



TEXAS A&M UNIVERSITY-KINGSVILLE FOUNDATION GIFT ACCEPTANCE POLICY

Gift Acceptance Policy

Introduction

The Texas A&M University Kingsville Foundation is a private, not-for-profit entity organized under the laws of the State of Texas (hereinafter referred to as the “Foundation”). The Foundation encourages the solicitation and acceptance of gifts that will help the Foundation in the furtherance of its mission to foster private financial support for Texas A&M University-Kingsville (the “University”). This Gift Acceptance Policy shall apply to all gifts received by the Foundation for any of its programs or services.

Purpose of Policy

The Board of Trustees of the Foundation and its staff solicit current and deferred gifts from individuals, corporations, foundations and other private entities to secure the financial growth and fulfill the mission of the Foundation. The purpose of these policies and guidelines is to define the practices and policies governing the acceptance of gifts by the Foundation and to provide guidance to prospective donors and their advisors when making gifts to the Foundation.

General Policy

The Foundation will accept unrestricted gifts and gifts for specific programs and purposes, provided that such gifts are consistent with its stated mission and do not violate the terms of its corporate charter, university rules and regulations, state law or this policy. Gifts received by the Foundation must not inhibit it from seeking similar or different gifts from other donors. No gift can be received which limits, beyond a general definition of subject area, the research that a faculty member or student can perform.

Gift Acceptance Committee

It is recognized that certain gifts, including but not limited to those involving unusual funding arrangements, should not be routinely processed, but should be reviewed by the Gift Acceptance Committee, which receives its authority from the Foundation Board of Trustees, as described within this policy statement. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made generally by the Gift Acceptance Committee of the Foundation, but subject to Board oversight.

The Gift Acceptance Committee shall consist of:

- The Chair of the Board of Trustees
- The Chair of the Development Committee
- A member of the Audit or Finance Committee
- Vice President for Finance and Chief Financial Officer Texas A&M University-Kingsville



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The Chair-elect of the Board of Trustees shall serve as the Chair of the Gift Acceptance Committee. The Chair shall consult with the President and CEO prior to any meeting of the Gift Acceptance Committee. The Chair may also consult with any other officer, Trustee or staff member of the Foundation whom the Chair believes appropriate. The Gift Acceptance Committee shall typically meet by telephone conference or at the call of the Chair, as may be necessary. Three (3) members of the Gift Acceptance Committee constitute a quorum.

The types of gifts which will be referred to the Gift Acceptance Committee include, but are not limited to, the following:

- Gifts requiring unusual funding arrangements or other commitments.
- Gifts of intangible or unusual personal property, including vessels or boats.
- Gifts of non-publicly traded securities.
- Gifts of partnership interests and other non-traditional investments.
- Gifts of real estate as defined further in this policy statement.
- Certain annuity contracts and charitable annuity trusts as defined further in this policy statement.
- Gifts with special restrictions that may be difficult or costly to administer.
- Any gifts that are exceptions to existing guidelines or which fall outside the definition of acceptable gifts as defined by this policy statement.

Compliance With Uniform Affiliation Agreement

Pursuant to the terms of the Uniform Affiliation Agreement executed by the Foundation and the Texas A&M University System, the acceptance of certain gifts may require prior approval of Texas A&M University-Kingsville. Donations requiring prior approval by Texas A&M University-Kingsville include donations that impose certain types of obligations on the University, or require actions or approvals by the University which have not previously been taken or given. Donations of this type would include, but would not be limited to: a proposed gift made to fund a program or capital project not previously approved by Texas A&M University-Kingsville; gifts involving naming opportunities not previously approved in accordance with Texas A&M University System policies and procedures; and, gifts of land that include proposed conditions requiring that the University occupy the land or conduct certain activities on the land. Prior to approval by Texas A&M University-Kingsville, such donations may be “conditionally” accepted by the Foundation only pursuant to a written agreement which contains a provision indicating that acceptance is conditioned on the acceptance of the conditions or obligations by Texas A&M University-Kingsville/System in accordance with applicable Texas A&M University-Kingsville policies and procedures. Until any conditions or obligations imposed on Texas A&M University-Kingsville are accepted in accordance with applicable policies and procedures, the donation may not be publicized or disclosed to third parties. Where the value of a donation falling into this category is greater than \$500,000, the Foundation must provide prompt written notice of the conditional acceptance to the President of the Texas A&M University-Kingsville or his/her designee. To avoid possible damage to a donor relationship that could result



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from publicity associated with the refusal to accept a proposed donation, notice provided by the Foundation to the President or his designee should not refer to the Donor by name.

A second category of donations requiring Texas A&M University-Kingsville approval involves the donation of land. Donations of land that are intended to be retained by the Foundation (rather than land that is accepted for resale within a reasonable period of time) and donations of land or similar interests (servitudes or leases) intended for lease or occupancy by the University requires Texas A&M University-Kingsville approval. Prior to approval by Texas A&M University-Kingsville, such donations may be “conditionally” accepted by the Foundation only pursuant to a written agreement which contains a provision indicating that acceptance is conditioned on approval by Texas A&M University-Kingsville in accordance with the terms of the Uniform Affiliation Agreement.

Donor Relations

The interests of prospective donors shall be a primary consideration with respect to any gift to the Foundation. Pressure techniques are not acceptable, and no program, agreement, trust or contract shall be presented which would benefit the Foundation or its beneficiary units at the expense of the donors’ best interests and charitable motivations. All prospective donors will be advised to consult their own legal or financial counsel regarding the tax implications of a gift and matters related to estate planning.

All information obtained from or about donors or prospects shall be held in strictest confidence by the Foundation in accordance with the Foundation Code of Ethics adopted by the Board of Trustees. The Foundation will respect donor wishes in regard to publication of information or other forms of recognition.

Current and Deferred Giving

Current Giving—A current gift involves the transfer of money or property by a donor to a qualified charitable institution, such as the Foundation, without receipt of consideration or economic benefit by the donor in return for making the gift. Such gifts are placed at the immediate disposal of the Foundation and may be either restricted or unrestricted in purpose. Most types of property may be donated to the Foundation as current gifts, although gifts other than cash and publicly-traded securities must comply with the provisions and guidelines contained within this policy statement. Often the amount of a gift of cash or securities can be increased through a corporate matching program. The Foundation aggressively pursues such opportunities through active communication with donors and beneficiary units.

Deferred Giving—A deferred gift involves the irrevocable transfer of an asset to a qualified charitable organization, such as the Foundation. The donor generally retains either an income stream or the remainder interest. Current tax laws allow several planning alternatives for deferred gifts, although a donor will not receive charitable tax deductions unless the program selected complies with applicable requirements established by the Internal Revenue Code, or other laws



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or regulations which govern certain types of deferred gifts. The Foundation will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

The Foundation's deferred giving program is referred to as "Planned Giving" or "Gift Planning." Planned Giving supplements and enhances the overall development programs of the Foundation by:

- Offering opportunities to make gifts during a donor's lifetime to those who desire to retain some income from their capital for themselves and their beneficiaries.
- Enabling donors to make larger gifts during their lifetime than could normally be made.
- Encouraging estate planning by offering lifetime and testamentary gift opportunities available under existing tax laws.

All donors who participate in a planned giving program and provide documentation to that effect are eligible for membership in *Planned Giving Society Working Name* a component of the Foundation's donor recognition program.

Types of Acceptable Gifts

The types of gifts that are acceptable are outlined in Appendix A.

Use of Legal Counsel

The Foundation shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Such matters include, but are not limited to, the following:

- Closely held stock transfers that are subject to restrictions, buy-sell agreements or other arrangements that limit the marketability of the securities.
- Arrangements and documents pertaining to such arrangements where the Foundation is named as Trustee.
- Gifts involving bargain sales or documents requiring the Foundation to take or refrain from taking some action or assume an obligation.
- Transactions with potential conflicts of interest that may invoke IRS or other legal sanctions.
- Property transactions that entail title issues.

Miscellaneous Provisions



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It will be the responsibility of the donor to secure an appraisal when appropriate and engage the advice of independent legal and financial counsel for all gifts made to the Foundation. The Foundation reserves the right to obtain an appraisal, at its own expense, of any tangible property or real estate offered for donation, prior to acceptance. In situations where advisors retained by the Foundation prepare documents or render advice in any form to the Foundation and a donor, it shall be disclosed in writing to the donor that the professional involved is in the employ of the Foundation and is not acting on behalf of the donor. Any documents or other advice rendered in the course of the relationship between the Foundation and the donor should be reviewed by counsel of the donor prior to completion of the gift.

The Foundation's Office of Gift Planning produces materials which educate and inform prospective donors and their advisors about the various forms of giving. The Foundation pays no fees or commissions of any kind to any party as consideration for directing a gift to the Foundation, nor does the Foundation endorse any professional or fiduciary services.

The President and CEO will be responsible for filing the required IRS Form 8282 upon the sale or disposition of any property sold or otherwise disposed of within three years of receipt by the Foundation when the charitable deduction value of the item is greater than \$5,000. It is understood that the Foundation must file this form within 125 days of the date of sale or disposition of the asset.

Revisions to Gift Acceptance Policy

These policies have been reviewed and approved by the Foundation Board of Trustees. Except as otherwise stated within these written policies, the Gift Acceptance Committee must approve any exceptions to policy provisions. The Gift Acceptance Committee will periodically review these policies and make recommendations for revisions to the Board of Trustees. Any changes in these written policies require approval of the Board of Trustees.

This policy shall be periodically reviewed by an appropriate committee or subcommittee of the Board of Trustees, and any recommended revisions and updates will be presented to the Board of Trustees for approval.

Approved: 00.00.20xx



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Appendix A

Types of Acceptable Gifts

The following types of gifts are acceptable:

- Cash
- Tangible personal property
- Securities
- Real estate
- Remainder interests in property
- Oil, gas and mineral interests
- Bargain sales
- Life insurance policies
- Charitable gift annuities
- Charitable remainder trusts
- Charitable lead trusts
- Retirement plan beneficiary designations
- Bequests
- Life insurance beneficiary designations

The following criteria govern the acceptance of the gift types listed above.

Cash—Cash is acceptable in the form of currency, money orders, checks or electronic transfer (either through a wire transfer to the Foundation’s bank account or by a verified credit card transaction). The postmark date is the gift date for gifts of cash mailed to the Foundation. Checks should be made payable to “Texas A&M University-Kingsville Foundation.”

Tangible personal property—Tangible personal property is property (corporeal movable property) other than real property (immovable property), which is often defined as property that can be touched. If the Foundation intends to sell a gift immediately rather than use it, the donor will be informed that IRS rules may limit the amount of the charitable deduction to the donor’s cost basis, and the donor will be advised to seek professional financial counsel on the tax consequences of such a donation. Only the Gift Acceptance Committee can approve an agreement to hold property for a specified period of time. Appraisals, at the donor’s expense, are required for all gifts for which the donor estimates the fair market value to be \$5,000 or more. Extraordinary gifts of tangible personal property will be referred to the Gift Acceptance Committee, which will consider the following factors in reviewing such gifts for acceptance:

- Does the property further the mission and purposes of the Foundation?
- Is the property marketable, or can it be used by the University in furtherance of the University’s purposes and mission?
- Are there any restrictions on the use, display or sale of the property?
- Are there any carrying costs, possible adverse legal consequences, or potential liabilities associated with ownership of the property?

Securities—The Foundation accepts both publicly-traded securities and closely-held securities under the conditions described below:



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- *Publicly-traded securities*—These are securities regularly traded on a public stock exchange. It is preferred that donors electronically transfer marketable securities directly to one of the Foundation's local brokerage accounts. Transfers made directly to the brokerage account can be liquidated almost immediately and with little additional paperwork required from donors. Alternatively, marketable securities may be delivered physically to the Foundation office with the donor's/transferor's stock power attached. It is the Foundation's policy to sell all marketable securities as soon after receipt as reasonably feasible. Those securities which are determined to be restricted by applicable securities laws will be reviewed by the CFO and legal counsel of the Foundation. If the restrictions are deemed to be unreasonable or excessive, acceptance will be referred to the Gift Acceptance Committee. The value of the gift will be calculated using the mean share price between the high and low selling prices quoted on the day the stock is transferred to the Foundation.
- *Closely-held securities*—Acceptance of closely-held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in limited partnerships and limited liability companies, or other ownership funds, must be approved by the Gift Acceptance Committee, with the following factors to be considered: any restrictions on the security that would prevent its conversion to cash, the marketability of the security, and the potential for other undesirable consequences for the Foundation.

Real estate—Gifts of real estate (immovable property) include developed property and undeveloped property, as well as gifts subject to a prior life interest or usufruct. Prior to acceptance of real estate, the Foundation shall require, at the donor's expense, an independent appraisal of the property's fair market value, as well as a Phase I environmental study to ensure that the property has no environmental damage or other environmental issues that would expose the Foundation to liability. The Gift Acceptance Committee reserves the right to consult with the Texas A&M System legal counsel should the Committee deem a legal opinion or intervention is needed. Factors to be considered in acceptance of the property shall include: usefulness of the property for the purposes of the Foundation; clear title to the property, marketability of the property, relative to its condition; any restrictions, reservations, easements, or other limitations associated with the property; carrying costs, such as insurance, property taxes (taking into account that the Foundation is not eligible for any homestead exemption), mortgages, or notes, associated with the property; the results of the environmental study report, and any potential liability for cleanup or restoration of the property that may be imposed under current law to a transferee.

At the time of acceptance of certain gifts of real estate, a third-party purchaser may stand ready to buy the donated property immediately upon the property's donation to the Foundation. Under such circumstances, the Gift Acceptance Committee is fully authorized to approve the sale of the donated property if the Committee deems such sale to be in the best interests of the Foundation.



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Once approved by the Committee, the Foundation's Chair or another person designated by the Committee, shall be authorized to execute any and all documentation related to the approved sale of the donated property.

Remainder interests in property, or Retained Life Estate Gift (RLE)—The Foundation will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions regarding the acceptance of real estate outlined previously in this policy document. The donor or other named beneficiary may continue to occupy the real property for the duration of the stated life or the term of the usufruct. Expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or life beneficiary. At the death of the donor or life beneficiary, as applicable, the Foundation may use the property or reduce it to cash. All procedures for evaluating proposed gifts of real property, outlined elsewhere in this document, apply to proposed RLEs as well. Donors are strongly encouraged to have all documents related to a proposed RLE reviewed by their own attorneys.

Oil, gas and mineral interests—The Foundation may accept such interests upon review and recommendation of legal counsel of the Foundation. Factors to be considered in review of the proposed donation include: any extended liabilities or other considerations that make receipt of the gift inappropriate, whether the proposed gift is a working interest (an expense bearing interest, for which acceptance would require approval of the Gift Acceptance Committee), and any current or potential exposure to environmental liability or cleanup or restoration obligations under relevant law.

Bargain sales—The Foundation will enter into a bargain sale arrangement only when the bargain sale furthers the mission and purposes of the Foundation. A bargain sale is a sale of property for less than its fair market value. Some donors are willing to sell their property for an amount equal to their cost basis. The donor then recovers the donor's investment and receives a charitable deduction for the appreciated portion. All bargain sales must be reviewed by the Gift Acceptance Committee and approved by the Board of Trustees. Factors used in determining the appropriateness of the transaction include: the results of an independent appraisal, obtained at the donor's expense, substantiating the value of the property, whether the Foundation will assume any debt with the property, the marketability of the property for sale within 12 months of receipt, and carrying costs associated with the property during the holding period prior to sale

Life insurance policies—The "Texas A&M University-Kingsville Foundation" must be named both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift shall be valued at its interpolated terminal reserve value (cash surrender value) on the date of receipt. Should the donor contribute future premium payments, the Foundation will include the entire amount of the additional premium payment as a gift in the year the payment is made. If the donor elects not to continue to make gifts to cover premium payments on the life insurance policy, the Gift Acceptance Committee shall decide whether to continue to pay the premiums, convert the policy to paid-up insurance, or surrender the policy



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for its current cash value. No insurance products and no insurance companies or agents are endorsed by the Foundation for use in funding gifts to the Foundation. The Foundation does not furnish donor's names to third parties for the purpose of marketing life insurance to donors or for any other purpose.

Charitable Gift Annuities (including Deferred Charitable Gift Annuities)—A charitable gift annuity (CGA) is a contractual arrangement between a donor and the Foundation for which the Foundation accepts a transfer of cash, cash equivalents, or publicly-traded securities from the donor in return for periodic payments to the donor and/or one other named beneficiary for life. In the case of a Deferred CGA, the periodic payments are specified in the contract to begin in a future time period. Upon the death of the donor (or, if applicable, the other named beneficiary), the balance of the principal is retained by the Foundation. A portion of the annual payment is tax-free income to the donor, being considered return of principal. Since the gift annuity is part gift, in addition to the purchase of the annuity, the donor is allowed an income tax deduction. Donors will be advised to seek legal and financial counsel regarding tax deductibility and similar matters.

The annuity is secured by all of the Foundation's assets, and the rate of return used by the Foundation and stated in the annuity contract is determined from tables provided by the American Council on Gift Annuities. The rates in these tables take into account the age of the donor and/or beneficiary at the time of the gift, as well as the date at which payments are to begin in the case of a Deferred CGA, and are actuarially calculated to provide that approximately fifty percent (50%) of the market value of each gift will remain at the death of the last annuitant. The Foundation may enter into CGA contracts with minimum funding of \$25,000 and minimum age for life income beneficiaries of 60, except in the case of Deferred CGAs, for which the minimum age is 50. For Deferred CGAs, the minimum deferral period for life income beneficiaries over age 50 but less than age 60 is ten (10) years. The minimum deferral period for life income beneficiaries age 60 and older is five (5) years. Exceptions to minimum requirements require approval of the Gift Acceptance Committee.

No more than two life income beneficiaries will be permitted for any gift annuity. The Foundation will not accept real estate, personal property or any other illiquid asset in exchange for any charitable gift annuity.

The tables published by the American Council on Gift Annuities will be used for contractual rates unless an exception is granted by the Gift Acceptance Committee. Upon the death of the donor and/or other named beneficiary, the funds representing the remaining principal contributed in exchange for the gift annuity will revert to an account for the purpose specified by the donor; or, if no such purpose is specified, the fund shall revert to the unrestricted use of the Foundation. Gift annuity contracts are governed by the laws of the state in which the donor resides. Certain of these states have stringent registration requirements. For gift annuities to be established in states other than Louisiana, the specific annuity regulations and requirements for that state will first be



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reviewed by the Director of Planned Giving of the Foundation. The Foundation reserves the right to reject any annuity contract proposals from states where the regulations are deemed overly burdensome or when excessive compliance costs would be required.

Charitable Remainder Trusts—The Foundation accepts designation as remainder beneficiary of charitable remainder trusts. A charitable remainder trust (CRT) is an irrevocable trust created during the life of the donor or through the donor’s will or trust (a testamentary CRT). The CRT must provide that a specified amount (not less than 5%) of the trust’s value is paid to one or more beneficiaries on an annual or more frequent basis. At least one beneficiary must be non-charitable. The Foundation does not serve as trustee for new CRTs; however, the Director of Planned Giving will discuss trustee options with the donors, who will retain complete discretion to the choice of trustee.

There are two alternatives for CRTs. One is a unitrust (CRUT), which pays a fixed percentage of trust assets (not less than 5%) determined annually. The other is an annuity trust (CRAT), which pays a fixed annuity and requires that an amount not less than 5% of the initial fair market value of trust assets be paid at least annually to the named income beneficiary or beneficiaries.

- *Charitable Remainder Unitrust (CRUT)*—The primary feature of a CRUT is that it can be for life or a specified term of years, after which the trust assets pass to the Foundation. Only assets of the trust may be used to satisfy the commitment to the donor; assets of the Foundation are not involved. Under current tax law, the charitable remainder of a unitrust must equal more than 10% of the unitrust’s fair market value when it is funded in order to qualify as a CRUT. Donors may make subsequent additions to the unitrust during their lifetime or by bequest upon their death. The CRUTs acceptable to the Foundation are the basic form of a unitrust, termed a “straight unitrust.” A straight unitrust provides for payment to the donor and/or beneficiary quarterly an amount equal to a set percentage of the fair market value of the assets of the trust, valued annually. The percentage is determined by the donor at the time the trust is created, is stated in the trust, and is irrevocable. If annual income and capital gain do not equal the committed percentage, principal is used to make up the difference. If there is an excess, it is added to the principal.
- *Charitable Remainder Annuity Trust (CRAT)*—This type of trust shares many common features with the unitrust, the primary difference being the manner used to calculate the payment to the income beneficiary. The unitrust provides for a payout that varies with each annual valuation; however, the annuity trust provides for fixed payments based upon the fair market value on the date the trust is established. Another difference is that additional contributions cannot be made to an annuity trust. With a CRAT, the donor irrevocably transfers assets to the trust, and the trustee pays the donor, or the specified beneficiaries, a fixed dollar amount annually for life or for a predetermined term not to exceed twenty (20) years. This payout must equal at least five percent (5%) of the fair



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market value of the assets placed in the trust when it is created. Income in excess of the annual payment is added to the principal. If the income in any one year is less than the annual payment, the difference comes from principal.

Charitable Lead Trusts—The Foundation may accept designation as the income beneficiary of a charitable lead trust. A charitable lead trust is a form of split-interest gift. A lead trust is similar to a charitable remainder trust, although the qualified charity receives the income interest with the remainder interest passing to the donor or some other designated beneficiary. Because of the complexity of split-interest deduction rules, the Foundation will advise prospective donors in writing to rely upon the donor’s legal, financial and tax advisors in determining whether to pursue the gift of a charitable lead trust to the Foundation. The Director of Planned Giving will discuss trustee option with the donors, who will retain complete discretion as to the choice of trustee.

Retirement plan beneficiary designations—Donors and supporters of the Foundation will be encouraged to name the “Texas A&M University-Kingsville Foundation” as beneficiary of their retirement plans, including Individual Retirement Accounts (IRAs) and qualified pension and profit-sharing plans. Donors may wish to make their spouse the primary beneficiary, in which case the Foundation may be designated as secondary or contingent beneficiary. Such designations will be recorded as gifts to the Foundation at such time that they become irrevocable. When the receipt of funds is not due until a future date, the present value of the expected cash inflow of beneficiary funds is recorded as a gift at the time the designation becomes irrevocable. Gifts from retirement plans may be established by sending a new beneficiary designation to the donor’s plan administrator.

Bequests—A bequest is a gift of cash, property, or other asset made in a donor’s will or living trust. Bequests may provide for a specific dollar amount in cash, specific securities, specific articles of tangible property, or a percentage of the residual of the estate. Donors and supporters of the Foundation will be encouraged to make bequests to the Foundation in their wills and trusts. The donors and supporters will be advised to name the legal entity of the “Texas A&M University-Kingsville Foundation” specifically in their wills and trusts—rather than “Texas A&M University-Kingsville” or “Texas A&I University” or “TAMUK” or “TAIU”—in order to clearly indicate the intent of their bequest for the Foundation. Bequests may be given as unrestricted gifts or gifts restricted to a purpose or program designated by the donor. Donors may also establish, by bequest, a testamentary charitable remainder trust or unitrust. The bequest can be arranged so as to provide a life income for a designated beneficiary or beneficiaries. If such a gift is made by will, the principal will pass to the Foundation only after the death of the life income beneficiary or beneficiaries.

Life insurance beneficiary designations—Donors and supporters of the Foundation will be encouraged to name the Foundation as beneficiary or contingent beneficiary of their life insurance policies. Such designations will be recorded as gifts at the time the designation



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becomes irrevocable. The value of the gift to be recorded shall be the present value of the beneficiary amount expected to be received.

Other property—Property not otherwise described above, whether real or personal, of any type (including copyrights, trademarks, royalties, servitudes, easements or other incorporeal rights) may be accepted only after review and approval by the Gift Acceptance Committee.

Adopted November 17, 2017