TOWSON UNIVERSITY
FOUNDATION, INC.

Planned Giving Policy – Appendix G

I. Introduction

The purpose of this Planned Giving Policy is to provide the Board of Directors and volunteers of **Towson University Foundation, Inc.** (hereafter referred to as the Foundation) and the staff of **Towson University's** (hereafter referred to as the University) Development Office with a set of guidelines to assist them in the solicitation and acceptance of planned gifts in accordance with the Foundation's mission statement.

This policy delineates the authority and responsibilities of various staff members, the Board of Directors and volunteers.

Following approval by the Board of Directors, this document will be followed by the Board of Directors and volunteers of the Foundation and the staff of the University's Development Office. As ethics and laws evolve, it may be necessary to revise and update this policy in order to ensure that the guidelines outlined by this policy remain current and effective. It will be the responsibility of the Chair of the Planned Giving Development Committee to provide for the review of this policy and obtain suggested revisions. The revised edition must be presented to the Board of Directors for approval.

II. Mission Statement

The Development Office exists in order to foster a community of shared values by garnering philanthropic support for the educational activities of the University. The Development Office staff carries out this mission:

1. By communicating the University's values, achievements, aspirations, and needs to all members of the University community, as well as to the general public, and by facilitating constructive communication among the various members of this community;

2. By involving community members as volunteers and advocates for the Foundation;

3. By eliciting voluntary commitments of financial support that represent thoughtful investments in the shared values of the University community;

4. By recognizing the best qualities of the University and observing the highest standards of personal and professional conduct as articulated in the University System of Maryland Policy of the Board of Regents on Ethical Practices in Charitable Giving.

5. By serving as catalysts for the articulation and clarification of institutional values and aspirations and sharing responsibility for creating a climate in which the values of the University are interpreted and shared.

III. Planned Giving Program Objectives

The primary objective of the Foundation's planned giving program is to encourage, solicit and recognize bequests, gifts of interests in retirement plans, gifts of life insurance and gifts created by life income agreements and trusts for all purposes consistent with the Foundation's mission statement.

This program is designed to supplement and enhance all other development programs of the Foundation including outright gifts of real estate and appreciated securities by:

1. Offering donors the opportunity to make a larger gift during their lifetime than could be made without income retention.

2. Offering donors the opportunity to provide income for life to a surviving spouse or other loved ones.

3. Offering donors the opportunity to make gifts of life insurance and retirement interests that are no longer needed to provide for a spouse or other loved ones.

4. Encouraging estate planning and preparation of wills which can provide for outright bequests, annuities for life income provisions for other beneficiaries, and additions to agreements and trusts which qualify for deduction of exemption under existing tax laws.

5. Offering donors the opportunity to establish a permanent memorial or endowment in one's own name or for another.

IV. Delegation of Authority

The **Planned Giving Development Committee** (hereafter referred to as the Committee) shall consist of a Chair appointed by the Board, the Director (who shall be the Vice President for University Advancement or his or her designee) and up to six (no less than two) additional members to be determined by the Chair and the Director. Representatives from the Development Office will serve on the Committee. Advisory Board members, volunteers, Friends of the Foundation, and anyone knowledgeable in gift planning can serve on the Committee. At least one member, preferably the Chair, shall be a member of the Board of Directors.

1. The Committee shall make or ratify all decisions regarding the Foundation's planned giving program. These decisions include the language of various gift documents and trusts, minimum size of gifts, minimum ages for life income beneficiaries and gifts to be accepted. It is the responsibility of the Committee to implement the Planned Giving Program Objectives as set forth in the Mission Statement as determined by the Board.

2. The Committee shall meet no less frequently than semi-annually.

3. The Chair of the Committee shall report on Committee activities to the Board of Directors during their regular meetings.

4. Committee members will serve for a period of time as determined by the Chair.

V. Acceptable Types of Planned Gifts: Towson University and Towson University Foundation, Inc. does not provide legal and tax advice. Given the complex tax and legal issues related to the establishment of a planned gift, the donor should obtain competent, independent professional advice prior to creating the appropriate gift instrument.

Beneficiary Designation

The Foundation may accept amounts it receives as a designated beneficiary (primary or contingent) of a life insurance policy, deferred annuity contract, IRA, defined benefit plan, 401(k) plan, profit-sharing plan or other qualified plan.

Bequests

Individuals interested in supporting the University with bequests, do so through the Foundation. The Foundation is a tax-exempt organization under section 501(c) (3) of the Internal Revenue Code (EIN 52-0939453). The Foundation welcomes the following types of bequests:

1. **Specific bequests** are those where a donor bequeaths a specific dollar amount or a specific asset(s). Sample language*: I give, devise, and bequeath $_____ (or, the following asset) to Towson University Foundation, Inc., a Maryland nonstock corporation having EIN 52-0939453 or its successor-in-interest, for its general purposes*.

2. **Percentage bequests** are those where a donor bequeaths a percentage of the estate. Sample language*: I give, devise, and bequeath to Towson University Foundation, Inc., a Maryland nonstock corporation having EIN 52-0939453 or its successor-in-interest, an amount equal to ______ per cent (__%) of my adjusted gross estate as finally determined for federal estate tax purposes for its general purposes.*

3. **Residuary bequests** are those where a donor bequeaths all or a percentage of the remainder of the estate after other gifts, debts, taxes, and expenses. Sample language*: I give, devise, and bequeath all (or a percentage) of the rest, residue and remainder of my estate, both real and personal and wheresoever situate, to Towson University Foundation, Inc., a Maryland nonstock corporation having EIN 52-0939453 or its successor-in-interest, for its general purposes*.

4. **Contingent bequests** are received by the Foundation only if a donor's primary beneficiaries are not surviving at the time of the donor's death. Sample language: *If (primary beneficiary) does not survive me, I give, devise, and bequeath such beneficiary's share of my estate (or trust) to Towson University Foundation, Inc., a Maryland nonstock corporation having EIN 52-0939453 or its successor-in-interest, for its general purposes*.

5. **Restricted bequests** are those where a donor bequeaths a gift to be used for a specific purpose. Sample language*: I give, devise, and bequeath to Towson University Foundation, Inc., a Maryland nonstock corporation having EIN 52-0939453 or its successor-in-interest, (the sum of $______) (the following asset) (___ percent of my adjusted gross estate) or (the rest, residue, and remainder of my estate). This gift shall be used for (state purpose) if and for so long as the Board of Directors of the Foundation determines that the need exists. If the Board of Directors of the Foundation shall determine at the outset or at a later time that the need does not exist, or no longer exists, or for some reason it is not possible (or prudent) for the bequest to be used as originally intended, the Board of Directors may, in its sole and uncontrolled discretion, direct the use of my bequest for a purpose related as closely as possible to that stated above.*

It is strongly advised that the donor and/or the donor's advisor discuss restrictions with a representative of the University's planned gift office before the will or trust is finalized to assure the donor's wishes can be carried out.

Charitable Gift Annuities

Charitable gift annuities benefiting the Foundation are offered through the University System of Maryland Foundation (hereafter referred to as USMF). A charitable gift annuity is a contract between USMF and the donor. USMF agrees to pay the donor (and/or another person named by the donor) a lifetime annuity in exchange for an irrevocable gift to the Foundation. The annual payment to the donor (or named beneficiary) is fixed and is based on the number and ages of the beneficiaries and the fair market value of the gift.

1. The minimum amount required, by USMF, to establish a charitable gift annuity to the Foundation is $10,000. A charitable gift annuity is usually funded with cash or publicly traded securities. However, a charitable gift annuity may be funded with real estate upon approval by the Chair or the Director of the Committee and the University System of Maryland.

2. The rates of return payable to annuitants shall not exceed those recommended by the American Council on Gift Annuities as of the date of contribution. Annuity agreements shall be limited to two (2) lives. Generally, for charitable gift annuities benefiting the Foundation, the minimum age for immediate annuities shall be 60, and 55 for deferred annuities.

Charitable Lead Trusts

A charitable lead trust is a trust from which the income or "lead" interest is paid to the Foundation for a set number of years (not to exceed 20), after which the remaining trust assets pass to one or more non-charitable beneficiaries designated by the donor. The amount paid to the Foundation may be either a fixed sum (an "annuity" interest) or a percentage of the trust assets valued each year (a "unitrust" interest). Moreover, charitable lead trusts may be established during the donor's lifetime or upon his death pursuant to his Will or Revocable Trust.

Normally, the minimum market value of a charitable lead trust will be $1 million.

1. Charitable lead trusts shall not be accepted without the prior review and approval of the trust agreement by the Chair or the Director of the Committee.

2. A charitable lead trust may be advantageous for donors who have a larger income than they currently need and in low interest rate environments, may present an opportunity for the donor to transfer assets to heirs at a reduced transfer tax cost. In addition, major gift donors may wish to use a charitable lead trust to fulfill a pledge.

3. The Foundation will <u>not</u> serve as the Trustee of a charitable lead trust.

Charitable Remainder Trusts

A charitable remainder trust is established by an irrevocable gift to a trustee made during the donor's lifetime or following his/her death. In general, the trustee is required to pay a fixed percentage (not less than 5%) of the value of the trust assets to at least one non-charitable beneficiary for the life or lives of the named beneficiary(ies), a term not to exceed 20 years, or a combination of the two. At the end of the trust term, the remaining assets pass to one or more charitable beneficiaries. The most common forms of charitable remainder trusts are Charitable Remainder Annuity Trusts (hereafter referred to as CRATs) and Charitable Remainder Unitrusts (hereafter referred to as CRUTs).

1. <u>CRAT</u>. A CRAT must provide for the payment to one or more non-charitable beneficiaries of a fixed percentage (no less than 5% and no more than 50%) of the initial fair market value of the trust's assets, payable at least annually. No additional contributions may be made to a CRAT after the initial contribution.

2. CRUT. A standard CRUT is similar to a CRAT, except that the payout to non-charitable beneficiaries is a fixed percentage (no less than 5%) of the trust assets, valued annually. Unlike a CRAT, the donor can add assets to a CRUT at any time during the donor's lifetime or following his/her death. There are many different variations of CRUTs, including Net Income Unitrusts, Net Income with Make-Up Unitrusts and Flip Unitrusts.

In general, the Foundation will not serve as the Trustee or as a co-Trustee of a charitable remainder trust. Exception may be made with the prior approval of the Chair or the Director of the Committee. Factors to be considered in determining whether the Foundation shall serve as the trustee of a charitable remainder trust shall include: the value of the initial contribution to the trust, the number of non-charitable beneficiaries, the ages of the non-charitable beneficiaries if the trust term is based on one or more lives, the present value of the Foundation's remainder interest, and whether the designation of the Foundation as the sole (or one of several) remainderman is irrevocable.

Gifts with Retained Interests

The Foundation may accept a gift of a personal residence or farm where the donor (and/or another person) retains the right to use the property for a term of years or for the life or lives of the donor and/or another person. Upon the expiration of the retained interest, the Foundation may use or sell the property as it sees fit, subject to any restrictions on use imposed by the donor and agreed to by the Foundation.

1. Such gifts are subject to the conditions and guidelines applicable to gifts of real estate.

2. The gift is accomplished by the execution of a Deed to the Foundation, in which the retained interest is expressly reserved. In addition, the donor must enter into a Retained Life Estate Agreement (RLEA) which provides that the donor and/or the life tenant shall remain responsible for maintenance, taxes, utilities, insurance and other costs associated with the property, unless other arrangements, approved by the Chair or the Director of the Committee, are made for the payment of these expenses.

3. The value of the gift is the fair market value of the Foundation's remainder interest in the property at the time of the contribution, determined actuarially, after making any appropriate adjustment for depreciation or depletion.

Life Insurance

The Foundation will consider gifts of life insurance policies under the following circumstances:

1. The donor shall provide the complete life insurance contract and a current vanishing in-force illustration.

2. Term life insurance policies will only be accepted upon approval by the Chair or the Director of the Committee.

3. The Foundation is designated as the owner of the policy (by absolute assignment or change of ownership) and, as a result, neither the donor nor any other party retains any incident of ownership over the policy. The Foundation should also be designated as the beneficiary of the policy. To the extent the donor wishes to place restrictions on the Foundation's use of the policy proceeds, such restrictions should be expressed in a writing (*e.g.*, gift instrument, letter agreement, etc.) attached to the policy.

4. There are no outstanding policy loans (unless the Foundation plans to immediately surrender the policy).

In general, the value of a gift of a paid-up insurance policy is the policy's "replacement cost," defined as the single-premium amount that the issuer of the policy would charge for a similar policy for the same amount on the life of a person who is the same age of the insured at the time of the contribution. If the estimated value of the policy exceeds $5,000, the donor shall provide the Foundation with a copy of a "qualified appraisal" prepared in accordance with IRS Regulations.

A donor may also purchase a special policy for the benefit of the Foundation. Policies can be written that provide an income tax charitable deduction for premiums paid and an estate tax deduction for the policy proceeds.

VI. Property Acceptable as Gifts

The Foundation has approved the gifts of the following types of assets subject to the guidelines and policies set forth below.

No gift will be accepted or disposed of that could lead to self-dealing, such as donated property which is sold to employees, to other contributors, or to other related entities and/or interested parties. All gifts will only be accepted in accordance with federal and IRS guidelines.

Cash

Gifts of cash will be accepted in accordance with state and federal laws.

Publicly Traded Securities

1. Securities that are traded on the New York and American Stock Exchanges, as well as other major U.S. and foreign exchanges and the NASDAQ, corporate bonds, government issues and agency securities may be accepted as gifts. In general, such securities shall be sold as soon as possible after their receipt. No employee or volunteer may agree to hold, sell through a specific broker or trade on instruction of the donor a particular publicly-traded security without the approval of the Chair or the Director of the Committee.

2. The value of a gift of securities is determined by averaging the highest and lowest selling prices quoted for the security on the day the transfer is completed by the donor to the Foundation in compliance with Internal Revenue Service regulations. Gifts of inactively traded securities or securities that do not trade on the gift date present more complex valuation questions and must be valued in accordance with IRS Regulations.

3. Donors should notify the Foundation of the securities being gifted, the number of shares, the intended gift date and the intended use of the gift.

4. Securities may be delivered by mail or may be wired to a designated Foundation brokerage account. If the donor mails securities, certificates should be sent unsigned and by registered mail. Signed stock/bond

powers should be sent separately to the Foundation by registered mail. It is imperative that the signature on the stock/bond power exactly match the name on the certificate.

Closely Held Business Interests

1. Closely held or non-publicly traded securities and interests in sole proprietorships, general and limited partnerships, S corporations, real estate investment trusts (REITs), and limited liability companies may be accepted only after prior review and approval by the Chair or the Director of the Committee. Such review shall consider the marketability of the interest, any restrictions on its sale, and any tax consequences for the Foundation associated with holding and/or disposing of such interest.

2. General partnership interests shall not be accepted.

3. Any sale of these interests requires the approval of the Chair or the Director of the Committee.

4. Valuation of closely-held business interests may be difficult due to infrequent trading. Accordingly, valuation of these securities is the responsibility of the donor. In the absence of a recent sale, the donor must provide evidence of the fair market value of the stock, as determined by a reputable appraiser or accountant. If the value of the gift is estimated to be $5,000 or more (except if the gift is of non-publicly traded securities with a value of $10,000 or less), the donor shall provide the Foundation with a copy of a "qualified appraisal" prepared in accordance with IRS Regulations.

5. Minimum documentation required to accept closely held securities:

a. Current appraisal required for gift crediting and accounting purposes prepared at the donor's expense.
b. Copies of all relevant restrictive documentation, including shareholders' agreements.

6. No commitment for repurchase of closely held securities shall be made prior to completion of the gift of securities.

7. A hold harmless provision shall be included in the gift agreement.

Restricted Securities

1. Restricted securities (also known as unregistered securities, investment-letter stock, control stock or private placement stock) may be accepted as gifts. Because of the complexity in transferring ownership and determining the fair market value of restricted stock, such gifts may be accepted only after review and approval by the Chair or the Director of the Committee.

2. As with closely held securities, the donor shall be responsible for determining the value of the gift, and must provide the Foundation with a copy of a "qualified appraisal" prepared in accordance with IRS Regulations in the event the value of the gift is estimated to be $5,000 or more.

3. Should the Foundation accept a gift of restricted securities, the donor and the Foundation must work cooperatively regarding the disposition thereof.

Mutual Fund Shares

1. Mutual fund shares may be accepted as gifts.

2. The fair market value of mutual fund shares is the redemption price on the valuation date of the gift.

3. The donor should be aware that in order to transfer mutual fund shares to a charity, the mutual fund company must establish an account for the charity. This process may be lengthy, and the donor should allow sufficient time between the date of the instructions to transfer the shares and the actual date of the share transfer.

Real Estate

1. Gifts of real estate, both improved and unimproved, may be accepted only after review and approval by the Chair or the Director of the Committee. Due to the expenses associated with gifts of real property, only gifts valued in excess of $100,000 will generally be considered.

2. It is the Foundation's general policy to dispose of all gifts of real estate as expeditiously as possible. This policy will be communicated to the donor when the Foundation receives notification of the donor's intent to make a gift of real estate. If the donor does not want the Foundation to immediately dispose of the real estate, the parties' must execute a written agreement regarding the disposition of the property before its acceptance by the Foundation.

3. At a minimum, gifts of real estate require:

a. a title insurance commitment showing marketable title in the donor, free and clear of unacceptable encumbrances, issued by a reputable title insurance company;

b. an appraisal by a qualified appraiser (not older than 60 days);

c. a Phase I environmental audit by a qualified engineer indicating that ownership will not expose the Foundation to environmental liability;

d. a market feasibility study for purposes of liquidation;

e. an on-site evaluation by the Chair of the Committee, the Director of the Committee or their designee (or if the property is located in a geographically isolated area, a local real estate broker);

f. a structural engineering report (where appropriate);

g. a review of leases (for commercial property);

h. evidence of compliance with the Americans with Disabilities Act (where applicable);

i. a disclosure statement reflecting any and all carrying costs, including but not limited to taxes, insurance, association dues, membership fees and transfer charges.

Under Treasury Regulations, the donor must pay for the initial appraisal of the property. Moreover, unless waived by the Chair or the Director of the Committee, the donor shall be responsible for all costs related to the environmental impact study, title search, marketability study and any other related study.

4. A gift of real estate encumbered by a mortgage raises significant tax issues for the donor and the Foundation. Gifts of real estate encumbered by mortgages, deeds of trust, liens, etc. may only be accepted after review and approval by the Chair or Director of the Committee.

5 A gift of mortgaged property to a charitable remainder trust shall not be accepted under any circumstances.

6. Gifts of time shares, ground rents and burial lots will not be accepted.

7. The execution and delivery of a deed of gift (preferably in the form of a warranty deed or trustees' deed) shall complete the gift. The donor shall pay the costs associated with the conveyance and delivery of the gift.

8. Gifts of real property shall be valued at their fair market value on the date of transfer as set forth in a "qualified appraisal" prepared in accordance with IRS Regulations. Such appraisal shall be obtained and paid for by the donor.

Tangible Personal Property

1. Gifts of tangible personal property, including but not limited to art, antiques, collections, manuscripts, books, vehicles, marine vessels, and computer hardware may be accepted only after review and approval by the Chair or the Director of the Committee.

2. Gifts of collections and art are governed by the Collections Management Policy approved at the October 18, 2005 annual Towson University Foundation Board meeting as amended from time to time.

3. Gifts of tangible personal property should have a use related to the exempt purpose of the University. Whether the property has a "related use" will have an impact on the amount of the donor's income tax charitable deduction. Donors should be told to consult with their tax advisors regarding the availability and amount of such deduction.

4. A gift of tangible personal property should be accepted only after a review indicates that the property is readily marketable or can be used by the Foundation in a manner related to its exempt purpose. No personal property shall be accepted under conditions which obligate the Foundation to own the property in perpetuity without the prior review and approval of the Chair or the Director of the Committee. In addition, no perishable property or property that would require special facilities or security to be properly safeguarded shall be accepted without the prior review and approval of the Chair or the Director of the Committee.

5. Tangible personal property given to the Foundation shall be used or sold for the benefit of the Foundation. The Foundation's intention to sell the property or to use it to further the University's educational activities shall be communicated to the donor when the Foundation receives notification of the donor's intent to make a gift of personal property.

6. Gifts of personal property shall be valued at their full fair market value. Tangible personal property valued at $5,000 and under shall have the value declared by the donor in writing, subject to the right of the Foundation to assign a different value. Gifts with an estimated value in excess of $5,000 must be received and documented in accordance with IRS Regulations.

Other Property

Other property of any description (*e.g.*, mortgages, notes, copyrights, royalties, etc.) may be accepted only with the approval of the Chair or the Director of the Committee.

Approved by TU Foundation Executive Committee on 6/25/07
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O:\Development\Development\Foundation Forms and Procedures\Planned Giving Policy