

## **EXHIBIT A**

### **GIFT ACCEPTANCE POLICIES AND GUIDELINES**

XYZ Charity, a not for profit organization organized under the laws of the State of \_\_\_\_\_, encourages the solicitation and acceptance of gifts to XYZ Charity (hereinafter referred to as the Charity) for purposes that will help the Charity to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the Charity or for the benefit of any of its programs.

The mission of the XYZ Charity is to:

(Insert the mission here.)

#### **I. Purpose of Policies and Guidelines**

The board of directors of XYZ Charity and its staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and missions of the Charity. These policies and guidelines govern the acceptance of gifts by the Charity and provide guidance to prospective donors and their advisors when making gifts to the Charity. The provisions of these policies shall apply to all gifts received by the Charity for any of its programs or services.

#### **II. Use of Legal Counsel**

XYZ Charity shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- 1) Closely held stock transfers that are subject to restrictions or buy-sell agreements.
- 2) Documents naming XYZ Charity as Trustee.
- 3) Gifts involving contracts, such as bargain sales or other documents requiring the XYZ charity to assume an obligation.
- 4) Transactions with potential conflict of interest that may invoke IRS sanctions.
- 5) Other instances in which use of counsel is deemed appropriate by the gift acceptance committee.

#### **III. Conflict of Interest**

XYZ Charity 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 Charity will comply with the *Model Standards of Practice for the Charitable Gift Planner* promulgated by the National Committee on Planned Giving, shown as an appendix to this document.

#### **IV. Restrictions on Gifts**

The Charity 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. The Charity will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter (or trust document if Charity is established under trust), gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the Charity. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the gift acceptance committee of the Charity.

## **V. The Gift Acceptance Committee**

The gift acceptance committee shall consist of:

- 1) the president of XYZ Charity;
- 2) the treasurer of XYZ Charity;
- 3) two members of the executive committee, appointed by the president;
- 4) two members of the development committee, appointed by the development vice president;
- 5) such other members as appointed by the president of the Charity; and
- 6) ex-officio members shall include the executive director and the development director of XYZ Charity.

The gift acceptance committee is charged with the responsibility of reviewing all gifts made to XYZ Charity, properly screening and accepting those gifts, and making recommendations to the board on gift acceptance issues when appropriate.

## **VI. Types of Gifts**

The following gifts are acceptable:

- Cash.
- Tangible Personal Property.
- Securities.
- Real Estate.
- Remainder Interests in Property.
- Oil, Gas, and Mineral Interests.
- Bargain Sales.
- Life Insurance.
- 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 each gift form:

- 1) **Cash.** Cash is acceptable in any form. Checks shall be made payable to The XYZ Charity and shall be delivered to (place title of Charity employee to which gift should be delivered) in the Charity's administrative offices.
- 2) **Tangible Personal Property.** All other gifts of tangible personal property shall be examined in light of the following criteria:
  - Does the property fulfill the mission of the Charity?

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

The gift acceptance committee of the XYZ Charity shall make the final determination on the acceptance of other tangible property gifts.

3) **Securities.** The Charity can accept both publicly traded securities and closely held securities.

**Publicly Traded Securities.** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the investment committee. In some cases marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the gift acceptance committee of the XYZ Charity.

**Closely Held Securities.** 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 forms, can be accepted subject to the approval of the gift acceptance committee of the Charity. However, gifts must be reviewed prior to acceptance to determine:

- there are no restrictions on the security that would prevent XYZ Charity from ultimately converting those assets to cash;
- the security is marketable; and
- the security will not generate any undesirable tax consequences for the Charity.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The gift acceptance committee of the XYZ Charity and legal counsel shall make the final determination on the acceptance of closely held securities when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

4) **Real Estate.** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, the Charity shall require an initial environmental review of the property to ensure that the property has no environmental damage. Environmental inspection forms are attached as an appendix to this document. In the event that the initial inspection reveals a potential problem, the Charity shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be an expense of the donor.

When appropriate, a title binder shall be obtained by the Charity prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor.

Prior to acceptance of the real property, the gift shall be approved by the gift acceptance committee of the Charity and by the Charity's legal counsel. Criteria for acceptance of the property shall include:

- Is the property useful for the purposes of the Charity?
- Is the property marketable?

- Are there any restrictions, reservations, easements, or other limitations associated with the property?
  - Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
  - Does the environmental audit reflect that the property is not damaged?
- 5) **Remainder Interests in Property.** The Charity will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of 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 Charity may use the property or reduce it to cash. Where the Charity 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.
- 6) **Oil, Gas, and Mineral Interests.** The Charity may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the gift acceptance committee, and if necessary, by the Charity's legal counsel. Criteria for acceptance of the property shall include:
- Gifts of surface rights should have a value of \$20,000 or greater.
  - Gifts of oil, gas, and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).
  - The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate
  - A working interest is rarely accepted. A working interest may only be accepted where when there is a plan to minimize potential liability and tax consequences.
  - The property should undergo an environmental review to ensure that the Charity has no current or potential exposure to environmental liability.
- 7) **Bargain Sales.** XYZ Charity will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the Charity. All bargain sales must be reviewed and recommended by the gift acceptance committee and approved by the board of directors. Factors used in determining the appropriateness of the transaction include:
- The Charity must obtain an independent appraisal substantiating the value of the property.
  - If the Charity assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
  - The charity 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 Charity must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.
- 8) **Life Insurance.** XYZ Charity must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, the Charity will include the entire amount of the additional premium payment as a gift in the year that it is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Charity may:

- continue to pay the premiums;
- convert the policy to paid up insurance; or
- surrender the policy for its current cash value.

- 9) **Charitable Gift Annuities.** XYZ Charity may offer charitable gift annuities. The minimum gift for funding is **\$5,000**. XYZ Charity President may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semi-annual, or annual schedule. XYZ Charity President may approve exceptions to this payment schedule.

XYZ Charity will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. XYZ Charity may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5-year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the president of XYZ Charity approves the arrangement.

Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to XYZ Charity's general endowment funds, or to such specific fund as designated by the donor.

- 10) **Charitable Remainder Trusts.** The Charity may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the gift acceptance committee of the Charity. The Charity will not accept appointment as trustee of a charitable remainder trust.
- 11) **Charitable Lead Trusts.** The Charity may accept a designation as income beneficiary of a charitable lead trust. The board of XYZ Charity will not accept an appointment as Trustee of a charitable lead trust.
- 12) **Retirement Plan Beneficiary Designations.** Donors and supporters of XYZ Charity will be encouraged to name the Charity as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the Charity until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
- 13) **Bequests.** Donors and supporters of XYZ Charity will be encouraged to make bequests to the Charity under their wills and trusts. Such bequests will not be recorded as gifts to the Charity until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
- 14) **Life Insurance Beneficiary Designations.** Donors and supporters of XYZ Charity will be encouraged to name the Charity as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to the Charity until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

## **VII. Miscellaneous Provisions**

**Securing appraisals and legal fees for gifts to the Charity.** It will be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to the Charity.

**Valuation of gifts for development purposes.** The Charity will record a gift received by the Charity at its valuation for gift purposes on the date of gift.

**Responsibility for IRS Filings upon sale of gift items.** The gift acceptance committee of the Charity is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the Charity when the charitable deduction value of the item is more than \$5,000. The Charity must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.

Acknowledgement of all gifts made to the Charity and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the board of the Charity. IRS Publication 561 *Determining the Value of Donated Property* and IRS Publication 526 *Charitable Contributions* are attached to these policies as an Appendix.

## **VIII. Changes to Gift Acceptance Policies**

These policies and guidelines have been reviewed and accepted by the gift acceptance committee of the XYZ Charity. The gift acceptance committee of the XYZ Charity must approve any changes to, or deviations from, these policies.

Approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

Chairman, Board of Directors, The XYZ Charity

## **IX. Attachments**

- A. *Model Standards of Practice of the Charitable Gift Planner*
- B. Environmental Review Forms
  - 1. IRS Form 8282 and Instructions.
  - 2. IRS Publication 561 Determining the Value of Donated Property.
  - 3. IRS Publication 526 Charitable Contributions.