

## **Gift Acceptance Guidelines Lowell Observatory Foundation**

### **I. General Policies**

The Board of Trustees of the Lowell Observatory Foundation (the “Foundation”) are responsible for philanthropic gift and grant activity for the Foundation to benefit of the Lowell Observatory (“Observatory”). These guidelines concern the planning, promotion, solicitation, receipt, acceptance, management, reporting, use and disposition of contributions. The donors are expected to be individuals, couples, families, businesses, foundations or other organizations. Gifts, grants, and planned gift instruments may be received by the Chairman or his/her designee but can be accepted officially only by the Foundation Board of Trustees as managers of the public trust. Basic guidelines for gift acceptance follow:

#### **A. Oversight**

The Board of Trustees of the Foundation will be responsible for the acceptance of any gift offered to the Foundation.

The Foundation will pay no finders’ fees, commissions or other compensation as a condition for the making of a gift or for any other services in connection with the identification of a donor or a specific donation.

#### **B. Liquidation Policies**

1. It will be the general policy of the Foundation to immediately liquidate as soon as practical any gifts of marketable securities which are received as gifts by the Foundation and for which there is an active and public market. The Foundation will provide their financial services firm, who receives all such securities on the Foundation’s behalf, standing instructions to liquidate upon receipt when possible and within a short time frame for all securities for which the market is less active. For all other types of assets received and accepted by the Foundation, the Foundation will evaluate the current market for each such asset at the time of receipt and make a considered judgment as to the appropriate strategy for either the immediate or delayed sale of the asset.

#### **C. Gift Suitability and Donor Consideration**

1. Suitability for all gifts shall be given primary consideration.
2. It will be the policy of the Foundation to not pressure or over aggressively urge any possible donor to enter into a gift program, trust agreement or gift commitment of any kind. The goal of the Foundation for all of its development efforts will be to clearly communicate the mission and funding needs of Lowell

Observatory. If the mission and funding needs are consistent with a donor's personal philanthropic goals and expressed charitable desires, the donor will be asked to consider the Foundation and/or the Observatory for a one time or ongoing gift.

3. The Foundation will not participate in charitable gift arrangements designed to disguise the true nature or value of the gift to the Foundation for the donor's income, gift or estate tax purposes.

#### **D. Use of Tax and Legal Counsel**

1. The Foundation shall advise and encourage donors and prospective donors to seek advice and assistance from their own legal counsel and other professional advisors.
2. The Foundation may develop a list of professional advisors to be provided to potential donors upon their request. Members of the Board of Trustees of the Foundation or of the Advisory Board of the Observatory are not eligible to be included on the list.
3. Members of the Board of Trustees of the Foundation and members of the Advisory Board of the Observatory who have prior advisory relationships with a donor may continue serving in an advisory capacity with that donor so long as full disclosure is made to the Board of Trustees of the Foundation.
4. Other than documents that have already been approved by legal counsel for the Foundation, the Foundation shall execute no agreement, trust agreement, or other legal document relating to the acceptance of a gift.

#### **E. Forms and Documents**

1. No forms with respect to the tax effect of a specific donation or planned gift to potential donors will be offered to them or their professional advisors unless that form has been previously reviewed and approved by the Board of Trustees.
2. No forms or other documents with respect to estate planning will be offered to potential donors or their professional advisors unless such forms or documents have been previously reviewed and approved by the Board of Trustees.
3. All agreements or other documents prepared by donors or their professional advisors shall be reviewed by an attorney representing the Foundation.
4. The Foundation shall not sign any agreement, including a trust agreement, unless the agreement has been previously reviewed and approved by the Board of Trustees.

## **F. Fiduciary Relationships**

The Foundation shall not serve as a Trustee or a Personal Representative. Other than the specific case of the Sole Trustee of the Lowell Observatory, who shall always be a member of The Board of Trustees of the Foundation, no member of the Board of Trustees shall personally serve as Trustee or Personal Representative of any trust or estate primarily benefiting the Foundation or Observatory without the prior approval of both the Foundation Board and the Advisory Board of Lowell Observatory.

## **G. Acceptable Gifts**

1. The Foundation, through these guidelines and subject to the approval of its legal advisors, will accept most types of current and planned/deferred gifts as are lawfully permissible and as are in the best interests of the organization. Such gifts may include but are not limited to: cash; readily marketable securities; personal property; real property (subject to any appropriate environmental assessment); life estates; paid up whole life or other life insurance policies; gifts that result from the Foundation being named beneficiary on a term, whole life or universal life policy; the remainder interest from charitable remainder trusts and other trusts when the Foundation is a named beneficiary; the lead interest from a charitable lead trust when the Foundation is named as beneficiary; gifts from revocable trusts where the Foundation is named as beneficiary; and/or gifts by will where the Foundation is named as beneficiary.

Unrestricted gifts of cash and gifts of cash which are to existing funds and funds established by the Foundation Board of Trustees can be accepted on behalf of the Foundation by any member of the Board of Trustees or by the Foundation's Executive Director without any additional formal review or acceptance by the Board.

Gifts of tangible personal property and real property which are subject to outstanding liabilities must have such liabilities fully disclosed by the donor and may only be accepted with the specific approval of the Board of Trustees.

The Board of Trustees may propose additional specific policies to guide the range of acceptable gifts.

## **H. Gift Acceptance Regarding Restricted Donations**

1. The acceptance of a restricted donation imposes a legal obligation to comply with the terms established by the donor. Therefore, when gifts are proposed, the Foundation will make certain it understands the nature and extent of the proposed obligation prior to acceptance of the gift.

For this reason, the terms of each restricted gift will be reviewed with the utmost care to ensure that they do not hamper the usefulness and desirability of the gift. If a gift is deemed unacceptable because of restrictions the donor has placed on its use, the donor will be encouraged to remove or modify the restrictions when possible. Gifts will be refused or returned when the purpose (1) is inappropriate or not conducive to the best interests of the Foundation, (2) is clearly a commercial endeavor, or (3) would obligate the Foundation to undertake responsibilities, financial or otherwise, which it may not be capable of meeting for the period required by the terms of the gifts. Restricted donations will be tracked in order to ensure the Foundation's obligations are fulfilled.

## **I. Unsuitable Gifts**

1. Should gifts be offered to the Foundation that appear to fall outside of these policies, the matter will go to the Board for discussion and review. The decision may then be made to decline gifts considered unsuitable or not in the donor's best interests. Examples of unsuitable gifts include:
  - a. Gifts that are too restrictive
  - b. Gifts where restrictions fall outside of the Foundation's charitable purpose
  - c. Gifts with conditions that cannot be managed
  - d. Real estate with unacceptable environmental contamination issues
  - e. Gifts that potentially carry a negative public relations impact to the Foundation or the Observatory
  - f. Gifts of money originating from illegal sources
  - g. Gifts of tangible personal property and real property subject to outstanding liabilities which are of a size and/or nature considered too onerous to warrant acceptance of the gift
2. Decisions to decline shall be made quickly and in writing.

## **J. Administrative Costs/Appraisals**

1. Costs of appraisals, implementation and administration of charitable trusts and other arrangements should normally be borne by the donor or by the particular trust or fund. However, in unusual and specific cases, such costs may be borne by the Foundation with prior approval in writing from the Board of Trustees.
2. It is the donor's responsibility to obtain appraisals from qualified appraisers for any in-kind contributions, gifts of tangible personal property and for any contribution of stock or securities which are not traded on a national stock exchange.
3. Estate, tax and/or financial planning expenses of the donor will be the responsibility of the donor unless expressly assumed by the Foundation with

prior approval in writing from the Board of Trustees.

#### **K. Permanency Clause**

1. As appropriate, the terms of any designed or endowed fund must include language to permit the Foundation Board and the Observatory to assign different, alternative or modified but related use of such funds as conditions dictate in the future. Such actions may be authorized by the donor by including the following clause in the transfer of assets:

“If, in the opinion of the Lowell Observatory Foundation Board of Trustees in consultation with the Director of Lowell Observatory, all or part of the earnings of the fund can no longer be applied to the purpose designated (or in the manner requested), the Board may use the same for any purpose within its powers to decide, or for any other purposes which, in its opinion, will most nearly accomplish my purposes, wishes and intent.”

#### **L. Gift Substantiation**

1. Although the IRS only requires separate acknowledgment for gifts over \$250, the Foundation will acknowledge receipt of all gifts. Acknowledgments shall be generated in writing, with the information required by law, in a timely manner.
2. Gifts of tangible personal or real property, or any other types of contributions will also be acknowledged in writing and in accordance with IRS requirements.
3. Valuation of gifts of tangible personal or real property, if required or desired, shall be the responsibility of the donor.

#### **M. Confidentiality**

1. Respect for the donor’s privacy as well as their intent in making a gift shall be given the utmost consideration.
2. Financial and personal information related to the donor received by any representative of the Foundation in connection with any current or planned giving donation shall be held in confidence as appropriate.
3. With regard to planned gifts made during the donor’s lifetime, no disclosure related to the donor, the form, or the amount of the gift shall be made without the express written consent of the donor, or verbal consent subsequently followed up with written confirmation.

## **II. Policies Related to Common Forms of Charitable Planned Gifts**

Planned giving is the organized solicitation and administration of specific, relatively large and often sophisticated forms of gifts utilizing tax and estate planning techniques to the advantage of the donor and the Foundation. These can take the form of either lifetime or testamentary gifts and are often coordinated with the donor's estate planning activities and objectives. The following is intended to supplement the Foundation's Gift Acceptance Guidelines with respect to specific gift planning arrangements.

### **A. Bequests**

1. Bequests are outright gifts by a living donor, by a last will or by the terms of a trust. Bequests in the form of cash or readily marketable securities which are not restricted by the donor as to the use of the gift are acceptable without prior approval.
2. Bequests of tangible or intangible personal property (other than cash and readily marketable securities), bequests of illiquid or non-marketable securities, bequests of any restricted stock and bequests of real property shall be accepted only upon the approval of the Board of Trustees.
3. Conditional gifts or restricted gifts made by bequest shall be approved by the Board of Trustees prior to acceptance. Extraordinary conditions or restrictions may be referred to the Board for approval and acceptance upon the recommendation and advice of counsel.
4. The Board may establish guidelines stating the criteria for conditions or restrictions which do not require prior Board approval. In addition, a real estate checklist and corresponding environmental checklist may be developed to help determine whether acceptance of a particular gift of real property is appropriate. However, gifts of tangible personal property and real estate subject to outstanding liabilities will always require the express approval of the Board of Trustees prior to acceptance.

### **B. Charitable Gift Annuities**

1. A charitable gift annuity is an agreement between a donor and a charity in which the donor transfers assets to the charity in return for a promise to pay a unitrust or annuity amount to the donor or another named beneficiary for life.

Because of the actuarial risks to the Foundation related to the acceptance of such agreements, until such time as the Board of Trustees decides otherwise, any such agreements will only be entered into with a donor when the mortality risks associated with these instruments are able to be transferred to a third party

insurance company willing to assume the contract and all liabilities and mortality risks associated with the contract and the Foundation's benefits are fixed free of any contingent liabilities.

### **C. Bargain Sales**

Bargain sales are transactions in which the Foundation purchases property, real or personal, from a donor for a price that is less than the fair market value at the time of the sale. A bargain sale is bifurcated into two transactions, one of which is a sale of a partial interest in the property for fair market value and the other of which is a charitable gift of the "bargain" element. Bargain sales will be accepted by the Foundation only upon approval by the Board of Trustees.

### **D. Remainder interest in a Residence or Farm**

1. A remainder interest in a residence or farm is a gift of real property that is deferred until the death of the donor or some other person, or for a term of years. During the deferral period, the donor continues to occupy and have the use of the property and the Foundation will have no income or benefit from the property. Because of restrictions in federal tax laws, only personal residences or farms are eligible for gifts in this form.
2. Remainder interests in a residence or farm will be accepted by the Foundation only upon approval by the Board of Trustees.
3. The Board of Trustees may create guidelines regarding what types of property will be deemed acceptable.

### **E. Life Insurance**

1. Life insurance can serve as the direct funding vehicle of a gift, permitting the donor to make a substantial gift for a relatively modest annual outlay. Life insurance can also be used to replace the value of an asset that has been donated. Donors wishing to make a gift of life insurance proceeds may do so simply by designating the Foundation as beneficiary. Prior approval for the designation of the Foundation as beneficiary of a life insurance policy is not required partly because the Foundation may not become aware of this designation until after the death of the insured. Gifts of life insurance proceeds are acceptable under the same criteria as those for a gift of cash.
2. A donor may also make a gift of an insurance policy by assigning all incidents of ownership in the policy to the Foundation. Depending on the type of policy and whether or not it is fully paid up at the time of the gift, the Board will make a determination as to the best course of action (i.e. surrender the policy for its cash surrender value or maintain the policy

through the payment of remaining premiums, if any; or consider a viatical settlement).

3. The Foundation will not enter into any agreement with the insured or other donor of a life insurance policy to pay or to continue to pay any premiums on a life insurance policy. The Foundation will not enter into any split dollar agreement with the donor or any other person with respect to the payment of premiums on any life insurance policy owned by the Foundation.

#### **F. Minority Interest in Closely-Held Businesses or Entities**

1. A minority interest in a closely-held business or entity is any entity where the ownership interests are not regularly traded on an established public stock exchange or other public securities market.
2. Gifts of stock, partnership interests, interests as a member of a limited liability company, or the gift of any other form of ownership in a closely held entity will be accepted only upon the approval of the Board of Trustees.
3. In the case of non-publicly-traded securities, a qualified appraiser must determine the fair market value of the securities prior to acceptance. No commitment for repurchase or sale of closely held securities should be made prior to completion of the gift of the securities as the transaction might be viewed by the IRS as a sale rather than a gift, with adverse tax consequences for the donor.

#### **G. Charitable Remainder Trust**

1. A charitable remainder trust is a split-interest trust in which the Foundation will receive a payment of cash or other property after the death of one or more persons or upon the expiration of a term of years. Prior to the termination of the trust and distribution to the Foundation, the trust will pay periodic payments established under tax related rules to one or more designated persons.
2. Distributions of the remainder interests in a charitable remainder trust are subject to the same guidelines as those relating to bequests. The Foundation will not serve as trustee of a charitable remainder trust.



## **H. Charitable Lead Trust**

1. A charitable lead trust is a split-interest trust in which the Foundation will receive periodic payments of cash or other property during the life of one or more persons or until the expiration of a term of years. Upon termination of the trust, the trust's property will be distributed to non-charitable beneficiaries and the interests of the Foundation in the trust will end.
2. Distributions of the periodic payments from a charitable lead trust are subject to the same guidelines as those relating to bequests. The Foundation will not serve as trustee of a charitable lead trust.

## **I. Pooled Income Fund**

A pooled income fund is a specific kind of trust that allows irrevocable gifts from separate donors to be commingled for investment purposes. In return, each named beneficiary receives a proportionate share of the net income earned by the fund each year. Upon termination of the beneficiary's interest at his or her death, a portion of the fund representing the value of the units assigned to that beneficiary will be distributed to the charitable organization administering the fund. The Foundation will neither establish nor administer a pooled income fund.

## **J. Donor Advised Funds**

The Foundation will not establish nor administer a donor advised fund. Gifts to the Foundation from donor advised funds will be accepted under the same policies as apply to acceptance of cash.

## **K. Private Foundation**

1. A private foundation is an organization which is dedicated exclusively to charitable purposes but which is not itself considered a public charity. A private foundation will typically be administered by a family or other group of limited membership and will receive its contributions from a limited number of donors.
2. Contributions to the Foundation from a private foundation will be accepted under the same policies as apply to the acceptance of gifts of cash. The Foundation will not enter into any agreements with a private foundation nor provide any support or services to a private foundation without the prior approval of the Board of Trustees.

## **L. Supporting Organization**

1. A supporting organization is a private foundation which is dedicated to the support of a public charity and whose governing body is controlled by that charity. The Lowell Observatory Foundation is a supporting organization for the Lowell Observatory.
2. It is not anticipated that any contributions to the Foundation could or would come from another supporting organization.