



## GIFT ACCEPTANCE POLICY & GUIDELINES

Adopted by the Nebraska Community Foundation Board of Directors  
As Amended July 1, 2014

### I. Purpose

The purpose of this Gift Acceptance Policy & Guidelines (“Policy”) is to serve as a planning tool to guide the efforts of the Nebraska Community Foundation (“NCF”) staff and Board members, donors and their professional advisors and affiliated fund advisory committee members in achieving donors’ charitable goals. This Policy addresses the procedures for accepting various types of assets and the types of gift mechanisms that can be used. NCF seeks to ensure that any assets it accepts do not place other assets of NCF at risk and that gifted assets can be readily converted into cash.

### II. Scope

This Policy applies to all gifts to the Nebraska Community Foundation, whether the gifts are for the benefit of an existing affiliated fund, to establish a new affiliated fund or to support the operations of NCF. All references to gifts to NCF in this Policy include gifts to affiliated funds.

### III. Gift Acceptance Practices

NCF encourages donors to make outright, planned and testamentary gifts utilizing the types of assets and gift mechanisms described in this Policy. Donors’ directions for the charitable use of gifts are subject to the provisions of NCF’s governing documents and all applicable statutes and regulations. Any uses specified for gifts to NCF must be consistent with the mission of NCF.

#### Donor Relations

A role of NCF is to inform, serve, guide or otherwise assist donors who wish to support NCF’s mission of inspiring charitable giving. Under no circumstances will a donor be pressured or unduly persuaded to make a gift to NCF.

NCF has a Confidentiality Policy which applies to all staff, Board members, fund advisory committee members and other volunteers. NCF will hold all information concerning donors and prospective donors in strict confidence, subject to legally authorized and enforceable requests for information by government agencies and courts. NCF will not release information about donors or prospective donors that is not otherwise public information unless permission is obtained from the donor.

NCF does not provide legal or tax advice. Persons acting on behalf of NCF shall encourage each donor to consult with legal and/or tax advisors of the donor’s choice at the donor’s expense.

### **Donor Recognition**

Normally all donors will be recognized for contributing to the mission of NCF and for providing resources to serve charitable interests. However, NCF will respect the confidentiality of donors who do not wish to be publicly recognized.

### **Restrictions**

In order to comply with laws governing community foundations and charitable giving, gifts to NCF may not be directly or indirectly subject to any material restriction or condition that prevents NCF from freely and effectively employing the transferred assets or the income derived from them in furtherance of its exempt purposes. NCF's policy is to convert all gifts to cash or cash equivalents. Special circumstances may exist that would cause NCF to hold gifted assets.

### **Variance Power**

In accordance with IRS regulations and the Bylaws of NCF, the Board of Directors retains the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to any specified organization if, in the sole judgment of the Board of Directors (without the approval of any trustee, custodian or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

### **Acknowledgement**

NCF will send a formal acknowledgement to the donor for contributions as required by IRS rules. The acknowledgement will include all information required by the IRS for charitable gift receipts. In accordance with IRS rules, the acknowledgement for non-cash gifts will include a description, but not a value, of the gifted property.

## **IV. Gift Acceptance Responsibilities**

### **Review of Gifts**

A number of factors will be considered in determining whether gifts should be accepted by NCF, including the following:

- consistency with NCF Vision, Mission and Values
- the charitable intent and ultimate community benefit
- the nature of any restrictions related to the gifted asset or the charitable purpose
- projected carrying costs related to the asset to be gifted
- lack of marketability of the asset to be gifted
- risks associated with the asset to be gifted
- practicality of administering the gift
- compliance with IRS regulations on excess business holdings (for gifts to donor-advised funds)

### **Affiliated Fund Advisory Committee**

An affiliated fund advisory committee ("FAC") may accept gifts of cash or cash equivalents to its affiliated fund without the advance approval of NCF when there are no restrictions on the gift and the affiliated fund has an account established for the purpose designated by the donor. Gifts of publicly-traded stock with no restrictions may also be accepted under the same circumstances, although NCF staff will be involved in the transfer of the assets to NCF's brokerage account. If the FAC is considering the acceptance of a gift of assets other than cash, cash equivalents or publicly-traded securities, it must consult with NCF staff in advance regarding the acceptance of the gift. In the case of non-cash gifts, the FAC may determine that, based on the criteria set forth in "Review of Gifts" above, it does not wish to accept a gift.

Because affiliated funds are component parts of NCF and are not separate legal entities, oral or written authorization related to gift acceptance, management and disposition may only be given by an officer of NCF.

#### **NCF Chief Executive Officer and Chief Financial Officer**

All contributions of assets other than cash, cash equivalents, agricultural commodities or publicly-traded securities shall be subject to prior approval of the chief executive officer (“CEO”) or chief financial officer (“CFO”) of the Nebraska Community Foundation. In addition, certain types of gifts as noted below are subject to the approval of the NCF Gift Acceptance Committee.

The acceptance of any contribution other than cash, cash equivalents, agricultural commodities or publicly-traded securities requires the completion of a due diligence process to assess the benefits, costs and risks associated with the acceptance of the gift. The due diligence will be completed by NCF staff, with the assistance of FAC members as appropriate. Results of the due diligence will be reported to the NCF CEO or CFO or Gift Acceptance Committee as appropriate.

#### **Gift Acceptance Committee**

The Gift Acceptance Committee is a sub-committee of the NCF Finance Committee. Gifts requiring approval by the Gift Acceptance Committee include the following:

- Real property where the donor retains a life interest in the property
- Tangible personal property with a value in excess of \$25,000 (except for agricultural commodities that are expected to be sold upon receipt)
- Real or tangible personal property that:
  - is expected to be held rather than liquidated;
  - is expected to have an extended time frame for liquidation; or
  - will not be marketed for sale immediately
- Interests in business entities (other than publicly-traded securities)
- Any type of gift not addressed in this Policy

The NCF CEO, CFO and staff may refer other potential gifts to the Gift Acceptance Committee if, in their discretion, there are risks or concerns that should be addressed at the Board level.

#### **Donor**

In order for NCF to provide written substantiation for gifts, the donor shall provide name, address and any necessary IRS documentation to NCF. Because NCF does not provide tax or legal advice, the donor shall consult with tax and/or legal advisors of his/her choosing, at the donor’s expense. For non-cash gifts for which the donor must obtain a qualified appraisal for tax purposes, the donor shall obtain such an appraisal at the donor’s expense and shall provide a copy to NCF.

## **V. Types of Gifts**

#### **Asset Types**

NCF will accept gifts in the following form, subject to the conditions described in this Policy. In all cases, the donor should notify NCF in writing of the name of the affiliated fund and account for which the contribution is designated. Gifts may be directed to an existing affiliated fund or used to establish a new affiliated fund.

Cash, cash equivalents or checks. Gifts of cash should be paid to NCF, with the name of the affiliated fund and account (purpose for which the contribution is be used) for which the contribution is intended noted.

Agricultural commodities. NCF will accept gifts of agricultural commodities such as grain or livestock. The donor must notify NCF in advance of making the gift and be willing to transport the agricultural commodities to market without cost to NCF. Such gifts shall follow procedures set forth by NCF to insure that ownership of the commodities is properly transferred. Agricultural commodities are sold by NCF upon receipt.

Publicly-traded securities. Publicly-traded stocks and bonds may be electronically transferred to NCF's brokerage account, re-registered in the name of the Nebraska Community Foundation or conveyed through use of a stock power form. NCF will also accept interests in mutual funds. Generally, securities are sold upon receipt. Donors must make NCF aware of any Securities and Exchange Commission or other legal restrictions on the sale prior to gifting securities.

Interests in business entities. Gifts of interests in a non-publicly-traded business entity (stock of a closely-held corporation, limited partnership interest or limited liability company interest) will be evaluated based on the considerations set forth here. NCF will not accept general partnership interests, due to the exposure to creditors' claims and other liabilities.

Gifts of interests in non-publicly-traded business entities raise several issues which bear on the advisability of accepting the gift. These issues include:

- NCF's lack of control over entity activity
- exposure to creditors' claims and contingent liabilities
- NCF's obligation to invest prudently and to obtain a reasonable rate of return
- lack of marketability of the interest in the entity
- possible exposure to unrelated business income tax
- compliance with excess business holdings rules for donor-advised funds
- possible adverse effects to NCF's tax-exempt status

Due diligence will be performed to assure that these and other potential issues are addressed prior to the acceptance of a gift of an interest in a business entity. The ability of NCF to sell the interest in the business entity, including the impact of any buy-sell agreements among owners, will be considered.

The donor will be responsible for preparing the appropriate instruments necessary for transferring ownership of the interest in the business entity to NCF. All such documents must be reviewed and approved by the NCF CEO or CFO or the Gift Acceptance Committee, as appropriate. If the interest in the entity is not expected to be liquidated immediately, NCF may ask the donor to make a cash gift to cover the administrative fees associated with the fund holding the asset. In such a case, NCF and the donor will execute a Gift Agreement setting forth the responsibility for such costs.

Real property. Because of the unique nature of real estate and onerous state and federal environmental laws, NCF must engage in thorough due diligence to determine whether to accept a gift of real estate. The following items will be addressed; waiver of any of these items may only be granted by the Gift Acceptance Committee –

1. **Inspection** - A representative of NCF will physically inspect the property prior to incurring any expenses in connection with the potential transfer.
2. **No Debt** - The property to be donated must be free of debt and encumbrances.

3. **Phase I Environmental Survey** - A Phase I Environmental Survey, completed by a qualified person or organization, is required. If the Phase I Environmental Survey reveals problems, the real estate will not be accepted.
4. **Appraisal** - The donor is required by IRS rules to obtain a qualified appraisal. A copy of the appraisal must be provided to NCF to assist in the decision regarding whether to accept the gift. The appraiser shall comment on the marketability of the property.
5. **Geographical/size/type limitations** - Gifts of real estate will be limited to those the staff of NCF can readily and realistically administer.
6. **Title Insurance** - Title Insurance is required at the time of transfer to NCF.
7. **Property Taxes** - A tax certificate showing that property taxes are paid is required.
8. **Gift Agreement** – A Gift Agreement between NCF and the donor, setting forth the responsibility for transaction costs and carrying costs (including property taxes, insurance, maintenance and other costs) of the property and the designated purpose for the gift, shall be executed.

If necessary, NCF will pay certain expenses incurred during transfer of real property to NCF, but in no event will NCF bear the cost of the appraisal. Costs to obtain, hold and dispose of the property that are not covered by the donor pursuant to the Gift Agreement will be borne by the affiliated fund that is the beneficiary of the gift. In addition, a real estate gift acceptance fee will be charged to the affiliated fund by NCF.

It is the intention of NCF to sell or otherwise dispose of gifted real property as soon as reasonably possible. An exception to this practice may be considered when special circumstances exist and a donor requests that NCF hold and manage income-producing agricultural land.

Additional due diligence procedures will apply in determining whether to accept gifts of real estate where the donor retains a life interest in the property or the donor requests that NCF hold and manage income-producing agricultural land.

Tangible personal property. Gifts of tangible personal property such as vehicles, artwork, collectibles, furniture, equipment and jewelry will be considered on a case-by-case basis. All such gifts with a value in excess of \$5,000 must be accompanied by a qualified appraisal paid for by the donor. Unless the property is to be used in connection with NCF's tax-exempt purpose, it will be sold or otherwise disposed of as soon as reasonably possible. No commitment will be made to keep gifts of personal property.

NCF discourages gifts of personal property which cannot readily be sold or which require unusual expenses prior to sale. If a lengthy selling period or material carrying/disposition cost is anticipated, NCF may ask the donor to fund such expenses with a cash gift. In such a case, NCF and the donor will execute a Gift Agreement setting forth the responsibility for transaction costs and carrying costs of the property. To the extent that the donor does not cover carrying or transaction costs, such costs will be borne by the affiliated fund that is the beneficiary of the gift.

Life insurance policies. Donors may transfer ownership of paid-up policies or premium-due life insurance policies to NCF. If ownership is transferred, NCF shall have all rights of ownership, including rights to maintain, surrender or sell the policy.

In the case of premium-due policies, the donor shall agree to make contributions to NCF to fund the payment of such premiums pursuant to procedures set forth by NCF. If the donor elects not to continue to make premium payments or fails to make such payments, NCF, in its discretion, may continue paying the premiums, convert the policy to a paid-up policy or surrender the policy for its cash value. If a policy

is canceled or surrendered, the cash value, less any costs incurred by NCF, will be added to the affiliated fund that is the beneficiary of the gift.

### **Planned Gifts**

NCF's planned giving program encompasses all forms of gifts whose benefits do not fully accrue to NCF until some future time, such as the death of the donor or other beneficiaries or the expiration of a predetermined period of time or whose benefits to NCF are followed by the interests of non-charitable beneficiaries. Planned gifts may be directed to an existing affiliated fund or used to establish a new affiliated fund. Planned gifts include the following –

Bequests. Donors may make bequests to NCF, including an affiliated fund, through a will or trust.

Life Insurance and Annuity Beneficiary Designations. Donors may name NCF, including an affiliated fund, as a beneficiary or contingent beneficiary of a life insurance or annuity policy.

Retirement assets. Donors may name NCF, including an affiliated fund, as a beneficiary or contingent beneficiary of a retirement account such as an IRA, 401(k), 403(b) or profit sharing plan.

Other Financial Account Designations. Donors may name NCF, including an affiliated fund, as beneficiary of a financial account. Many financial institutions allow "Payable on Death" or "Transfer on Death" designations with respect to bank or brokerage accounts, certificates of deposit or mutual fund interests.

Charitable Gift Annuities. NCF may offer both immediate and deferred payment charitable gift annuities. The annuity rates to be used will be those set by the American Council on Gift Annuities (ACGA) less 100 basis points. Annuity rates shall not exceed eight percent for immediate payment charitable gift annuities. A higher rate may be used only with the advance approval of the NCF CEO or CFO.

The minimum funding amount for a gift annuity is \$25,000.

Payments with respect to a gift annuity may not start prior to the time the life income beneficiary reaches the age of 65. If there are two life income beneficiaries, payments may start when the older beneficiary reaches the age of 65. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments will be made once each quarter.

Gift annuity contracts may generally be funded only with cash or marketable securities. Any exceptions must be approved in advance by the NCF CEO or CFO.

During the lifetime of the annuitant(s), gift annuity funds shall be invested in an asset allocation model that includes no more than 50% equities. For all annuities funded with more than \$100,000, NCF will price reinsurance of the annuity payments, consider other risk reduction strategies and make a recommendation to the Gift Acceptance Committee as to how the risk should be managed.

Upon maturity of the gift, the remaining funds, net of any fees charged by NCF, will be transferred to the endowment account of NCF or of an affiliated fund as designated by the donor.

NCF will charge a fee at the maturity of each gift annuity entered into after November 10, 2006. The Board of Directors of NCF will determine the amount of the fee and may change the amount from time

to time. All fees received pursuant to this provision will be placed in a reserve account whose uses may include funding of gift annuity payment liabilities.

Charitable Remainder Trusts. A charitable remainder trust pays income to a private beneficiary during the term of the trust, with the remainder passing to a charitable entity. Remainder trusts can be set up by will or during the donor's lifetime. NCF will accept designation as a remainder beneficiary of a charitable remainder trust but will not accept appointment as trustee of a charitable remainder trust unless such arrangement is approved by the Gift Acceptance Committee.

Charitable Lead Trusts. A charitable lead trust pays income to a charity during the term of the trust, with the remainder passing to private beneficiaries or returning to the donor. Lead trusts can be set up by will or during the donor's lifetime. NCF will accept designation as an income beneficiary of a charitable lead trust but will not accept appointment as trustee of a charitable lead trust.

**Designation of Gifts to NCF**

Designation of gifts to NCF shall be made in accordance with the instructions in Exhibit I, *How to Designate Gifts to the Nebraska Community Foundation*.

Adopted by the Board of Directors February 9, 2001

Amended and Restated November 10, 2006

Amended and Restated June 4, 2010

Amended June 14, 2013

Amended July 1, 2014

## How to Designate Gifts to the Nebraska Community Foundation

Following are examples of language for gifts by will, trust or beneficiary designation.

### **Unrestricted Gifts for an Existing Affiliated Fund**

Unrestricted gifts may be expended at the discretion of the Fund Advisory Committee of an NCF affiliated fund to meet the charitable priorities of the community or charitable organization. Unrestricted gifts may be designated as follows:

“I give \_\_\_\_\_ to the Nebraska Community Foundation, a Nebraska nonprofit corporation. This gift shall be used for the benefit of the (name of the affiliated fund).”

### **Designated Gifts for an Existing Affiliated Fund**

Donors may designate their gift for a specific charitable interest area within an NCF affiliated fund as follows:

If there is an existing account for the purpose you wish to benefit -

“I give \_\_\_\_\_ to the Nebraska Community Foundation, a Nebraska nonprofit corporation. This gift shall be used for the benefit of the (account name such as “Endowment Account” or “Elementary PTO Account”) within the (name of the affiliated fund).”

If there is not an existing account for the charitable purpose you wish to benefit, please contact the Nebraska Community Foundation.

### **Gifts to Support the Nebraska Community Foundation**

Donors may designate gifts to support NCF’s community development work by making an unrestricted gift or contributing to NCF’s general permanent endowment fund.

An unrestricted gift may be designated as follows:

“I give \_\_\_\_\_ to the Nebraska Community Foundation, a Nebraska nonprofit corporation, to be used at the direction of the Nebraska Community Foundation board of directors.”

Gifts to the NCF permanent endowment fund may be designated as follows:

“I give \_\_\_\_\_ to the Nebraska Community Foundation, a Nebraska nonprofit corporation, for its permanent endowment fund.”

### **Gifts to Establish a New Affiliated Fund**

Donors wishing to establish a new affiliated fund with a planned gift are encouraged to contact a Nebraska Community Foundation representative. NCF can provide illustrations of various gift plans and sample documents as needed without obligation and at no cost.

*Note: The above information is of a general nature and is not intended as legal advice. It should not replace the counsel of your tax, legal or estate planning advisors.*

### **For more information, contact:**

Jim Gustafson, Gift Planning Director, at 402.323.7341 or [jgustafson@nebcommfound.org](mailto:jgustafson@nebcommfound.org) or Diane Wilson, COO/CFO, at 402.323.7333 or [dwilson@nebcommfound.org](mailto:dwilson@nebcommfound.org).

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