

## **UNIVERSITY OF LOUISIANA MONROE FOUNDATION**

**POLICY NUMBER: 5.2**

**TITLE: Gift Acceptance and Disposition Policy**

**EFFECTIVE DATE:** November 20, 2003

**LAST REVIEWED:** September 5, 2019

**BOARD APPROVED:** December 3, 2015

### **I. Introduction**

The Board of Trustees of the University of Louisiana Monroe Foundation (hereafter referred to as “the Foundation”), with an understanding of their mission and responsibilities for accepting gifts on behalf of the University of Louisiana Monroe (hereafter referred to as “the University”), has established the following Gift Acceptance and Disposition Policy.

The policy’s purpose is to give guidance to the University community and the general public as to facilitation of this gift giving process. The Foundation recommends that all gifts be accepted or rejected in accordance with the policies set forth herein. To prevent conflict and misunderstanding, the guidelines are viewed as flexible and realistic in order to accommodate unpredictable fundraising situations and donor expectations. For a gift to be accepted, it must fulfill guidelines consistent with the University’s mission and Foundation policy.

### **II. Gift Acceptance Committee**

The Foundation Board of Trustees, upon the recommendation of its Executive Committee and Gift Acceptance Committee (GAC), is responsible for formulating, implementing and amending the gift acceptance and disposition policies.

The GAC shall consist of the Foundation’s Executive Director and Chief Financial Officer and at least three Trustees of the ULM Foundation. To serve on GAC, Trustees should be knowledgeable and experienced with real and tangible property (land use, timber, oil and gas management, appraisals, and leases), estate planning, income tax laws, securities and / or legal aspects of gifts to non-profit entities. University representatives asked to serve on the GAC will serve as full members. The GAC shall exercise the oversight and responsibilities as to the gift giving process. The GAC shall report to the Executive Committee and Board of Trustees as needed.

A meeting of the GAC may be convened by the committee chair if a specific gift constitutes an exception to the standards as outlined in the Gift Acceptance and Disposition Policy and/or the gift has been challenged regarding its origin or scope. The GAC will review the information that has been presented by the staff and, if the issues involved have been satisfactorily resolved, may accept or reject the gift in question. If the issues involved have not been satisfactorily resolved, the GAC will either request additional information or decline or return the donation. The GAC will endeavor to respond promptly so that the gift can be completed in a timely manner to ensure donor good will.

### **III. Policy Amendment and Review**

Responsibility for review of and recommended amendments to the policy shall be that of the GAC. This policy shall be reviewed every three years and whenever it becomes inconsistent with IRS regulations or other applicable state or federal laws. To amend these guidelines, a written amendment shall be prepared by the GAC and recommended to the Executive Committee for submission to the Board of Trustees for review and approval.

### **IV. ULM Foundation Acceptance of Gifts**

Routine gifts are accepted and administered through the Foundation's Office of Development with final authority to accept such gifts lying with the Executive Director. Gifts that may expose the Foundation and/or the University to adverse publicity, require undue expenditures, or involve the Foundation or the University in unexpected responsibilities because of their source, conditions, or purposes will be referred to the GAC for review.

Once the Foundation has accepted a gift, it becomes Foundation property. From this point, the donor has no direct decision-making power regarding the disposition of the gift.

The recommended maximum length of pledges is five years. Pledges to be paid over periods of more than five years (extended pledges) must be approved by the GAC. The level of information required by the Foundation to make an informed decision regarding gift acceptance will vary depending upon the nature of the gift. If it appears that a gift may not be acceptable, it is the responsibility of the GAC to reach a decision promptly and convey this fact to the donor along with suggestions as to other avenues of making the gift.

If the fulfillment of the pledge has not been met within the committed term, a Development Officer consults with the donor to develop a payment plan to fulfill the pledge. If the donor is unable to fulfill the pledge, the Development Officer notifies the Executive Director who presents the default to the Board for action.

### **V. Gift Definition**

For tax purposes, a gift is defined as a voluntary transfer of assets from a person or an organization to the Foundation where no goods or services are expected, implied or forthcoming for the donor. Gifts usually take the form of cash, securities, real property or personal property.

- A gift is motivated by charitable intent.
- Gifts are irrevocable transfers of assets. The Foundation is not obliged to return unexpended funds. (If the Foundation is unable to comply with the donor's intent, or if the gift has been misdirected to the Foundation (i.e. wrong payee), the Executive Director is authorized to approve the return of the gift. The return of a gift for any other reason must be reviewed and approved by the GAC.)
- Gifts are not generally subject to an exchange of consideration or other contractual duties between the Foundation and the donor, except for certain deferred gifts as set out in this policy.
- A period of performance is not specified.
- A gift is not completed until it has been accepted by the Foundation.

### **VI. Restricted Gifts**

Restricted gifts are typically covered by written agreements between the donor(s) and the Foundation which document the restrictions and an alternate use if the restrictions become obsolete. Restriction(s) placed on the use of the funds contributed to the Foundation may be rendered illegal, unreasonable or unable to be fulfilled due to circumstances, including but not limited to the termination of a University program. If the donor(s) is unavailable to alter the account restriction(s), the Foundation shall consult with donor's representative or family members and the university President to restructure the gift to an alternate use with corresponding benefit / recognition to the donor.

## **VII. Gift Acceptance Conditions**

- A. The Foundation will accept only gifts that are consistent with the core educational values of the University and are:
- compatible with the mission of the University and its individual programs;
  - compatible with and do not violate the terms of the University's accreditation;
  - in compliance with NCAA (athletic) requirements;
  - in compliance with the Internal Revenue Code of 1986, as amended ("IRC") and other federal statutes, regulations, rulings, or court decisions that stipulate the conditions under which contributions can be tax favored;
  - in compliance with State of Louisiana laws and regulations under which contributions can be given and received; and
  - compatible with the Foundation's tax-exempt status.
- B. The Foundation will **not** accept any gift that:
- violates any federal, state or local statute of ordinance;
  - creates a fund to provide for scholarships, fellowships, professorships or lecture series with restrictive clauses that could cause embarrassment to the University, or that reserve to the donor or his/her representative the right to designate the recipient if the recipient is related to the donor or is deemed ineligible by the University;
  - contains a condition that requires any action on the part of the University that is unacceptable to University administration;
  - obligates the University to a financial commitment;
  - commits the University to name a fund where the gift is revocable in any way;
  - requires tuition payments for a family member of the donor;
  - exposes the Foundation to litigation or other liabilities;
  - requires the payment of maintenance costs (e.g. debt service) for which no specific provision has been made;
  - generates unrelated business income tax, or
  - appears to be financially unsound.

Unless a specific exception is granted by the GAC, the Foundation will immediately sell all gifts of stock or property so that it can invest the proceeds in accordance with Foundation investment policies.

## **VIII. Fees**

### **A. Finder's Fees or Commissions**

Consistent with codes of ethics of the Association of Fundraising Professionals and the National Committee on Planned Giving, no finder's fee or commission of any type will be paid by the Foundation to any party.

**B. Professional Fees**

Professional fees and other reasonable costs of a gift acquisition are normally paid by the donor. However, there may be occasions when a prospective donor conditions the gift on the Foundation's agreement to pay such costs. The Foundation will verify the reasonableness of the costs and that the cost reimbursement complies with state and federal requirements, including but not limited to tax laws and professional ethical guidelines. If appropriate, the Foundation may agree to cover gift acquisition costs from its operating budget.

**C. Administrative Fees**

To the extent permitted by law, the Foundation reserves the right to levy administrative fees on endowment accounts, life income plans, and charitable trusts where appropriate. The Foundation Finance and Administration Committee, with approval of the Board of Trustees, may establish fees annually based on the Foundation's cost of administration of gifts (refer to ULM Foundation Administrative Fee Policy 5.8).

**IX. Appraisals**

All appraisals of real and personal property contributed to the Foundation shall be done in accordance with IRS Publication 561, "Determining the Value of Donated Property," with a fair market valuation of real property being prepared by a qualified MAI appraiser that is acceptable to the Foundation. Note: Property that is to be sold to the University must adhere to additional State restrictions.

It shall be the responsibility of the donor to pay appraisal expenses unless the Foundation agrees to share the cost. Any appraisal cost borne by the Foundation must be approved by the GAC.

**X. Professional Advisors**

**A. Donor's Use of Professional Advisors**

All prospective donors will be urged to seek their own counsel in matters of estate planning, taxes, and planned gifts. *The Foundation, through its policies or otherwise, is not engaged in rendering legal or tax advisory services. Individuals considering gifts to the University are encouraged to obtain the services of a financial advisor.* If a prospective donor has not yet established a relationship with a qualified professional advisor, representatives of the Foundation may refer the prospective donor to qualified professionals. However, the donor shall be presented with a listing of professionals listed on the Foundation's referral list. It is important that the professional receiving the referral know that he/she is being retained by the prospective donor and is representing only the prospective donor's interest.

**B. Foundation's Use of Legal Counsel**

All specimen agreements of the Foundation are to be reviewed by legal counsel upon adoption of this gift acceptance and disposition policy and the GAC shall consult with the Foundation's Executive Director for any agreement or transaction that does not fall within the scope of this policy. The decision

regarding which agreements do not fall within the scope of this policy shall be the responsibility of the GAC.

## **XI. Gift Acknowledgement**

The Foundation will acknowledge the receipt of all gifts in writing and in a manner that satisfies the IRS's substantiation requirements set forth in IRC Section 170(f) for the deduction of charitable gifts by individual donors.

It is the intent of the Foundation to disclose appropriate information about the operation of annuities and trust arrangements to donors to the time of the gift.

## **XII. Types of Acceptable Gifts**

Gifts are either outright or deferred. The most common gifts to the Foundation are outright gifts. In addition to cash gifts, the Foundation accepts gifts of securities, real property, and personal property. Deferred gifts, also called planned gifts, are arranged with the Foundation during the donor's lifetime, but the benefits to the University do not accrue until a later time, usually after the death of the donor or his/her beneficiaries. Bequests are the most common deferred gift. Other such gifts include naming the Foundation as the beneficiary of a life insurance policy, a charitable gift annuity or a life income agreement.

The Foundation has approved the following types of gifts to the University subject to the guidelines and policies to be followed in the solicitation and acceptance of gifts to the University.

### **A. Outright Gifts**

#### **1. Cash and Checks**

##### **a. Policy**

Cash and checks shall be accepted regardless of the amount without GAC approval.

##### **b. Guidelines**

Checks shall be made payable to the University of Louisiana Monroe Foundation or the ULM Foundation. The value of any cash or check gift is its face value.

#### **2. Publicly-Traded Securities**

##### **a. Policy**

Securities that are traded on the New York and American Stock Exchanges, as well as other major U. S. and foreign exchanges and the NASDAQ, corporate bonds, government issues and agency securities may all be accepted by the Foundation without prior GAC approval except as provided in Section 3 and Section 4 below.

##### **b. Guidelines**

The Foundation shall sell such securities as soon as possible after the Securities have been transferred to the Foundation.

The value of the gift of securities is the mean (average) of the high and low of the stock(s) on the day the transfer is effected by the donor to the Foundation. The value of less actively traded securities or security that does not trade on the gift date should be determined according to IRS Publication 561. (see **Appendix S.**)

### **3. Closely Held Securities**

#### a. Policy

Closely held or non-publicly traded securities, sole proprietorships, general or limited partnership interests, S-Corporations securities, interests in real estate investment trusts (“REITs”) and limited liability company interests may not be accepted.

### **4. Restricted Securities**

#### a. Policy

Restricted securities (also known as unregistered securities, investment-letter stock, control stock or private placement stock) are infrequently given as gifts because of the difficulty in transferring ownership and determining fair market value. They may not be accepted.

### **5. Mutual Fund Shares**

#### a. Policy

Mutual fund shares may be accepted by the Foundation without prior approval of the GAC.

#### b. Guidelines

The fair market value of mutual fund shares can be determined by the public redemption price of the shares on the valuation date of a gift. If a price is not readily available, the value shall be determined as if the shares were un-traded securities and as recommended by the Foundation’s Investment Advisor.

### **6. Gifts of Real Property**

#### a. Policy

The Foundation may accept gifts of real property, both improved and unimproved, only after review and approval by the GAC and in consultation with legal counsel.

#### b. Guidelines

The GAC will require the following items in order to review a gift of real property:

- A preliminary title opinion that is clear of unacceptable encumbrances from a reputable Louisiana attorney.
- An appraisal by a qualified MAI appraiser.

- A phase one environmental audit indicating that ownership will not expose the Foundation to environmental liabilities.
- A market feasibility study for purposes of liquidation.
- An on-site evaluation by representatives of the Foundation.
- Structural engineering and ADA compliance reports (when needed).
- A review of leases (for commercial properties).
- A disclosure statement for residential properties (when applicable).

Under Treasury Department regulations, a donor must pay for any initial appraisal made on the property. Unless waived by the GAC, it is also the responsibility of a donor to cover all costs involved in an environmental impact study, title search and any other related studies. IRS regulations must be followed and IRS Form 8283 completed if the appraised value of the property is \$5,000 or more. Subsequent sale of the property at less than 80% of appraised value within 24 hours following gift receipt date will result in filing of IRS Form 8282. These provisions also apply to tangible personal property.

Special attention shall be given to the receipt of real estate encumbered by a mortgage. Under no circumstances will real property be accepted where the mortgage balance exceeds 50% of the property's market value. Foundation partnership of such property may give rise to unrelated business income tax for the Foundation and disqualification of certain split interest gifts unless handled in a proper manner.

## **7. Gifts of Real Property with Retained Life Interest**

### **a. Policy**

The Foundation may accept either a gift of real property with a retained life interest or subject to other interest(s) for terms of years, or with other limitations as to timing of the interest or use or sale restrictions only after review and approval by the GAC.

### **b. Description**

A gift of real property with a retained life interest involves the transfer of the title to a personal residence, farm or timberland to the Foundation, whereby the donor or another person retains use of the property for a term of years or the life/lives of the donor and/or another person.

### **c. Guidelines**

Such gifts are subject to both the general conditions and the guidelines for acceptance of outright gifts of real property as set forth in subsection 6 – Gifts of Real Property. The Foundation shall encourage donors to consult independent tax and/or legal counsel prior to making a gift of this type. The agreement creating the

life interest must provide that the donor and/or life tenant shall remain responsible for the payment of expenses and other costs associated with the property (e.g. mortgage, insurance, etc.) unless specific provisions are made for the payment of these expenses.

## **8. Tangible Personal Property**

### **a. Policy**

The Foundation will consider gifts of tangible personal property, including but not limited to works of art, manuscripts, literary works, boats, motor vehicles and computer hardware, only after a review indicates that the property is readily marketable and free of encumbrances. The actual use of a gift of tangible personal property will determine if the Foundation accepts the gift for the University.

Authority to accept gifts of tangible personal property estimated at less than \$5,000 may be delegated to the Foundation's Executive Director and Chief Financial Officer. Gifts of tangible personal property valued at more than \$5,000 must be reviewed and approved by the GAC.

### **b. Guidelines**

No gift of personal property subject to the requirement of ownership in perpetuity shall be accepted without prior approval of the GAC. No perishable property or property that would require special facilities or security to be properly safeguarded shall be accepted without approval of the GAC.

For tangible personal property with an estimated fair market value of less than \$5,000, the donor must furnish the Foundation with the following:

- Donor's name, address, and telephone number.
- Contact person if the donor is a business or corporation.
- Donor's social security number or federal tax identification number.
- Brief description of the donated asset, with method of appraisal.

Prior to the donation of personal property with an estimated fair market value over \$5,000, the donor must furnish the Foundation, in addition to the items above, with an independent evaluation from a qualified appraiser of the donated asset.

## **B. Deferred or Planned Gifts**

Any planned giving agreement that requires execution by the Foundation shall first be reviewed and approved as to form and substance by the Foundation's legal counsel. It is recommended that prospective donors who are considering gifts to the Foundation that will take effect at the donor's death, consult with the Foundation's Executive Director or Development Officer regarding how to properly designate the gift and to discuss any trust or bequest restriction being considered.

### **1. Bequests**



a. Policy

Direct, unencumbered bequests shall be accepted by the Foundation without prior approval of the GAC if the underlying assets are in conformance with the guidelines set forth in Section A – Outright Gifts. If the underlying assets are not in conformance with guidelines, the bequest shall be referred to the GAC for review. The Foundation reserves the right to disclaim gifts from the estates or trusts of deceased donors that are not in keeping with the terms of this policy.

b. Description

A bequest to the Foundation is made in the donor's will or revocable trust. The donor can designate a specific amount, a percentage, or the remainder of an estate to the Foundation.

c. Guidelines

Donors should be encouraged to notify the Foundation development office when considering a bequest so that a gift agreement may be developed and to ensure that the assets left to the Foundation meet the criteria set forth in the gift acceptance and disposition policy and also to ensure that a donor's wishes are honored.

d. Disposition

When a bequest or planned gift arrangement matures, the assets and accruals derived under the bequest or agreement shall be paid to the Foundation for its general purposes or, if restricted by the donor, for the specific use ad stated in the applicable gift instrument.

In those cases where the donor neither made any restriction on the use of a bequest or planned gift nor designated it for unrestricted or general purposes, it shall be the policy of the Foundation to direct all such gifts of less than \$25,000 or more to the "University General Scholarship Fund."

**2. Charitable Gift Annuities**

a. Policy

Charitable gift annuities shall not be accepted by the Foundation without prior review and approval of the GAC.

b. Description

A charitable gift annuity is a contract between the Foundation and a donor. The Foundation agrees to pay the donor (or other person named by the donor) a lifetime annuity in return for a gift of cash, securities, or other property. The payment may continue for the life of a second individual, such as a spouse. The annual payment is a fixed sum, the amount of which is based upon the size of the gift and the number and ages of beneficiaries. Rates of return under a charitable

gift annuity are lower than rates offered by commercial insurance companies so that a significant residuum will remain for the Foundation.

c. Guidelines

The recommended minimum contribution amount for a gift annuity is \$100,000.

The rates of return payable to annuitants shall not exceed the recommended rates of the American Council on Gift Annuities as of the date of the contribution. Annuity agreements shall be limited to two lives. Generally, the minimum age for the annuitants shall be 60 for immediate annuities and 45 for deferred annuities. Exceptions may be made subject to the prior approval of the GAC.

Gift annuities shall be managed by the Foundation with the Executive Director, with approval from the GAC when needed, having the authority to execute documents. The Foundation may employ agents and advisors to assist with the administration and investment of gift annuity funds.

**3. Charitable Remainder Trusts**

a. Policy

The Foundation shall not accept remainder interest from a charitable remainder trust without prior review and approval of the GAC. Where the trust is testamentary, that is, one that arises upon the death of the donor, the Foundation reserves the right to disclaim any interest that would be in violation of this policy.

b. Description

A charitable remainder trust is an irrevocable trust created either during the life of the donor or through the donor's will or trust. The trust must provide that a specified sum (not less than 5%) of the trust's value is paid to one or more beneficiaries on an annual basis. At least one beneficiary must be non-charitable.

In order to qualify as a charitable remainder unitrust, the trust must meet all of the requirements set in IRC Section 664, and related regulations. Any donor who wishes to create a charitable remainder trust must choose between annuity and unitrust formats. No blending is allowed.

c. Guidelines

The Foundation may agree to serve as the trustee of charitable remainder trusts that meet the requirements set forth below.

The Foundation may serve as trustee of any charitable remainder trust to which the initial contribution is at least \$100,000 unless the GAC approves a smaller amount. If the income interest is for life, the beneficiary (ies) must be at least 60 for a standard or straight charitable remainder trust unless the GAC approves a younger age.

Calculation of net present value will consider a reasonable return over time, growth of net assets, allowance for management expenses, and discount (inflation) factor in accord with practices of similar charitable organizations. Exceptions may be recommended by the GAC in light of such factors as assets involved, size of gift, potential for additional gifts and additions to the unitrust or annuity, age, and life expectancy.

#### **4. Charitable Lead Trusts**

##### **a. Policy**

Charitable Lead Trusts must meet the same standards as Charitable Remainder Trusts. Where the trust is testamentary, the Foundation reserves the right to disclaim any interest that would be in violation of this gift acceptance and disposition policy.

##### **b. Description**

A charitable lead trust is a trust in which the income, or “lead” interest, non-charitable beneficiaries could be either the donor or family members. The amount paid to the Foundation may be either a fixed sum (an “annuity trust” interest) or a percentage of the trust assets as valued each year (a “unitrust” interest). At the conclusion of the payment period, the trust assets are returned either to the donor or to someone designated by the donor.

##### **c. Guidelines**

The Foundation may serve as trustee of a charitable lead trust to which the initial contribution is \$250,000. A trust may be funded with a smaller amount, subject to the approval of the GAC.

#### **5. Life Insurance Policies**

##### **a. Policy**

The Foundation will accept, without the necessity of prior approval of the GAC, gifts of life insurance policies, including whole life, variable and universal life policies, which meet the guidelines specified below.

##### **b. Gifts of life insurance policies that meet the following criteria may be accepted without prior GAC approval. If a proposed life policy gift does not meet the criteria below, it must be reviewed by the GAC.**

1. The policy is paid up or one that the donor agrees to continue to pay premiums for a partially paid up policy (*Case Standards pp.5-6 and 61-62*).
2. The Foundation is designated as the owner and beneficiary of the policy. The development office shall continue to work with the donor to clarify the purpose of the gift by attachment of an agreement to the policy.

3. If intended for endowment purposes, the face value of the policy meets the minimum funding standards for endowments for its stated purpose(s) established by the Foundation and in effect at the time of the gift of the policy.

### **XIII. Policy Effective Date**

The revised Gift Acceptance and Disposition Policy for the University of Louisiana Monroe Foundation shall become effective on July 1, 2015. All gift agreements in effect at the time these policies become effective shall continue in effect under the policies at the time the original gift was accepted.

Modifications:

September 2019 –

A.6.b. - A preliminary title ~~report~~ **opinion** that is clear of unacceptable encumbrances from a reputable ~~title insurance company~~ **Louisiana attorney**.

B.2.c. The **recommended** minimum contribution amount for a gift annuity is \$100,000.