenance of the property until sold
- Completed real estate checklist, including detailed financial information on the property if it is commercial real property

Donors should be informed that the Foundation accepts gifts of real property provided that the property is readily marketable. Donors of property with complex issues (e.g., environmental concerns, uncertain marketability, or property subject to long-term leases) who are considering establishing a charitable remainder unitrust should be encouraged to serve initially as their own trustee. In this situation, the Foundation may be named the successor trustee of the trust once the property has been sold. Acceptance of trusteeship at that time will be subject to the review and approval of the Foundation's Investment Committee.

VI. Establishment of Gift Date and Value

It shall be the responsibility of the donor and the donor's advisors to establish the effective date of any gift and the value of the assets on that date. The Foundation will assist the donor by providing the amount of the charitable deduction received for a new planned gift, or an addition to an existing gift. However, the donor should confirm this amount with his or her own advisors. In the case of a gift annuity, or a bargain sale involving property other than cash or publicly-traded and liquid securities, the Foundation has a direct interest in the valuation used and may decide to independently verify the appraisal obtained by the donor.

VII. Community Property and Other Title Issues

Special care should be taken to determine if the gift property is held as community property (or if there is any other party having an interest in or claim to the property). In all cases involving a donor who is married, efforts should be made to determine whether the spouse has consented to any gift arrangement in which the spouse is not also a donor and beneficiary, and to secure consent if deemed advisable by the Foundation's legal counsel.

VIII. Private Foundation and Other Tax Rules

If a proposed gift arrangement contains aspects that differ from the simplest form of structure that is generally used, the arrangement should be reviewed by the Foundation's legal counsel to determine if the private foundation rules will potentially apply. In

particular, attention should be given to the possibility of self-dealing. The review should also consider whether other tax rules could potentially apply.

IX. Fee Policy

Life income gifts received after December 13, 2005: Each gift, regardless of its type/form, will bear a 1 percent annual fee assessed on the last day of each calendar quarter in which that gift has a fair value during such quarter. This will allow the Foundation to recover (i) the 79.5 basis point external cost and (ii) the costs incurred by the Accounting Department (oversight, accounting and audit) and Planned Giving Office (gift procurement and ongoing stewardship). In addition, each gift annuity agreement will also bear a 5 percent fee upon termination, with such fees to be used solely to build a gift annuity reserve fund. Such a reserve fund will help protect the Foundation should any gift annuity agreement result in a loss to the Foundation's Unrestricted Fund

Gift annuities in existence as of December 13, 2005: Each annuity will bear the 1 percent annual fee and the 5 percent termination fee as per above.

Annuity Trust Agreements in existence as December 31, 2005: Each annuity trust will bear the 1 percent annual fee and a termination fee of up to 5% effective January 1, 2008. A termination fee will be assessed according to the follows schedule:

- Subject to the annual fee for 5 years: no termination fee.
- Subject to the annual fee for 4 years: 1% termination fee.
- Subject to the annual fee for 3 years: 2% termination fee.
- Subject to the annual fee for 2 years: 3% termination fee.
- Subject to the annual fee for 1 year: 4% termination fee.

Unitrust Agreements and Pooled Income Funds in existence as of December 13, 2005: These arrangements will be grandfathered, and no current fee will be assessed. Unless the agreements or the understanding with the donors prohibit, termination fees will remain at 5 percent except in the following 2 instances:

- Agreements administered 10 years or more: 7.5 percent termination fee.
- Agreements administered 12.5 years or more: 10 percent termination fee.

X. Payment of Expenses

Responsibility for payment of various expenses involved in securing and managing planned gifts is as follows:

- Qualified appraisal to substantiate deduction (if necessary)—donor pays the cost
- Attorney's fee for document drafting and counseling donor—if donor's attorney performs, donor pays the cost; if the Foundation's legal counsel drafts a document for the donor and the donor's attorney reviews it, the Foundation pays the cost of drafting the document
- Title search (real property)—the Foundation pays the cost

- Environmental review (real property)—subject to negotiation
- Appraisal to update the property value once the trust is funded—charged to trust

XI. Roles and Responsibilities of Staff

Drafting and review of documents. The Foundation's Office of Planned Giving shall be responsible for preparing any trust agreements for which it will serve as trustee. If the donor has his or her own attorney prepare the document, the Foundation's Office of Planned Giving shall review the document before the gift is accepted. The Foundation will not review and comment on wills or living trusts except to ensure that the Foundation is properly named in the instrument and that proposed restrictions are acceptable and enforceable. If the gift will ultimately result in the creation of an endowment, a signed endowment agreement using the then-current model form agreement must be an attachment to the original gift instrument. The Foundation will not draft wills or living trusts for donors.

Forms 8283 and 8282. The Office of Finance shall be responsible for assisting the donor with completion of IRS Form 8283 and shall be responsible for completion and submittal of Form 8282 when the property has been sold.

Donor disclosure. The Office of Planned Giving shall be responsible for providing a donor with appropriate disclosure materials for new gifts to meet the requirements of the Philanthropy Protection Act and other legal requirements. The Office of Planned Giving should explain to the donor the terms and operations of the gift, including how it will be invested and administered. The donor should be informed of both the potential rewards and the risks of the investment strategy to be employed.

New gift documentation. The Office of Planned Giving shall provide the donor with a gift receipt and other necessary documentation about his or her gift. Procedures to be followed for new gift set-up are contained in the endowment agreement, if applicable.

Ongoing stewardship. The Office of Planned Giving shall be responsible for ongoing stewardship of the planned gift arrangement once a gift has been completed.

Oversight of administration and investment of gifts. The Vice President for Finance and Chief Investment Officer shall have primary responsibility for oversight of any outside service providers engaged to manage and administer the Foundation's planned gift assets.

XIII. Administration of These Policies

Approval and oversight of these policies is the responsibility of the Foundation's Investment Committee. The Office of Planned Giving is responsible for the administration of these policies. Exceptions to these policies must be approved by the Foundation's Investment Committee.

The information on this site is not intended as legal, tax or investment advice. For such advice, please consult an attorney, tax professional or investment professional.

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