4. Gift Acceptance Policies & Guidelines

The University at Albany Foundation (“the Foundation” or UAF) is the designated 501(c)3 organization for charitable gifts supporting the University at Albany (“the University.”) All contributions must be reported through the Foundation. The following policies and guidelines govern the acceptance of gifts made to the Foundation for the benefit of the University at Albany.

I. Purpose of Policies and Guidelines

The Foundation accepts current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of the University. It is the purpose of these policies and guidelines to govern the acceptance of gifts by UAF and to provide guidance to prospective donors and their advisors when making gifts. The provisions of these policies shall apply to all gifts received by the Foundation for any of the University’s programs or services.

II. Use of Legal Counsel

UAF may seek the advice of legal counsel in matters relating to the acceptance of gifts where appropriate at the expense of the Foundation. Review by counsel is recommended for:

a. closely held stock transfers that are subject to restrictions or buy sell agreements.

b. gifts involving contracts, such as real estate or bargain sales or other documents requiring UAF to assume an obligation.

c. all transactions with potential conflict of interest that may invoke IRS sanctions.

d. other such instances in which use of counsel is deemed appropriate by the Foundation’s Executive Director and/or the CFO.

III. Conflict of Interest

While this document is intended to provide guidance to Foundation personnel regarding acceptance of prospective gifts, donors are ultimately responsible for ensuring that the proposed gift furthers their charitable, financial and estate planning goals. Therefore, donors are to be encouraged to seek the advice of independent legal and financial counsel in the gift planning process. It is a conflict of interest for the Foundation or any of its staff to give legal, accounting, or tax advice to donors or prospective donors.

IV. Restrictions on Gifts

UAF will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. UAF will not accept gifts that are too restrictive in purpose. Gifts that may be too restrictive should be determined by the Executive Director or CFO and should include but not be limited to those that violate the terms of the corporate charter, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the University.

Funds where the donor continues to exercise control over the use of the funds, including selection of recipients or management of the Foundations’ assets, are not considered gifts by the IRS and will not be treated as gifts by the Foundation.
The Foundation may, at its discretion, decline to accept any gift or pledge for one or more of the following reasons:

1. There are conditions to a gift that are not consistent with the purposes, values, or objectives of the University or Foundation.
2. The gift could financially jeopardize the donor or the Foundation.
3. The Foundation does not have the resources to honor the terms of the gift.
4. Acceptance of the gift will result in unwarranted or unmanageable expense to the Foundation or the University.
5. There are physical or environmental hazards related to the gift.
6. The gift could improperly benefit any individual.
7. The Foundation or the University is unable or uninterested in meeting donor restrictions.
8. The cost to the University or the Foundation of maintaining the gift or meeting the restrictions placed on the gift by the donor is excessive.
9. The gift may result in inappropriate or undesirable publicity.

V. Risk Categories of Gifts

Gift acceptance is the responsibility of the Board of Directors of The University at Albany Foundation upon the recommendation of the Executive Director and/or the President of the University. The Board of Directors may, at their discretion, delegate all or a portion of this responsibility to a committee, sub-committee, staff person, or a named individual.

Gifts are classified into four categories based on whether the risk associated with acceptance is considered: i) marginal ii) moderate iii) material or iv) needs Board approval.

i. Gifts that are considered to be of marginal risk and may be accepted by Foundation staff.

Gifts of marginal risk include:
- Cash
- Publicly traded securities
- Charitable Bequests
- Gifts of personal property with a fair market value equal to or less than $5,000
- Gifts of life insurance (The University at Albany Foundation as beneficiary only.)
- Charitable gift annuities
- Retirement assets
- Charitable remainder trusts/charitable lead trusts (The University at Albany Foundation as beneficiary.)

ii. Gifts considered to present moderate risks may be accepted after approval by the Executive Director and/or the CFO.

Gifts of moderate risk include:
- Non-publicly traded securities
- Gifts of life insurance (The University at Albany Foundation as owner and beneficiary.)
- Charitable remainder trusts (funded with cash or publicly traded securities and The University at Albany Foundation serves as co-trustee with appointed financial institution.)
- Charitable lead trusts (The University at Albany Foundation serves as co-trustee with appointed financial institution.)
iii. Gifts considered to present **material** risks must be approved by the Executive Director of the Foundation **before** their acceptance. A draft of the gift instrument (i.e., Memorandum of Understanding), between the donor, the Foundation and the University, will be included as part of the discussion with the Executive Director.

Gifts of **material** risk include:
- Gifts of personal property with a fair market value exceeding $5,000 or if not to be retained by the Foundation or by the University after transfer to the University
- Gifts of real property
- All gifts of real or tangible personal property subject to donor restrictions regarding property disposal
- All gifts of unusual items or gifts of questionable value
- Charitable remainder trusts (funded with non-publicly traded securities, real property, tangible personal property or other assets and The University at Albany Foundation serves as co-trustee with appointed financial institution.)

iv. Gifts that need **Board approval** include:
- Gifts of existing business interests
- Gifts of retained life estates
- Gifts of restricted securities

**VI. Appraisals**

Legal and ethical requirements, designed to protect both the donor and the Foundation, prohibit the Foundation itself from appraising gifts. Such appraisals are to be conducted by appraisers, independent from the Foundation. Generally, the cost of an appraisal will be the donor’s responsibility.

**VII. Types of Gifts**

A. The following gifts are acceptable:

1. Cash
2. Securities
3. Tangible personal property (Gifts-in-kind “GIK”)
4. Real property
5. Retained life estates
6. Bargain sales
7. Charitable bequests
8. Retirement assets
9. Charitable gift annuities
10. Charitable remainder trusts
11. Charitable lead trusts
12. Life Insurance
13. Other property

B. The following criteria govern the acceptance of each gift form:

1. **Cash:** Cash is acceptable in the form of currency, money orders, checks, electronic transfer or credit card.
2. **Securities**: Gifts of securities take the form of publicly traded securities (stocks and bonds), non-publicly traded (closely held) securities, or interests in existing business entities. It is the policy of the Foundation to liquidate these securities as expeditiously as possible.

   i. **Publicly Traded Securities.** Securities traded on any recognized stock exchange and are readily marketable will be accepted by the Foundation.

   ii. **Non-Publicly Traded (Closely Held) Securities.** Debt and Equity positions in non-publicly traded companies, interests in limited partnerships and limited liability companies, or other ownership funds.

   Under IRS regulations, it is the donor’s responsibility, for gifts of non-publicly traded securities exceeding $10,000, to have the securities valued by a qualified independent appraiser as required by the IRS. Gifts of non-publicly traded securities of $10,000 or less may be valued at the per share cash purchase price of the most recent transaction. Normally, this transaction is the redemption value of the stock by the corporation. For a gift of $10,000 or less, when no redemption has occurred during the reporting period, an independent certified public accountant (CPA) who maintains the books for a closely held corporation is deemed to be qualified to value the stock of that corporation.

   iii. **Interests in Business Entities.** Donors may make gifts of interests in existing business entities (partnership interests, S Corporations, interests in limited liability companies, etc.). These may be accepted by the Foundation so long as the Foundation assumes no legal liability in receiving them. In evaluating a gift proposal of such assets, prior to making its recommendation to the Executive Director, staff should consider the probability of converting the interest to a liquid asset within a reasonable period of time, projected income that will be available for distribution and administrative fees, and the nature of the business from which the asset is derived. The Board of Directors may decline acceptance of any such gift.

   iv. **Mutual Funds.** A mutual fund is a professionally managed investment fund that pools money from many investors to purchase securities. Mutual funds involve special arrangements for transfer.

3. **Personal Property**: The Foundation accepts two categories of personal property: (i) those accepted for University use or (ii) those accepted with the intent to sell.

   i. **Tangible Personal Property, Gifts-in-Kind, Intellectual Property**

      The Foundation may, in its discretion, accept gifts of tangible personal property, gifts-in-kind, or intellectual property that will be used by the University faculty, staff and/or students if the property can be used to complement the core mission of the University in the areas of teaching, research, campus activities, outreach programs or a combination thereof. Examples of tangible personal property and gifts-in-kind include, but are not limited to, works of art, manuscripts, literary works,
books, furniture or equipment. Examples of intellectual property include, but are not limited to, patents and copyrights.

Before the Foundation accepts gifts of tangible personal property or gifts-in-kind, the use and need of the property should be clearly documented and approved by the respective University unit. Title to the property should be free of liens and encumbrances and properly documented. Careful consideration should be given to maintenance, storage, and transportation costs.

The IRS does not recognize as charitable deductible gifts two types of contributions that sometimes look like tangible personal property/gifts-in-kind. These are:

- professional services; and
- software licenses and use of software.

These contributions will not be credited by the Foundation with gift credit.

ii. Personal Property, Gifts-in-Kind

The Foundation, in its discretion, may accept gifts of tangible personal property and gifts-in-kind with the intent to sell and use the proceeds to further its charitable activities. Donors should be aware that if the Foundation sells the tangible personal property, it may impact the donor’s tax deduction.

Gifts of personal property shall be valued at full fair market value and title to such gifts should be clear, unencumbered, and properly documented. Foundation staff will carefully consider marketability, storage, transportation, and disposal costs of these gifts of personal property.

If the Foundation sells the donated property within three (3) years of the date of the gift, the Foundation will file an information return on IRS Form 8282 and send a copy to the donor’s address of record. It is the donor’s responsibility to notify the Foundation of a change of address.

4. Real Property: The Foundation may, in its discretion, accept gifts of real property. Real property includes but is not limited to improved or unimproved land, personal residences, farmland, commercial property, rental property and mineral interests. Time-share interests will not be accepted. Once the Foundation has accepted a gift of real property, it may hold the property if the Foundation, in its discretion, decides the property can support the educational mission and activities of the University. If not, the Foundation will sell the property and credit the proceeds as instructed by the donor. If it is the intention of the donor that the Foundation not immediately dispose of real property, an agreement must be made in writing between the Foundation and the donor before such property is even considered acceptable by the Foundation. If the donor wishes to gift real property during his/her lifetime, the Foundation will consider the gift only after a thorough examination of the criteria listed below:

i. Market Value and Marketability. The CFO must receive a current appraisal (not older than 60 days) of the fair market value of the property and a description of the gifted interest in the property. The
appraisal and other information must indicate clearly and convincingly that there is a market for the property and that the property can be sold within a reasonable period of time. A representative of the Foundation shall conduct a site visit of the property.

ii. **Potential Environmental Risks.** All proposed gifts of real property, including gifts from estates, must be accompanied by an Environmental Questionnaire pertaining to the property that has been completed by the donor (and/or counsel or family members in case of an estate gift). In addition, a Phase 1 Environmental Site Assessment (ESA) by a qualified engineer indicating that ownership will not expose the Foundation to environmental liabilities is required, typically at the donor’s expense. The Foundation may choose to waive the ESA requirement for non-farm residential properties. The ESA must meet the then-current ASTM 1527 standard in effect.

The Foundation will require that all gifts of an interest in mining or oil and gas properties (and any other gift which the Foundation deems appropriate) to be inspected by a properly licensed or certified professional as may be required to demonstrate due diligence and care in accepting the property as free from contamination. Any such inspection shall be documented properly for legal reasons.

iii. **Limitations and Encumbrances.** No gift of real estate may be accepted until all mortgages, deeds of trust, liens and other encumbrances have been discharged.

iv. **Carrying Costs.** The existence and amount of any carrying costs, such as property owner’s association dues, transfer charges, taxes and insurance, must be disclosed.

Gifts of real property qualifying for a charitable deduction to the donor shall be valued by using the fair market value of the property as determined by a qualified appraisal. The execution and delivery of a deed of gift or other appropriate conveyance shall complete the gift. The donor should consult with a tax advisor to ensure any necessary IRS forms are properly executed in connection with the deed of gift. The donor shall pay the costs associated with the conveyance and delivery of the gift. If the Foundation should sell or otherwise dispose of the donated property within three years of the date of the gift, the Foundation must file an information return with the Internal Revenue Service on IRS Form 8282 and send a copy to the donor.

5. **Retained Life Estates:** The Foundation will accept a remainder interest in a personal residence, farm, or vacation home subject to the provisions in paragraph 4 above. 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, the Foundation may use the property or reduce it to cash. Where the Foundation 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 primary beneficiary. Maximum lives: two.

6. **Bargain Sales:** A bargain sale is a sale of property for less than its fair market value. The Foundation will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the
Foundation or University. All bargain sales must be reviewed and recommended by the Executive Director. Factors used in determining the appropriateness of the transaction include:

- The Foundation must obtain an independent appraisal substantiating the value of the property.
- The Foundation must determine that it will use the property, or that there is a market for sale of the property allowing sale within 12 months of receipt.
- The Foundation must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

7. **Charitable Bequests**: A charitable bequest is a gift made to the Foundation through wills or living trusts. Charitable bequests are valued and assessed at the time the Foundation is notified of the gift. Donors are encouraged to disclose their bequest intentions to the Foundation in writing to ensure that the Foundation is able to carry out their future wishes and that gifts conform to these policies. Bequest intentions must be documented by the donor and include a copy of the Will, Trust, or third party paperwork. The Foundation will not record a bequest intention when we are named contingent beneficiary.

8. **Retirement Assets**: Donors may name the Foundation as a beneficiary to all or a portion of the death benefits of retirement plans, including Individual Retirement Accounts (IRAs) and qualified pension and profit-sharing plans. A donor’s spouse MUST sign a spousal waiver agreeing to the transfer to charity of a qualified retirement plan but not for an IRA. The Foundation will not record a contingent beneficiary designation.

9. **Charitable Gift Annuities**: A charitable gift annuity is a contract between the Foundation and the donor. The donor makes a contribution to the Foundation and the Foundation agrees to pay the annuitant an income for the rest of the annuitant’s lifetime. The minimum contribution to establish a charitable gift annuity is $10,000.

    The Foundation prefers that this contribution is made in cash or publicly traded securities. The Foundation uses the gift annuity rates recommended by the American Council on Gift Annuities.

    The Foundation will accept current gift annuities, which begin payments at the next payment date (quarterly, biannually or annually), as well as deferred gift annuities, whose initial payment is at least one year after the gift date. The deferral period will be at the discretion of the donor.

    Gift annuity agreements shall be limited to one life or two lives. The minimum age for the annuitants shall be 60 for immediate annuities and 40 (at the time of establishment) for deferred annuities. For deferred annuities, the annuitant’s minimum age at the commencement of payments shall be 60.

10. **Charitable Remainder Trusts**: The Foundation (i) accepts designation as remainder beneficiary of charitable remainder trusts or (ii) may serve as co-trustee for charitable remainder trusts with an appointed financial institution for which 100% of the remainder is irrevocably designated to the Foundation.
**Unitrusts:** A “unitrust” is a trust that provides for payment to the donor and/or beneficiary of an amount equal to a set percentage of fair market value of the assets of the trust, valued annually. The percentage is determined at the time the trust is created, is stated in the trust, and is permanent. The minimum payout allowed is five percent (5%) annually and the value of the charitable tax deduction must be at least 10% of the fair market value of the property transferred to the trust on the date of the transfer (in accordance with IRS regulations).

**Annuity Trusts:** Annuity trusts are similar to unitrusts and subject to the same policies and procedures, except that the donor and/or beneficiary annually receive a payout that is fixed irrevocably at the time of the gift and stated in the trust agreement. The payout must equal at least 5% of the fair 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. Unlike a Unitrust, additions may not be made to Annuity Trusts.

i. If the Foundation is not serving as Trustee, staff can recommend a list of possible corporate fiduciaries upon request, or the donor can choose their own financial institution or trustee.

ii. The Foundation may serve as co-trustee with an appointed financial institution. In that situation, the maximum percentage shall be compliant with IRS code. The maximum percentage shall be based on several factors, including the age of the donor(s), number of lives, amount of gift, rate of return on U.S. Treasury bonds at the time and other considerations.

In addition, when the Foundation serves as co-trustee, all life income beneficiaries must be at least age 50. If a beneficiary is under 50, a term of years not to exceed 20 years must be used.

The minimum asset value for establishing a charitable remainder unitrust shall be $100,000, and the Foundation must be 100% beneficiary of the trust.

The minimum asset value for establishing a charitable remainder annuity trust shall be $500,000, and the Foundation must be 100% beneficiary of the trust.

Prior to acceptance of the charitable remainder trust, the Foundation and co-trustees must review and approve a trust document that must be prepared by the donor’s attorney.
11. **Charitable Lead Trusts**: The Foundation (i) accepts designation as income beneficiary of charitable lead trusts or (ii) may serve as co-trustee with an appointed financial institution for charitable lead trusts CRTs for which 100% of the income interest is directed to the Foundation. A charitable lead trust is designed to make periodic income payments to a charitable organization for a specified number of years, after which the trust terminates and the assets pass to the designated individuals either outright or in trust. Donors may fund charitable lead trusts with cash, stock, income producing real estate (or a combination of these assets) placed in trusts.

   i. If the Foundation is not serving as co-trustee, staff can recommend a list of possible corporate fiduciaries upon request, or the donor can select their own financial institution or trustee.

   ii. If the Foundation is serving as co-trustee, prior to acceptance of the lead trust, the Foundation and co-trustees must review and approve a trust document which would be prepared by the donor’s attorney.

   When the Foundation serves as co-trustee, the minimum asset value for establishing a charitable lead trust shall be $1,000,000.

12. **Life Insurance**: Life insurance gifts can be made when (i) the Foundation is named beneficiary of a life insurance policy (and does not own the policy), or (ii) the Foundation receives a gift of insurance and the Foundation is beneficiary and owner of the policy. Life insurance is valued at the cash surrender value at the time of the gift. Additional premium payments are considered gifts when received by the Foundation.

   i. The donor must decide whether naming the Foundation as a beneficiary only or as an owner and beneficiary is in the best interests of the donor. The Foundation recommends the donor seek legal and financial counsel before making this decision.

   ii. The following criteria apply to insurance gifts when the Foundation is owner and beneficiary:

   - The minimum amount of the policy must be $50,000.
   - The premium must be a lump sum payment or annual premium payments for not more than 10 years.
   - The policy may not be a term insurance policy.
   - The donor agrees to be responsible for making additional premium payments if the interest rates fall below expectations and additional premium payments are required.

   If the donor is unable, for any reason, to make the gifts to cover premium payments and there are no dividends to cover payments, the Foundation will decide the future of the policy based upon several factors, which may
include age of donor, death benefit, amount of paid-up insurance, amount of premium, number of premiums remaining. The Foundation may decide to:

- Cease premium payments and consider the policy paid at current level of insurance.
- Surrender the policy for the cash value and use the funds as designated by the donor.
- Use Foundation resources to pay the insurance premium.

13. **Other Property**: All property that does not fall within the categories of gifts described above shall be reviewed by the Executive Director, taking into account all facts and circumstances relating to the appropriateness and risks associated with acceptance of the gift.

Policy Approved by Development Committee: May 24, 2016