Gift Acceptance Policy

The University of South Carolina Upstate Foundation ("the Foundation"), a South Carolina nonprofit corporation, encourages the solicitation and acceptance of gifts to the Foundation 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 Foundation or for the benefit of any of its programs.

I. Purpose

The Foundation solicits current and deferred gifts from individuals, corporations, and foundations to secure the mission and future growth of the University of South Carolina Upstate (University). These policies govern the acceptance of gifts by the Foundation and provide guidance to prospective donors and their advisors of the types of gifts the Foundation accepts.

II. Protection of Donors' Interests

The Foundation strongly urges all prospective donors to seek the assistance of personal tax, legal, and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. A donor may expect any representative of the Foundation to reflect the dignity and respect consistent with the charitable purposes of the Foundation.

III. Use of Legal Counsel

The Foundation reserves the right to seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Examples of items that may be reviewed by counsel include:

a. Closely held stock, limited liability company interests, or partnership transfer interests that are subject to restrictions or buy-sell agreements.
b. Documents naming the Foundation as Trustee.
c. Gifts involving contracts, such as bargain sales or other documents requiring the Foundation to assume a legal obligation.
d. Transactions with potential conflict of interest that may invoke IRS sanctions
e. Other instances in which use of counsel is deemed appropriate.

IV. Restrictions on Gifts

The Foundation 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 Foundation will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the Articles of Incorporation, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the Foundation or contrary to the mission of the University. All final decisions on the restrictive nature of a gift and its acceptance or refusal shall be made by the Foundation.

V. Gift Acceptance

The Foundation Board of Directors is charged with the responsibility of reviewing all gifts made to the Foundation, properly screening, and accepting those gifts.

In order to streamline the approval process, the Board of Directors may delegate authority to the Executive Director for screening and accepting more common gifts of cash, pledges, publicly traded securities, and charitable gift annuities funded with cash and securities, and to coordinate all gift agreements.

VI. Types of Gifts

A. The following gifts may be considered for acceptance by the Foundation:

1. Cash
2. Tangible personal property
3. Securities
4. Real estate
5. Remainder interests in property
6. Bargain sales
7. Life insurance
8. Charitable gift annuities
9. Charitable remainder trusts
10. Charitable lead trusts
11. Retirement plan beneficiary designations
12. Bequests
13. Life insurance beneficiary designations
14. Gifts in Kind

B. The following criteria apply to the acceptance of gifts in these categories:

1. **Cash:** Cash may be accepted in any negotiable form. Checks shall be made payable to USC Upstate Foundation and shall be delivered to 800 University Way, Spartanburg, SC 29303 at the Foundation’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 Foundation?
   - 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 final determination on the acceptance of other tangible property gifts shall be made by the Board of Directors.

3. **Securities:** The Foundation may 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 will be sold upon receipt unless otherwise directed by the Finance 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 may be made by the Board of Directors.

   Closely Held Securities:
   Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, may be accepted subject to the approval of the Board of Directors. However, gifts must be reviewed prior to acceptance to determine that:
   - There are no restrictions on the security that would prevent the Foundation from ultimately converting those assets to cash
   - The security is or will likely become marketable
   - The security will not generate any undesirable tax consequences for the Foundation.

   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 final determination on the acceptance of closely held securities shall be made by the Board of Directors, with the advice of legal counsel, when appropriate. Every effort will be made to sell non-marketable securities as quickly as possible.

4. **Real Estate:** Gifts of real estate may include developed and undeveloped property. and will be evaluated on a case-by-case basis. The following criteria applies to gifts of real estate:

   - Is the property useful for the purposes of the Foundation and USC Upstate?
   - 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 audit reflect that the property is free of environmental damage?

   It shall be the policy of the Foundation to take immediate steps to liquidate real property gifted to the Foundation unless the property can be utilized to advance the mission of the Foundation or USC Upstate. All costs associated with accepting, selling, or carrying the property, if not paid by the donor, will be deducted from the final gift proceeds. Any such expenses will not affect gift credit.

5. **Remainder Interests In Property:** The Foundation may accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph (4). 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 or designated occupant, the Foundation may retain or liquidate the property, at its discretion. When the Foundation receives a gift of a remainder interest, the donor will be required to sign an agreement stating that all expenses related to the property and any property indebtedness are to be paid by the donor throughout their life.

6. **Bargain Sales:** The Foundation may enter into a bargain sale arrangement in instances where the bargain sale furthers the mission and purposes of the Foundation. All bargain sales must be reviewed and approved by the Board of Directors.

   In determining the appropriateness of the transaction, the Foundation will consider whether:

   - The value of the property has been substantiated by an independent appraisal.
   - Any debt ratio assumed with the property is less than 50% of the appraised market value.
   - The Foundation will use the property, or there is a market for sale of the property allowing sale within 12 months of receipt.
   - The costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period have been determined.

7. **Life Insurance:** The Foundation can be named as beneficiary or as beneficiary and irrevocable owner of a permanent life insurance policy. IRS rules state the gift is considered a non-cash charitable contribution and there are conditions where it may need to be valued by a qualified appraiser. Any costs associated with this appraisal will generally be paid by the donor. If the donor contributes future premium payments, the Foundation will include the entire amount of the additional premium payment as a gift in the year in which it is made. If, at any time, the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Foundation may:

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

   - Continue to pay the premiums,
   - Convert the policy to paid up insurance, or
   - Surrender the policy for its current cash value.

8. **Charitable Gift Annuities:** The Foundation may offer charitable gift annuities. The annuity rate offered by the Foundation on all Charitable Gift Annuities generally will be consistent with the current recommended rates of the American Council on Gift Annuities and will be reviewed and approved by the Finance Committee annually, during the first half of the year. The minimum gift for funding a donor's first gift annuity is $25,000. The minimum age for life income beneficiaries of a gift annuity shall be 65. No more than two life income beneficiaries will be permitted for any gift annuity. The Executive Director may make exceptions to the minimum amount required and age limits under special circumstances.

   Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Executive Director may approve exceptions to this payment schedule. The Foundation will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. The Foundation 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 Executive Director approves the arrangement.

   Funds contributed in exchange for a gift annuity will generally 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 the Foundation to be used at the Foundation's discretion, or to a specific fund designated by the donor. If these remaining funds are used to establish a new, named fund, the amount transferred must meet the minimum requirements set forth by the Foundation in effect at the time of the transfer.

   Note: Gift annuities may not be offered to residents of states in which such contracts are considered to be insurance products or securities. Currently, almost one-half of the states (including Florida, New York, and California) classify these contracts as either insurance or securities. Because this list changes frequently, approval must be obtained from the Executive Director before discussions regarding this gift type are initiated. Charitable Remainder Annuity Trusts may provide a viable alternative for residents of such states.

9. **Charitable Remainder Trusts:** The Foundation may accept designation as remainder beneficiary of a charitable remainder trust. The Foundation may accept appointment as Trustee of a charitable remainder trust under the following circumstances:

   - Where the irrevocable interest to the Foundation is a minimum of 51% of the total charitable remainder interest of the trust.
   - Generally, the minimum age of the first income beneficiary is 65 and second income beneficiary is 60.
   - The maximum number of income beneficiaries is 2.

The minimum funding amount for a Charitable Remainder Trust is $100,000. Generally, the projected remainder to the Foundation shall be no less than 25% of the initial invested amount or as approved by the Executive Director provided the Trust satisfies all the requirements specified in the Internal Revenue Code and Treasury Regulations governing Charitable Remainder Trusts.

The Foundation may accept mortgaged real property to fund a charitable trust as long as the value of the equity in the property exceeds $100,000. Generally, the Foundation does not accept encumbered real property to fund a charitable remainder trust.

The remainder funds shall be transferred to the Foundation to be used at its discretion or designated to a specific fund as designated by the donor. If these remaining funds are used to establish a new, named fund, the amount transferred must meet the minimum requirements set forth by the Foundation in effect at the time of the transfer.

10. **Charitable Lead Trusts:** The Foundation may accept a designation as income beneficiary of a charitable lead trust. The Foundation will not accept an appointment as Trustee of a charitable lead trust.

11. **Retirement Plan Beneficiary Designations:** Donors and supporters of the Foundation will be encouraged to name the Foundation as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the Foundation until such time as the gift is irrevocable.

12. **Bequests:** Donors and supporters of the Foundation will be encouraged to make bequests to the Foundation under their wills and trusts. Such bequests will not be recorded as gifts to the Foundation until such time as the gift is irrevocable.

13. **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. Primary beneficiary designations shall be recorded as revocable gifts to the Foundation at face value.

14. **Gifts in Kind:** A gift-in-kind is normally tangible personal property, such as machinery, books, computers, etc. The IRS does not recognize service, volunteer time, or partial interest gifts as deductible gift-in-kind donations.
    All in-kind donations received are subject to the Tangible Personal Property section of this document, or, in the case of real estate, the gifts of real estate section of this document. It is the responsibility of the donor to provide all required receipts/valuations/memos listing the fair market value (FMV) of the donation.

    For a gift with a fair market value of more than $5,000, an independent IRS approved appraisal must be attached. For gifts of $5,000 or less, acceptable written documentation from the donor, a third party or a qualified expert on the faculty/staff assessing the fair market value of the item must be provided. A Gift-in-Kind report will be required for all gift-in-kind transaction.

VIII. Miscellaneous

A. **Securing appraisals and legal fees for gifts to the Foundation:** It will generally be the responsibility of the donor to secure an appraisal (where required) and the advice of independent legal, financial, or other professional advisers as needed for all gifts made to the Foundation.

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

C. **Responsibility for IRS Filings upon sale of gift items***:* The Treasurer is responsible for filing IRS Form 8282 upon the sale or disposition of any non-marketable asset sold within three years of receipt by the Foundation when the charitable deduction value of the item is more than $5,000. The Foundation 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.

D. **Acknowledgement:** Acknowledgement of all gifts made to the Foundation and compliance with the current IRS requirements in acknowledgement of such gifts is the responsibility of the Board of Directors or their designee. IRS Publication 561 Determining the Value of Donated Property and IRS Publication 526 Charitable Contributions provide excellent guidance and can be downloaded from www.irs.gov.

E. **Disclosure provided for pooled funds**. The Foundation will provide all appropriate disclosures as required by the Philanthropy Protection Act of 1995 for gifts contributed to pooled funds.

APPENDIX A

The Donor Bill of Rights

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To ensure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the nonprofit organizations and causes they are asked to support, we declare that all donors have these rights:

I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

II. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

III. To have access to the organization's most recent financial statements.

IV. To be assured their gifts will be used for the purposes for which they were given.

V. To receive appropriate acknowledgement and recognition.

VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.

VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

VIII. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.

IX. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

X. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.