



## GIFT ACCEPTANCE POLICY

<b>Policy Approved by</b>	Board of Directors – Governance Committee
<b>Effective Date</b>	2/8/18
<b>Revisions Made</b>	Remove life insurance valuation reference
<b>Next Review Date</b>	7/1/2020

### **Purpose**

The UND Alumni Association and Foundation (the “Organization”) is organized as a North Dakota nonprofit corporation, is exempted from federal income tax liability by Internal Revenue Code Section 501(c)(3), and qualifies as a public charity. The Organization exists to secure and manage private gifts for the benefit of the University of North Dakota (the “University”).

This document has been developed and approved by the Organization’s Governance Committee of the Board of Directors to outline procedures for analyzing and accepting charitable gifts to the Organization for the University’s benefit. While the procedures set forth herein are detailed and often specific to the type of gift contemplated, they shall be interpreted within the context of three overriding principles:

### **Principle 1:**

A gift shall not be accepted by the Organization if such acceptance would not be in the interest of the donor. A determination of the donor’s “interest” shall include, but not be limited to, the donor’s financial situation and philanthropic interests, as well as any tax or other legal matters revealed while planning for a gift. The Organization shall not encourage any gifts that are inappropriate in light of the donor’s personal or financial situation.

### **Principle 2:**

A gift shall not be accepted by the Organization unless there is a reasonable expectation that acceptance of the gift will benefit the University.

### **Principle 3:**

Gifts that potentially expose the Organization or University to adverse publicity or involve out of the ordinary conditions shall be referred to the Governance Committee for resolution. The Organization cannot accept gifts for the benefit of the University which involve unlawful discrimination on any basis prohibited by federal, state, and local laws and regulations. In addition, the Organization cannot accept gifts which obligate it or the University to violate any other applicable law or regulation, or that violate the Organization’s articles of incorporation or bylaws.

While this document is intended to provide guidance regarding acceptance of prospective gifts, donors are ultimately responsible for ensuring that the proposed gift furthers their charitable, financial and estate planning goals. Therefore, each prospective donor is urged to seek the advice of independent

legal counsel in the gift planning process. It is within the province of neither the Organization nor its staff to give legal, accounting, tax or other advice to prospective donors.

### **DEFINITION OF A GIFT**

A gift is consideration given for which the donor receives no direct benefit and requires nothing in exchange beyond an assurance that the intent of the contribution will be honored.

In addition, gifts can be made in which some benefits are received in return by the donor, e.g., memberships in the Champion's Club. These gifts are characterized as quid pro quo gifts. In these circumstances, the Organization shall make a good faith effort to provide the donor with the amount of the payment to the Organization which is a legitimate charitable contribution deduction under the Internal Revenue Service regulations.

### **GIFT REVIEW AND ACCEPTANCE**

It is the responsibility of the Organization's Board of Directors (the "Board") to accept or decline all gifts to the Organization. The Board has authorized the CEO to implement this policy. In addition, when in the judgment of the CEO it is determined that extraordinary circumstances are involved, the Governance Committee may be convened to discuss and approve certain proposed gifts to the Organization.

#### **Categories of Gifts**

Gifts which may be deemed by the CEO to have more significant risk include:

- Non-publicly traded securities with a Fair Market Value equal to or exceeding \$10,000
- Gifts of real property
- Gifts of personal property with a Fair Market Value equal to or exceeding \$10,000 if not to be used by the University (Convert to "unrelated use")
- Conditional pledges
- Gifts of real or tangible personal property subject to donor restrictions regarding the disposal of such property
- Gifts of unusual items or gifts of questionable value
- Gifts involving interest in a business entity or one which creates liability exposure for the Organization
- Intellectual property
- Oil, gas and mineral interests
- Other gifts deemed by the CEO to have significant risk

Gifts which may be deemed by the CEO to have moderate risk include:

- Non-publicly traded securities with a Fair Market Value of less than \$10,000
- Charitable gift annuities
- Charitable remainder trusts
- Gifts of insurance
- Life estates
- Gifts of personal property with a Fair Market Value of greater than \$10,000 used by the University (related use)
- Cash gifts with significant donor restrictions
- Other gifts deemed by the CEO to have moderate risk

## **GOVERNANCE COMMITTEE OVERSIGHT**

The Governance Committee shall have responsibility for reviewing gifts of significant risk or where unusual circumstances exist.

Gift Acceptance issues shall be addressed by the Governance Committee no less than annually and special meetings shall be called as necessary to approve specific gifts. The CEO is given the authority to administer this policy except in extraordinary situations where this committee can be convened.

Where deemed necessary or desirable by the Governance Committee, certain proposed gifts may be forwarded to the Executive Committee for review and decision.

The University assesses a gift fee on all gifts processed either through University directly or through the Organization. Gift fees are assessed on cash gifts or gifts converted to cash received in the fund.

Waiving the fee is only by exception and to do so would create an inequity for all other gifts received. As an alternative, the benefitting department can cover the fee internally which is a common solution when the department or donor stipulates they do not want a gift fee taken from the gift.

## **AUTHORITY AND APPROVALS**

Gifts tendered to benefit the University through the Organization will have to meet all state requirements. The University has policies, including a Naming Policy, which rest the authority with the President of the University to name properties, programs, facilities, centers, institutes, departments, structures.

The State Board of Higher Education (SBHE) has policies, procedures and guidelines which require approvals for fundraising for capital construction. North Dakota legislature also has to approve gift funds and use to capital construction.

Gifts which require other authority or approvals should be accepted subject to necessary approvals.

An agreement should be signed by the donor and the Organization in case of any Building or Naming opportunity, this form should note all commitments and terms.

The University and the Organization must jointly approve funding agreements for Endowed Chairs, non-standard language and naming opportunity agreements.

## **UTILIZATION OF LEGAL COUNSEL**

The Organization shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Such use is recommended for:

1. Transfers of closely-held business interests or other assets subject to restrictions or buy-sell agreements.
2. Gifts involving bargain sale arrangements.
3. Transactions where the appearance of conflict of interest may exist.
4. Other instances of significant risk as deemed appropriate by the CEO or the Governance Committee.

## **TYPES OF GIFTS**

Gifts to the Organization may be in the form of outright gifts, pledges or deferred commitments.

## **Outright Gifts**

Outright gifts include:

- Cash and Cash Equivalents
- Securities
- Real Property
- Oil, Gas and Mineral interests
- Personal Property

### **Cash and Cash Equivalents**

Cash is often the easiest way to give and the most frequently received form of gift accepted by the Organization. These gifts can take the form of currency, check or credit card contribution. Cash may be delivered in person, by mail, by Electronic Funds Transfer (EFT) or by wire transfer.

Cash gifts are reported the date the cash is received in the Organization mailroom. If gifts are transferred by EFT or wire, the date of the gift is the date that the money is transferred into the Organization's bank account.

Credit Card gifts (MasterCard, Visa, and Discover) are also accepted by the Organization. When gifts are received by credit card, the date of the gift is the date the credit card charges are processed.

### **Securities**

Gifts of securities are valued at the average of the high and low price of the security as of the date of the gift.

The date of the gift is defined as the date of the postmark on the envelope or the date the security is hand delivered (physical certificates) including a duly endorsed assignment of the security or the date the stock is received in the Organization's brokerage account (book-held securities). If the security is not traded on that date, the date of the most recent prior sale will be used for valuation.

Publicly traded securities (stocks, bonds and mutual funds) will be accepted by the Organization. It is the policy of the Organization to sell these donated securities upon receipt with the proceeds added to either the Organization's short-term funds or its investment portfolio.

In the case of non-publicly traded (closely held) securities; the Organization shall examine any issue that is not publicly traded prior to acceptance as a gift and may decline a gift of such securities if it deems them difficult to value or not easily marketable.

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 Internal Revenue Service.

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 of the ownership interest by the closely-held business interest. 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 the closely-held business entity or one who has provided professional advice to the business entity over the last year is deemed to be qualified to value the gift of the nonpublic traded security. Donors may make gifts of interests in business entities (partnership interests, S Corporations, interests in limited liability companies). These may be accepted by the Organization so long as the Organization assumes no legal liability in receiving them. In evaluating a gift proposal of such assets,

management may consider the probability of conversion 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 Organization may decline acceptance of any such gift.

The Organization shall not accept, without Governance Committee approval, a gift making it a principal in a joint venture or other business activity in which it would participate in the risks of operation or would have any liability for the conduct of the business that exceeds its capital contributions. (e.g., as a general partner, principal in a joint venture, or as a owner of a working interest).

### **Real Property**

Real property includes improved or unimproved land, personal residences, farmland, commercial property, rental property and mineral interests. It is the Organization's policy to dispose of all gifts of real estate as expeditiously as possible. This policy will be communicated to donors when the Organization receives notification of the donor's intent to gift real property. If it is the intention of the donor that the Organization not immediately dispose of real property, an agreement must be made in writing between the Organization and the donor before such property may be accepted by the Organization.

The donor of real property should talk with his/her attorney about any possible charitable deduction before making the decision to donate the property. Development will tender a memorandum of understanding to the donor, shown in Exhibit A. Management will accept a gift of real property only after a thorough examination of the criteria listed below:

1. *Market Value and Marketability.* Management must receive a current appraisal (not older than 60 days) of the fair market value of the property and interest in the property the Organization would receive if the proposed gift were approved. Development officers shall inform the donor that, if the gift is completed, the IRS will require an appraisal made within sixty days of the date of gift. The appraisal and other information must indicate clearly and convincingly that there is a market for the property under consideration and that the property can be sold within a reasonable period of time. Regardless of the value placed on the property by the donor's appraisal, the Organization will attempt to sell at a reasonable price reflected by the current market.
2. *Potential Environmental Risks.* If, in the judgment of the CEO, the property could contain potential environmental problems, the donor would be required to provide a guarantee that the property is free from any and all environmental hazards. This provision could require that the donor provide a Phase I environmental impact study at the donor's expense. At its discretion, the Organization may also contract for an independent assessment of environmental risks at the donor's expense given these circumstances.
3. *Limitations and Encumbrances.* No gift of real estate may be accepted until all mortgages, deeds of trust, liens and other encumbrances have been discharged.
4. *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. Appraisals are generally provided and paid for by the donor.

The execution and delivery of a warranty deed or other appropriate conveyance shall complete the gift. The donor shall pay the costs associated with the conveyance and delivery of the gift. Quit Claim deeds shall not be accepted to convey title. Rather, a warranty deed shall be the required conveyance.

If the Organization should sell or otherwise dispose of the donated property within three years of the date of the gift, the Organization must file an information return on IRS Form 8282 and send a copy to the donor.

### **Oil, Gas and Mineral Property**

The UND Organization will accept oil, gas and mineral interests, when appropriate. Prior to acceptance of such interests, the gift shall be approved by the Investment Committee, and if necessary, by the Organization's Legal Counsel, Governance Committee and Executive Committee. 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 or have potential to 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 when there is a plan to minimize potential liability and tax consequences.
- The property should undergo an environmental review to ensure that there is no current or potential exposure to environmental liability.

Oil, gas, and mineral interests shall be sold as soon as practical upon receipt unless the income and potential appreciation generated from holding the interests is deemed sufficient to justify holding them. Consideration will be given to the familiarity of the interest and area by the investment committee.

### **Tangible Personal Property**

The Organization may consider gifts of tangible personal property ("personal property"), including but not limited to works of art, taxidermy, stamp and coin collections, manuscripts, literary works, boats, motor vehicles, computer hardware and software only after a review indicates that the property is either readily marketable or needed by the University for use in a manner which is related to education, research or a combination thereof.

It is the policy of the Organization to sell or otherwise dispose of all gifts of personal property, unless the items can be used by the University or Organization in a manner related to education and/or research. The Organization's intention to either resell the property or to retain and use it to further its charitable activities shall be communicated to the donor in writing at the time of the gift. The selling of these gifts within 3 years will put the items to an "unrelated use" which will cause a reduced charitable contribution deduction for the donor. This reduction must be communicated to the donor.

Gifts of personal property shall be valued at their full fair market value. Gifts with fair market values exceeding \$5,000 will be reported at the values placed on them by qualified independent appraisers as required by the IRS for valuing noncash charitable contributions. Gifts of \$5,000 and under may be reported at the value declared by the donor.

Title to the gift property should be clear and unencumbered, and properly documented.

Management must approve gift acceptance, compatibility, maintenance, storage and transportation costs.

If the Organization should sell or otherwise dispose of the donated property within three years of the date of the gift, the Organization must file an information return on IRS Form 8282 and send a copy to the donor.

### **In Kind Donations**

A Gift-In-Kind is a voluntary contribution of goods or services that can be used to advance the mission of UND through the UND Organization or can be readily converted to cash and may qualify as a charitable deduction for the person(s) making the gift. ). It is the sole responsibility of the donor to determine the value of a contributed item; the receiver cannot assign a value to the donated item(s).

### **Contributed services**

Donations such as legal, accounting, or professional fees are recognized and recorded as an in kind donation. **These types of gifts do not qualify as a charitable tax deduction to the donor.** However, a donor of services may be able to deduct expenses incurred for the service. In such cases, the donor should be advised to consult with a tax advisor.

Contribution credit for services can only be given if the donor submits a record of such services and verification that the rate at which the credit is granted is within community standards of usual and customary charges for such services.

The donor would not receive a charitable tax receipt, but will receive an acknowledgement of the service provided, and the donation will be counted as recognition toward total giving and qualification in giving circles.

### **Limited use of private property**

Donations such as timeshare weeks, rent free use of office space, and transportation use including aircraft are recognized and recorded as an in kind donation. **These types of gifts do not qualify as a charitable tax deduction to the donor.** However, a donor may be able to deduct expenses incurred for the use of the property. In such cases, the donor should be advised to consult with a tax advisor.

The donor would not receive a charitable tax receipt, but will receive an acknowledgement of the use provided, and the donation will be counted as recognition toward total giving and qualification in giving circles.

### **Inventory**

Inventory is property held by a taxpayer primarily for sale to customers in the ordinary course of a trade or business. For example, artwork contributed by its creator is considered a gift of inventory.

Whether the property is placed to a related use by the donee is irrelevant to the determination of the donor's deduction; it is limited to the donors cost such as the cost of the materials: canvas, paint, brushes, etc. Contributions of services are not deductible; therefore, the value of the artist's time in completing the work is not deductible. In such cases, the donor should be advised to consult with a tax advisor for deductibility.

Donations of inventory to the Organization are recognized and recorded as an in kind donation. The donor would not receive a charitable tax receipt, but will receive an acknowledgement of the items

provided, and the donation will be counted as recognition toward total giving and qualification in giving circles.

### **Out of Pocket Expenses**

Un-reimbursed expenses paid by a person while volunteering time to the Organization would be counted as an in kind donation. For example, unreimbursed expenses incurred to attend a board of director meeting would be counted. Expenses are includable but not the person's time.

Contribution credit for out-of-pocket expenses can only be given if the donor submits receipts or check copies clearly indicating the vendor name and the goods purchased or expenses incurred, and receipts indicating the nature of the expenditure.

These expenses are recognized and recorded as an in kind donation. The donor would receive an acknowledgement, and the donation will be counted as recognition toward total giving and qualification in giving circles.

### **Process**

The Gift-In-Kind Acceptance Form must be fully completed. With the approval of the Provost or a Dean, gifts in kind may be accepted and credited to giving records for business needs of UND.

The Organization will enter the contribution in its donor database and issue an acknowledgement to the donor. The acknowledgement will contain only a description of the contribution and will not include a statement as to the value of the contribution. It will further contain a statement as to what, if any, goods or services were given in exchange for the contribution.

When presented with a potential gift-in-kind, the Organization and its representatives must assess whether the gift can be used to advance the mission of UND or could be readily converted to cash. Consideration will also be given to the cost of accepting the gift ((e.g., shipping and handling costs, installation charges, licensing fees, etc.), the long-term viability of the gift (e.g., maintenance costs, associated personnel needs, storage fees, insurance rates, copyright issues, etc.), and the resale market if the gift is to be sold.

If there is any question, the individual should withhold approval of acceptance pending a review and contact the Organization's VP of Finance or CEO. All final decisions shall be made by the CEO, subject to board oversight as needed. The individual accepting the gift cannot offer tax advice or dictate the value of the contribution. It is the responsibility of the donor to determine the fair market value of the contribution. Note: the value is for internal gift reporting only or soft credit; the donor's receipt and/or acknowledgement will not indicate value in any way that could be construed as an endorsement of its value.

### **IRS Forms 8282 and 8283**

For gifts with values exceeding \$5,000, the donor must complete all parts of IRS form 8283 and submit the form for signature. The Vice President of Finance or the Chief Executive Officer (CEO) are the only individuals authorized to sign 8283 forms.

If the Organization has signed an IRS form 8283 and then sells, exchanges or otherwise transfers the gift within three years from the date of gift, the Organization must file a donee information return, IRS form 8282, within 125 days of disposing the property. The Organization will advise the donor if such a transaction occurs as it may affect the charitable tax deduction for which they qualify.



If the item is personal property of the donor and is valued at more than \$5,000, the donor must obtain a certified appraisal. The appraisal cannot be dated more than 60 days from the date of the donation. It must be prepared, signed and dated by a qualified appraiser. Federal law requires that the donor pay for the appraisal. (The cost of the appraisal is also tax deductible). This value will be used for gift reporting purposes only.

### **Direct Pledges**

Direct pledges are commitments to give a specific dollar amount according to a fixed time schedule.

The following minimum information must exist to substantiate a direct pledge:

- the amount of the pledge must be clearly specified;
- there must be a clearly defined payment schedule;
- the donor may not prescribe contingencies or conditions; and
- the donor must be considered to be financially capable of making the gift.

These direct pledges or promises to give are recorded in the financial statements in the year of the pledge at the value of the entire pledge discounted to present value in accordance with Financial Accounting Standards Board (FASB) regulations.

### **Deferred Gifts**

Deferred gifts include but are not limited to the following:

- Charitable Bequests
- Retirement Plans
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Life Insurance Policies
- Remainder Interests Subject to Life Estates
- Pay on Death Accounts

### **Charitable Bequests and Retirement Plans**

Donors can make charitable bequests to the Organization in wills or living trusts. In addition, donors can name the Organization as beneficiary of their retirement plans such as their IRA, 401K, and 403B. This designation can be in whole or part, as a stated amount or a percentage of their balances at death. New laws (Pension Protection Act) may allow donors to donate up to \$100,000 of their retirement dollars if age 70 ½ or older.

### **Charitable Gift Annuities**

A charitable gift annuity is a contract between the Organization and the donor, whereby the donor makes an initial payment of cash or other acceptable assets to the Organization and the Organization agrees to pay the annuitant an income for the rest of his/her lifetime. The entire assets of the Organization back the income payments of a gift annuity contract. The annual payment to the annuitant is based on the donor's age and the fair market value of the contribution made by the donor. The Organization offers the gift annuity rates recommended by the American Council on Gift Annuities. The rates in these tables take into account the age of the donor and/or beneficiary at the time of the gift and are actuarially calculated to provide 50% of the market value of each gift remains at the death of the last annuitant. The Organization may enter into CGA contracts with minimum funding of \$10,000. With minimum funding of \$50,000 the organization would allow designation of the remainder. If a donor has

multiple annuities their residuals will be aggregated and the net transferred to purpose designated after fees to Foundation are netted. The minimum age for immediate annuitants is 55. For deferred annuities the minimum age is 50 and payments may not begin until the annuitant has reached 55. The maximum number of annuitants, per contract, is two.

Property accepted for CGA's includes cash, publicly traded securities. Closely held securities, real estate, tangible personal property and other illiquid property will be reviewed for acceptability and approval. Valuation, liquidity, carrying and disposal costs may necessitate the Organization to require a deferred CGA or a lower than ACGA payout rate to compensate for risk and costs. Exceptions to the requirements stated require approval of the Gift acceptance by the Governance Committee.

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

Gift annuity contracts are governed by the laws of the state in which the donor resides. Certain of these states have stringent registration requirements. For gift annuities to be established in states other than North Dakota and Minnesota the specific regulations and requirements for that state will first be reviewed by the VP of Finance; and a recommendation will be made to the CEO for approval. Any questions will be resolved by General Counsel of the Organization. The Organization reserves the right to reject any annuity contract proposals from states where the regulations are deemed overly burdensome or when excessive compliance costs would be required.

When a gift annuity is accepted it will be invested in order to provide for future annuity payments. Upon the death of the donor, or other named beneficiary, the balance of the principal is retained by the Organization. If a gift annuity has been designated to a restricted fund, a % fee will be charged by the Organization.

## **Charitable Remainder Trusts**

### *Annuity Trusts*

Annuity trusts are similar to Unitrusts 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.

The trust assets are invested according to investment guidelines established by the Organization's Investment Committee.

### *Unitrusts*

The basic form of Unitrust 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 5% annually. The maximum percentage shall be determined by the Organization administration based on recommendations by the planned giving staff. 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. Also, the value of the charitable

remainder must be at least 10% of the net fair market value of the property transferred to the trust on the date of the transfer.

If the Organization is to serve as trustee, the Organization must be at least a 50% irrevocable remainder beneficiary of the trust.

Trusts may be funded with cash, stock, real estate, tangible personal property or a combination of these assets.

Payments may be set for life or a trust term not to exceed 20 years.

Income payments are based on a fixed percentage of the annual market value of trust assets and will vary in amount as the value of the assets change.

Payments to income beneficiaries must come exclusively from the trust assets and are not guaranteed by the Organization.

The only fees that will be charged to a trust are those charged by external sources. If the Organization is to serve as trustee for a charitable remainder trust funded with real property, all Organization policies for acceptance of real estate must be followed.

The trust assets are invested according to policies established by the Organization's Investment Committee.

### **Charitable Lead Trusts**

This trust is designed to make periodic payments to the Organization for a period of several years, after which the trust terminates and the assets pass to the designated individuals either outright or in trust.

Major gift donors may use charitable lead trusts to fulfill pledge agreements with cash, stock, real estate (or a combination of these assets) placed in trusts.

Under normal circumstances, the Organization will not serve as trustee.

### **Gifts of Life Insurance**

The Organization can receive two types of life insurance gifts.

1. The Organization can be named beneficiary of a life insurance policy and does not own the policy.
2. The Organization can be owner and beneficiary of a life insurance policy.

The following criteria apply to insurance gifts when the Organization is owner and beneficiary:

1. The premium must be a lump sum payment or annual premium payments. These premium payments are made to the Organization and the Organization records these donor payments as gifts and provides appropriate acknowledgement. The Organization remits the premium payments on to the insurance company.
2. The policy may not be a term insurance policy.
3. The donor agrees to be responsible for making additional premium payments if the interest rates fall below expectations and additional premium payments are required.

The donor, on the advice of the donor's advisers, must decide which is in the donor's best interests, to name the Organization owner and beneficiary or to name the Organization the beneficiary only.

The donors will be informed that if, for any reason, they are unable to make the gifts to cover the premium payments and there are not dividends to cover the payment, the Organization will select an option deciding the future of the policy based upon several factors, which may be age of donor, death benefit, amount of paid-up insurance, amount of premium, number of premiums remaining, etc. The options are:

1. To not pay any additional premiums and consider the policy paid at current level of insurance.
2. To surrender the policy for the cash value and use the funds as designated by the donor.
3. To use Organization resources to pay the insurance premium.

It is the stated policy of the organization that it will not serve as trustee of a life insurance trust where there exist beneficiaries in addition to the Organization.

#### **Remainder Interest Subject to Life Estate**

Donors can receive a sizable charitable income tax deduction by making a gift to the Organization of their personal residence or farm while retaining full use and rights to the property during their lifetime. (The donor retains a "life estate" and the Organization receives the "remainder interest.")

The gift is created by transferring a warranty deed to the Organization, which reserves a "life estate" for the life of the donor, or his or her designates.

Donors must sign a "Life Estate Agreement" with the Organization, the remainderman of the life estate, to clarify their responsibility for property repairs, taxes, insurance and other expenses.

Donors are encouraged to have all documents reviewed by their own attorneys. All the normal review and gift acceptance procedures for gifts of real estate apply to gifts of life estate/remainder interest deeds.

A remainder interest in a life estate may also come via a donor's last will and testament, a Granted Life Estate. In this circumstance, the donor designates the Organization as the remainderman subject to a life estate granted to another individual or individuals.

## EXHIBIT A

### Memorandum of Agreement

State of North Dakota  
Grand Forks County

This Memorandum of Agreement (MOA) is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_ by and between the UND Alumni Association and Foundation (UNDAAF) of 3501 University Ave., Grand Forks, ND 58202 and FIRST M. LAST (Donor), of Address, City, State00000.

#### 1. Purpose

The purpose of this MOA is to establish the parameters for a gift of real estate to be made by the Donor to UNDAAF for the purposes of supporting the mission of the University.

#### 2. Description of Property

The physical address of the property to be donated is Address, City State 00000.. Its short legal description is Sect- Twp- Range- NAME ADDITION Lot-000 Block-000. The full legal description shall govern.

#### 3. Terms of Agreement

The Donor desires donate the above described property to UNDAAF including all of Donor's right, title and interest in the property under the terms and conditions set forth below. Donor contemplates making a true gift, without payment, obligation or consideration of any kind. The responsibilities of each party as outlined below are preconditions to implementation of the gift and acceptance of it by UNDAAF.

The Donor agrees:

- That UNDAAF shall have the right to inspect the property prior to the closing of the gift.
- To pay for a certified independent market value appraisal by a licensed real estate appraiser for the property within 60 days prior to the conclusion of the gift and share that information with UNDAAF.
- To inform UNDAAF of any known environmental problems with the property.
- To pay for all taxes, liens, assessments, fees, utilities and other liabilities due or accrued up to the date of gift.
- To notify UNDAAF of any mortgages, liens and leases, encumbrances, or other agreements or obligations attached to the property. If any such exist or should exist before closing, UNDAAF will require the same to be satisfied or released as a condition of final acceptance of the gift.
- To remove all personal property prior to the closing of the gift.
- To execute and deliver a recordable Warranty Deed to the full and correct legal description of the property, title commitment from a title insurance company and the existing abstract for the property prior to the closing of the gift. The Warranty Deed will be held by UNDAAF and not recorded until closing.

If the owner of the property is a legal entity such as a corporation, LLC or partnership, other than donor individually, to provide appropriate evidence of authorization from the owner for the gift.

The UNDAAF agrees:

- To record the gift with the County Recorder upon closing.
- Upon the actual making of the gift (which shall occur at closing), acceptance of the gift, and proper recording of it with the County Recorder, UNDAAF will provide Donor with written acknowledgment of the gift and the appropriate IRS documentation and forms. The gift will be recorded within the Organization for recognition purposes at the written appraisal value.
- To provide the donor with all necessary documentation to report the gift to the IRS.

4. Environmental Responsibility [Preferred]

Notwithstanding anything to the contrary contained herein, the Donor will remain a responsible party for the purpose of environmental response costs, if any, including testing, clean-up, damages, and costs incurred, pursuant to North Dakota and/or federal law attributable to all activities conducted on the property prior to the date UNDAAF receives the property and to indemnify and hold harmless UNDAAF from and of the same. The Donor represents and warrants that the Donor has no knowledge of any environmental hazard which does or may affect the property, nor of any prior use which could have caused or contributed to any environmental contamination of said property. The conditions of this paragraph shall survive the closing or transfer of the property.

Environmental Responsibility [Alternative]

The parties both understand that responsibility for any environmental contamination found on the property would be as provided under North Dakota and Federal law. The Donor represents and warrants that the Donor has no knowledge of any environmental hazard which does or may affect the property, nor of any prior use which could have caused or contributed to any environmental contamination of said property. The conditions of this paragraph shall survive the closing or transfer of the property.

5. No consideration.

The Donor and UNDAAF acknowledge that no financial or other consideration is being or will be given in exchange for the gift. Upon transfer of the gift to UNDAAF, the Donor shall relinquish all control of and access to the property and provide all keys to any buildings.

6. Effective Date/Closing.

This agreement shall become effective on the date fully signed by the parties except that the gift shall be made and effective as of the date of closing upon all preconditions having been satisfied as set forth herein. Closing shall be within a reasonable time following completion of all preconditions as agreed upon by the parties.

7. Modifications or Amendments

Any and all modifications or amendments shall be made in writing and shall be agreed to and executed by the respective parties before becoming effective.

8. Miscellaneous Matters.

a. Agreement to Perform Necessary Acts. Each party to this Agreement agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

b. Amendments and Waivers. The provisions of this Agreement may be waived, altered, amended, or repealed, in whole or in part, only on the written consent of all parties to be construed as a waiver as to any subsequent occurrence or circumstance.

c. Successors and Assigns. This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective successors and assigns.

d. Governing Law. This Agreement shall be construed in accordance with, and governed by the laws of the State of North Dakota.

e. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

f. Entire Agreement. This Agreement embodies the entire understanding between the parties hereto, and it shall supersede all prior understandings relating to the subject matter hereof. This Agreement cannot be amended, altered enlarged, supplemented, abridged or modified, nor may any provisions be waived, except by a writing signed by each party to be charged.

g. Headings. The headings for the various subject matters appearing in this Agreement are used only as a matter of convenience to help find subject matters and are not to be construed as part of the Agreement provisions nor in determining the intent of the parties to this Agreement.

h. Signing. This agreement may be signed on separate signature pages with the same force and effect as if on a single signature page.

DONOR

UND Alumni Association and Foundation

\_\_\_\_\_  
Name

By:

\_\_\_\_\_  
CEO

Date: \_\_\_\_\_

\_\_\_\_\_  
Title

Date: \_\_\_\_\_





