

# **VMI Alumni Agencies**

(VMI Foundation Inc., VMI Keydet Club Inc., VMI Alumni Association, VMI Alumni Agencies Board Inc.)

## **GIFT POLICY MANUAL**

Revised March 2021

## **Gift Policy Statement**

### **Reason for Policy**

This policy is designed to provide guidance to the VMI community and the general public to facilitate the gift giving process. The intent of this policy is to provide prospective donors with the greatest flexibility possible in formulating their gifts within governing policy and legal parameters while assuring that gifts obtained will support programs consistent with the mission of the VMI Alumni Agencies (VMI Foundation Inc., VMI Keydet Club Inc., VMI Alumni Association, VMI Alumni Agencies Board Inc.).

### **Statement**

- The Agencies seek gifts from individuals, corporations, foundations and public agencies to fulfill its purpose of raising dollars for the support of the Institute. The Agencies accept gifts that advance the core mission of the Agencies.
- In accepting a gift, the Agencies also accept a responsibility to the donor to steward the gift. This includes administering the gift properly, providing the donor with the appropriate financial information about the gift, and reporting to the donor about the use of the funds.
- Routine gifts, including cash, publicly traded securities, and tangible personal property are accepted through the offices of the Chief Executive Officer (CEO). Gifts in kind to be retained by the Agencies for use by the Institute may be accepted; however, proposed gifts that require undue expenditures or involve the Agencies in unexpected responsibilities because of their source, conditions, or purposes will be referred to the Board of Trustees (BOT) Property Management and Gifts (PM&G) Committee, whose members are appointed by the President of the VMI Foundation Inc. This Committee is established to review gifts offered to the Agencies and to recommend whether to accept or decline these gifts. The final decision authority on gifts brought to the PM&G Committee lies with the VMI Foundation President and the BOT Executive Committee.
- Various methods of gift giving can provide flexibility, security, and tax savings to donors. Unrestricted resources are essential to ensure the continued quality of the VMI academic programs and supporting services and to sustain and enhance the Institute's financial strength and flexibility. Gifts accepted by the Agencies must not inhibit it from seeking gifts from other donors, be they similar or different, foreign or domestic. Finally, gifts must be designed and administered in a manner consistent with legal requirements.
- No gift can be received which is overly restrictive in purpose or which sets limits on research that a faculty member/student of the Virginia Military Institute.
- The Agencies will not accept gifts that involve discrimination based upon race, religion, gender, sexual orientation, age, national origin, color, disability, or any other basis prohibited by federal, state, and local laws.

## **DONOR BILL OF RIGHTS**

The VMI Alumni Agencies (VMI Foundation Inc., VMI Keydet Club Inc., VMI Alumni Association, VMI Alumni Agencies Board Inc.) support the Donor Bill of Rights as adopted by CASE, AAFRC, AHP, and AFT, which states that philanthropy is based on voluntary action for the common good.

### **Statement**

To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the Agencies causes they are asked to support, we declare that all donors have these rights:

1. To be informed of the Agencies mission, of the way the Agencies intend to use donated resources, and of its capacity to use donations effectively for their intended purposes.
2. To be informed of the identity of those serving on the Agencies governing boards, and to expect the board to exercise prudent judgment in its stewardship responsibilities.
3. To have access to the Agencies most recent financial statements.
4. To be assured their gifts will be used for the purposes for which they were given.
5. To receive appropriate acknowledgment and recognition.
6. To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.
7. To expect that all relationships with individuals representing the Agencies will be professional in nature.
8. To be informed whether those seeking donations are volunteers, employees of the Agencies, or hired solicitors.
9. To feel free to ask questions when making a donation and to receive prompt, truthful, and forthright answers;

## **Property Management and Gifts Committee**

### **Reason for Policy**

Gifts can have legal, tax, and financial risks for the Agencies. The PM&G Committee is responsible for reviewing the implications of all such gifts made to the Agencies, whether such gifts are lifetime gifts or gifts from estates. Gifts excluded are gifts of cash, publicly traded securities, gifts in kind donated specifically to the Agencies for its use or by use of the Institute (other than gifts that may expose the Agencies or the Institute to adverse publicity, require undue expenditures, or involve the Agencies in unexpected responsibilities because of their source, conditions, or purposes), and other tangible property valued at less than \$10,000.

### **Statement**

The PM&G Committee shall be appointed by the President of the VMI Foundation and consist of at least three trustees subject to approval by the Board of Trustees. The Vice President of Administration for the VMI Foundation will serve as ex-officio. The Chief Financial Officer of the Agencies (CFO) will provide principal staff support for this committee. Other individuals (representing finance and risk functions, the Institute, legal counsel, and Agencies staff officers) can be invited to attend on an ad-hoc basis depending on the issues being considered.

The PM&G Committee shall meet during the planned BOT meeting dates, or more often as necessary.

The PM&G Committee shall be responsible to:

- Review preliminary information on more complex gifts to determine whether the involved Gift Officer should continue to pursue obtaining further documentation/information from the prospective donor.
- Recommend the Agencies accept or decline any gifts, other than those specifically excluded above that could have financial, legal, or tax ramifications to the Agencies.
- Review current issues and requirements associated with philanthropy to assure that gift policies are in compliance.
- Review existing policies annually to assure that they continue to serve the needs of the Agencies and approve any necessary new policies.
- Review all proposed language for special purpose gifts and designated funds to ensure that they comply with Agencies requirements.
- Advise on training for persons throughout the Agencies responsible for accepting gifts.

## **OUTRIGHT GIFTS**

### **Cash Gifts**

#### **Reason for Policy**

It is important that we offer our donors as many opportunities as possible to make gifts to the Agencies. It is also important that we have systems in place to expedite the processing of gifts

from receipt to deposit

### **Statement**

Current cash gifts are those in which the donor does not retain any interest and are available for immediate use by the Agencies. Cash gifts can either be unrestricted and available for use at the Agencies discretion or can be restricted for use in a particular program or purpose. Gifts can be made with cash or by check, electronic funds transfer, wire transfer, credit card, or payroll deduction.

## **Publicly Traded Securities and Mutual Fund Gifts**

### **Reason for Policy**

There are a number of ways that a donor can transfer publicly traded securities to the Agencies. Mishandling of this process can cause tax problems for the donor and result in lost revenues to the Agencies. It is imperative from a donor relations standpoint that the Agencies handle these transactions in a professional manner and assist the donor in completing his/her gift.

### **Statement**

Stock and bond gifts are the next most common form of giving after cash and cash equivalents. However, they are more complex both from the administrative standpoint and the donor standpoint. If the donor holds stocks or bonds in a brokerage or bank trust account, the most efficient way to transfer these assets to the Agencies is electronically through the DTC system. If the donor holds certificates in his/her own name, he/she will need to physically deliver those certificates, either through the mail system or personally, to the Agencies. Donors may also hold stocks on deposit with the issuing company in plans known as “dividend reinvestment plans (DRP’s).” Donors hold mutual fund shares. Each mutual fund company has its own procedures and forms for transferring securities from the donor to a charity.

In the case of a stock, bond, or mutual fund gift, the Gift Officer should notify the donor of the following facts:

1. The Agencies sell all stock and bond gifts, with rare exception, as soon as practicable after receipt.
2. The donor will avoid the capital gains tax on appreciated securities that he/she contributes, however, the donor should not make a gift of securities in which he/she has a loss. The security should be sold by the donor and take the loss for tax purposes, and the proceeds donated to the Agencies. In addition, if the donor has held the securities for less than one year, the charitable deduction will be limited to the cost basis of the securities rather than the full fair market value of the gift.
3. Depending on the nature of the securities being transferred, the transfer process can take anywhere from one to three days in the case of an electronic transfer, to two weeks or more in the case of securities being held in mutual funds or on deposit with the company.
4. As required by IRS regulations, the gift value for a publicly traded security or bond will be determined by the average of the high and the low trading price as of the day the gift is complete. If there were no sales on the date of the gift, the fair market value is determined by calculating a weighted average of the means between the highest and

lowest sales on the nearest date before and after the valuation date. Mutual fund shares are valued for gift purposes at the net asset value (NAV) at the close of the day on which the gift was received. A gift is considered complete when the Agencies are in “control” of the asset.

5. It is imperative that the securities are transferred “as is,” and not sold within the donor’s account with the proceeds then being transferred to the Agencies. The latter will result in any capital gains being taxed to the donor.

This policy addresses publicly traded securities found on the major stock and bond exchanges. For stocks and bonds not publicly traded see Nontraditional Asset Gifts.

## **Real Estate Gifts**

### **Reason For Policy:**

Real estate can be a very desirable gift to the Agencies; however, the acceptance of properties can carry with it risks and expenses. This policy has been established to assure that the expenses and risks associated with the acceptance of real estate are commensurate with the value of the ultimate gift to the Agencies.

### **Statement**

- The Agencies will consider the acceptance of gifts of real property including both improved and unimproved land including but not limited to single and multiple family residences, condominiums, apartment buildings, rental property, commercial property, and farms. In order, to accept a gift of a divided interest in multiple owned property, a legal agreement must exist with the other owners regarding ultimate disposition of the property. Gifts of partial interests will not be accepted. The exception to this policy would be a retained life estate interest. Because of the time, expense, and market risk associated with obtaining gifts of real estate, the property must normally have an aggregate market value of at least \$50,000. If the property has associated homeowner fees the market value must exceed \$100,000.
- All real estate gifts must be brought to the PM&G Committee for review. If a scheduled meeting is not timely in the review of a potential gift, the Chair of the PM&G Committee may call for a special meeting or provide approval/rejection necessary information for review before a gift can be accepted. This information includes (1) a qualified independent appraisal of the property, (2) a Real Estate Acquisition Data Sheet which identifies both environmental and financial risks associated with the property, (3) a Phase I Environmental Audit, (4) an Environmental Indemnification Agreement, and (5) a copy of the deed and other survey or relevant documents that the donor may share. If the Phase I audit identifies problems with the gift property, the PM&G Committee will make a decision whether to recommend a Phase II Environmental Audit or recommend that the property not be accepted.
- It is the Agencies policy to dispose of as expeditiously as possible all gifts of real estate that are not specifically identified for acquisition according to a Master Plan for the VMI Post or that cannot be used to further the educational purposes of VMI. As required by law, any sale occurring within three years of the date of the gift will be reported to the IRS.
- Upon direction of the CEO, it is the responsibility of the CFO to dispose of all gifts of

real property. If the CFO determines that it is advisable to sell any property for less than gift value, he shall obtain the approval of the CEO. The CEO may, at his discretion, bring the decision to the PM&G Committee for review and approval. The CFO will be responsible for filing Form 8282 with the IRS within 125 days of the date of disposition and providing a copy for the donor.

- Any exceptions to this policy must be reviewed and approved by the PM&G Committee.

## **Nontraditional Asset Gifts**

### **Reason for Policy:**

Because of the infrequency and complexity of gifts of nontraditional assets, these gifts can carry with them additional risks and costs. The purpose of this policy is to assure that the Agencies make a prudent decision regarding the acceptance of these types of gifts, as well as provide guidance to donors and their advisors regarding the impact of the gift on the donor's tax situation.

### **Statement**

Unless otherwise noted, all gifts covered by this policy shall be reviewed, as necessary, by Agencies legal counsel, Agencies tax counsel, and the PM&G Committee. In addition, because of the limited marketability of nontraditional assets, the Agencies will not accept these assets to fund a gift annuity or pooled income fund.

**Closely Held Business stock:** In order for the donor to avoid having the IRS view a gift of closely held stock as a taxable event, there must not be any formal agreement that the Agencies is required to redeem the stock upon receipt. Charities may own "S" corporation shareholders.

**Section 144 Restricted Stock:** In order to sell these securities, they must be held for at least 2 years from the date of acquisition. For the Agencies purposes, the holding period includes the time that the donor held the shares. There is a limit on how many shares may be sold. Because sales by the donor and the Agencies are aggregated, any sales by the donor will reduce the number of shares the Agencies may sell.

**General and Limited Partnership interests:** The Agencies must be sure that it will not be required to make contributions to the partnership in the future. If a gift of a family limited partnership is being proposed, there should be a history of demonstrable charitable intent to assure that the gift is not merely a tax accommodation for the donor. A gift of a general partnership interest can expose the Agencies to liability for partnership debts, negligence on the part of other partners, hazardous waste cleanup costs, and other substantial expenses.

**Patents:** In order, to receive a charitable deduction for the fair market value, the donor must assign his/her entire interest in the patent.

**Copyrights and Royalties (Non Mineral):** When a donor assigns a copyright as a gift to the Agencies, he/she must assign **all** of the rights with respect to that copyright in order to avoid the partial interest rule. Unless the donor gifts both the copyright and the work that it embodies, the gift will be considered a partial interest gift, and the donor will not be entitled to a charitable income tax deduction.

**Stock options:** There are many types of stock options, and not all are transferable. In addition, if stock options are granted to the Agencies, and the Agencies wishes to exercise those options, it will be necessary to identify cash resources to be used to exercise the

options to purchase the stock.

**Tangible Personal Property (accepted with intent to sell):** Most property, including coins, gold bullion, livestock, farm equipment, inventory, automobiles, boats, books, manuscripts, and artwork, that are accepted by the Agencies with the intent to sell will result in a deduction for the donor which will be the lesser of the cost basis or the fair market value of the item. The donation of a manuscript or artwork will have different tax treatment for the donor depending on whether or not the donor was the creator of the work and how the donor acquired the work. Expenses of maintaining and selling assets such as boats and cars can be substantial.

**Gifts In Kind (Retained for VMI Agencies and Institute use):** Artwork, books and manuscripts, livestock and farm equipment, sports equipment, computer hardware and software are common types of gifts that are given to charities and retained for use. Related use rules need to be considered in the acceptance of these types of gifts. Unless it can be determined that the item being donated can be used by the Agencies to further its mission for the Virginia Military Institute, the donor's deduction will be limited to the lesser of his/her cost basis or the fair market value of the property. Depending on the nature of the gift, there can be maintenance, storage, shipping, and insurance costs associated with it. An agreement must be established to cover these costs. Also, the gift should complement the strategic direction of the Institute.

**Gifts of limited practicality:**

- **Installment Notes:** A gift of an installment note to the Agencies will cause recognition of all unreported capital gain to be realized by the donor on the date gifted.
- **Oil, Gas, and Mineral Interest:** Because the Agencies is not located in an active mineral interest area, and these interests are generally difficult to sell and unpredictable to income generation, a gift of this nature will not be considered unless it has an estimated value of at least \$25,000. The donor will be required to provide a qualified independent appraisal in order to consider the acceptance of this type of gift.
- **Timeshare units:** Because of the limited value and market, and inherent expenses associated with timeshare units, a gift of this nature will not be considered unless it has an estimated market value of \$50,000. The donor will be required to provide a qualified independent appraisal in order to consider the acceptance of this type of gift.
- **Real Estate Investment Trusts (REIT):** a REIT is generally not an acceptable gift because it most often produces unrelated business income or may be prohibited from being owned by a charity.

**Matching Gifts**

**Reason for Policy**

Many donors to the Agencies work for companies that will make a donation of an equal or greater amount to the charities to which their employees are contributing. These gifts represent substantial dollars for the Agencies and therefore it is important to identify opportunities for matching gifts and process these gifts expeditiously. Some companies provide matching funds on an annual basis only, so it is important that forms are processed and mailed by the due date stated, or it may result in a one-year delay in the receipt of the matching funds.

**Statement**



- Many companies that employ our alumni, parents, and friends provide matching gifts to the Agencies for gifts made by their employees, retirees, spouses, and board members. The ratio of the match is at the discretion of the employer.
- Matching gift companies will generally only match gifts that are made directly to the charity by their employees, retirees, spouses and board members. Therefore, if a donor is making a gift to the Agencies through a donor advised fund, such as the Fidelity Charitable Gift Fund, or a community Foundation, the company will generally not match such a gift. A donor using this method of funding his/her gift should be advised that the gift might not be eligible for matching funds from his/her employer.
- Matching gifts are generally applied to the same designation as the original gift from the donor, unless otherwise specified by the donor or by the company, and both are aware of the designation.

## **DEFERRED GIFTS**

### **Pledges**

#### **Reasons for Policy**

Pledges are an important part of the fundraising process. Without appropriate policies and procedures regarding the collection and management of pledge commitments, the receipt of these funds could be jeopardized.

#### **Statement**

If the donor receives consideration for the pledge, the pledge will be legally binding. Consideration would include any privileges afforded the donor as a result of the pledge, such as the naming of a building, school, or program after the donor. Nonbinding pledges are considered to be conditional on continued goodwill of the donor. In the case of a binding commitment, the donor shall execute a Charitable Deferred Pledge Agreement, which is a commitment to the donor's estate in the event of his/her death before the completion of the pledge. With binding or nonbonding pledges, it is important to have processes in place that will encourage donors to complete their commitment.

### **Estate Provisions**

#### **Reason for Policy**

A significant portion of gifts that come to the Agencies each year are realized as a result of the death of the donor (estate gifts). Because of the magnitude of these gifts and the fact that gifts of this nature are revocable, it is important to solicit and steward this type of gift during the donor's lifetime. It is equally as important from a fiscal standpoint to follow through to assure timely collection of the proceeds on the death of a donor.

#### **Statement**

The most common forms of estate provisions are bequests, life insurance beneficiary designations (where the donor continues to be the owner of the policy), and retirement plan beneficiary designations. The donor retains complete control over the distribution of these assets during his/her lifetime. Although a donor may tell the Agencies that he/she has done an estate provision for VMI through the Agencies, it may be some time before the Agencies actually receives this gift. These gifts do not become irrevocable until the death of the donor. To secure this stream of revenue for the future, the Agencies role

is to (1) solicit gifts of estate provisions through wills and beneficiary designations during a donor's lifetime, (2) when meeting with donors, try to identify these provisions so that we can steward donors, determine their intent for the use of their gift, and keep them connected to VMI and the Agencies through a legacy circle or planned giving society membership, and (3) manage the process of estate settlement so we can receive benefits from the gift as soon as possible.

The Agencies is not equipped to perform fiduciary duties associated with the appointment as Executor of a donor's will and will only accept such an appointment in unusual circumstances (i.e., donor has no living relatives).

## **Life Insurance Policies & Commercial Annuities**

### **Reason for Policy**

Life insurance gifts may take many years to realize, and the cost of administration and premium payments can be time-consuming and expensive for the Agencies. It is imperative that policies are in place to assure that the value of the gift outweighs the possible expense and liability.

### **Statement**

The Agencies will accept life insurance policies and commercial annuities as gifts only when the VMI Agencies is named as owner and beneficiary of 100% of the policy or contract. A policy on which the donor retains incidents of ownership and the Agencies is named beneficiary only is not a completed gift. This is an incomplete commitment because the donor retains the right to change the beneficiary. If the policy is a paid-up policy, the value of the gift for the Agencies accounting purposes is the policy's replacement cost (the cost to purchase an identical policy). If the policy is partially paid up, the value of the gift for the Agencies gift accounting purposes is the policy's cash surrender value. (Note: For IRS purposes, the donor's charitable income tax deduction is limited to the cash surrender value or the net premiums have been paid on the policy, whichever is less.) Commercial annuities may or may not be appropriate for the donor to use as a gift because of complex tax issues. Donors should always consult their financial advisor about the advisability or tax deductibility of these types of gifts.

## **Current and Deferred Charitable Gift Annuities**

### **Reason for Policy**

Annuities obligate the Agencies to long-term financial commitments. It is important that these gifts are structured to maximize the value to the Agencies in the future and that they do not result in being a liability rather than a source of revenue.

### **Statement**

- Charitable gift annuities, by law, can only have a maximum of two beneficiaries.
- The Agencies offers current gift annuities, deferred gift annuities, and flexible deferred gift annuities.
- The minimum amount to establish an annuity is \$25,000.
- Annuities may only be established with cash and readily marketable assets.
- Real Estate can only be used if property is ready for sale and the donor accepts a

minimum three-year deferred gift annuity. No life estates will be accepted.

- In the case of gift annuities funded with a combination of cash and multiple securities that are received on different dates, separate annuities will be established for each date on which a security is received. However, in the case of a cash gift combined with a gift of security, cash received within a short time of receipt of the security can be combined into a single gift annuity effective as of the latter of the date of receipt of the cash or the security funding the gift.
- The youngest annuitant must be at least 50 years old to establish a current gift annuity. For a deferred gift annuity, the youngest annuitant must have attained age 50 when payments are to begin.
- The rate that the Agencies agree to pay to the donor will be based on the rates established by the American Council on Gift Annuities as adjusted from time to time.
- All funds received to establish the annuity will be invested as part of the Agencies endowment funds or with the designated trust management team. Funds from a charitable gift annuity will not be made available for use by the Agencies until annuitants are deceased.
- Payments to the annuitant are backed by the full faith and credit of the Agencies.

### **Pooled Income Fund Gifts**

#### **Reason for Policy**

A pooled income fund is a unique vehicle, and not all types of assets can be accepted for a gift to such a fund. Because each beneficiary's income is affected by all of the other donor's gifts, a donor cannot make a gift to the fund that will not immediately generate income. Generally, gifts to the pooled income fund should be in the form of cash or readily marketable securities.

#### **Statement**

- The Agencies maintains one pooled income fund with an investment objective of income. The minimum amount for a pooled income fund gift is \$25,000.
- Life income beneficiaries must be at least 50 years of age, and payments will be made to no more than two life income beneficiaries.
- Generally, only cash and readily marketable securities will be accepted into a pooled income fund. Closely held securities and real estate are not accepted into the fund because they can be difficult to value, and a buyer may not be readily available. Tax-exempt securities are not permitted as gifts to a pooled income fund.
- A pooled income fund gift will generally make sense to two principal types of donors: those 50 to 70 years old who are comfortable with a variable rate of return and those of any age who want to make a gift of appreciated securities to avoid capital gains taxes.

### **Charitable Remainder Trusts**

#### **Reason for Policy**

Charitable remainder trusts generally provide larger deferred gifts to the Agencies than charitable gift annuities or pooled income fund gifts. However, because of administrative,

investment, and tax implications, these gifts are more complex, and if not managed properly, can result in liability to the Agencies.

### Statement

- Charitable remainder trusts provide more flexibility than a charitable gift annuity or a pooled income fund gift.
- There must be four parties to the arrangement (the donor, the trustee, the income beneficiary, and the charitable remainder man).
- The minimum amount to establish a Trust managed by the Agencies is \$500,000.
- The income beneficiary can be the donor and/or one or more individuals designated by the donor and can be based on the life of the beneficiaries or a term of years not to exceed 20. However, if the donor names a beneficiary other than a spouse, he/she may be making a taxable gift.
- The trustee is responsible for the management and investment of the trust assets, making distributions, and preparation of tax returns and other required filings. The donor can serve as trustee or can appoint a bank or trust department. If the donor serves as trustee, the trust should not permit the income interest to be distributed in discretionary amounts among a class of beneficiaries. This power will cause the trust property to be includable in the donor's estate.
- Because of the fiduciary responsibility and liability, the Agencies will serve as sole Trustee. The Agencies will consider serving as Co-Trustee or Successor Trustee under certain circumstances.
- The donor is entitled to an income tax deduction for the portion of the gift deemed charitable in the year of the gift. The deduction can be carried forward five additional years if it cannot all be used in the year of the gift.
- Payments must be at least 5% of the market value of the assets calculated differently for different types of trusts, and no more than 50% of the market value.
- For IRS purposes, there must be an assumption based on payout rates, life expectancies of income beneficiaries, and the IRS discount rate that is in place at the time of the gift (and that there will be at least 10% of the principal left for the charity at the end of the term of the trust). In addition, for a charitable remainder annuity trust, there has to be less than a 5% probability that the trust assets will be depleted before the termination of the trust.
- A donor avoids capital gains taxes when transferring appreciated assets to a charitable remainder trust. However, because of the four-tier tax system on income distributions, some portion of the payments to the donor may be considered capital gain income. Payments to the income beneficiaries are taxable on a four-tier system. The first tier is ordinary income, the second tier is capital gains, the third tier is tax-exempt income, and the fourth tier is return of capital.
- An income beneficiary of a trust may assign his/her income interest to the Agencies. He/she will be entitled to a charitable deduction of the present value of the stream of future payments. At that time, the trust will terminate, and the Agencies will receive the trust principal.
- There are two basic types of charitable remainder trusts. The charitable remainder annuity trust provides for a fixed payout. This payout is established based on the market value of the assets on the date of the gift. This payout then remains constant throughout the payout period and will not be affected by earnings or market appreciation or depreciation. An annuity trust can only be funded once and does not

allow for additional contributions. An annuity trust is appropriate where the income beneficiary requires a certain payout and is not comfortable with fluctuations. A charitable remainder unitrust pays the income beneficiary a percentage of the market value of the assets valued annually. Therefore, this payout will change from year to year based on the market value of the assets. This type of trust can accept additional contributions. To accommodate the ability to accept assets that are not easily converted to cash, such as real estate, charitable remainder unitrusts can also take alternative forms. A net income charitable remainder unitrust provides that the income beneficiary will receive the lesser of the net income of the trust or a percentage stated in the trust document. A net income charitable remainder unitrust with make-up provides that if the net income is less than the percentage stated in the trust document, a make-up account is created. In subsequent years, if trust net income is greater than the percentage amount, income can be paid out up to the total of the current year's percentage amount, plus any balance in the make-up account. A flip unitrust is a net income trust that allows a one time "flip" from a net income payout to the percentage stated in the document. These trusts are most often used for unmarketable assets (such as real estate), with the flip occurring on the sale of the real estate.

However, a flip can occur on any triggering date that is not within the control of the donor, beneficiary, trustee, or any other person.

- For purposes of net income trusts, trust accounting income is defined as interest, dividends, and rents. However, the donor can define capital gains as income for distribution purposes as long as there is a provision in the trust document to this effect. Treasury Regulations limit the gain that may be included in income to that attributable to appreciation occurring after the asset has been contributed to the trust.
- If a donor participates in the VMI Alumni Agencies CRT program 50% of the funded amount must be designated to one of the agencies

## **Charitable Funds Managed by Others**

### **Reason For Policy**

Due to greater donor education, advisors such as certified financial planners, accountants, and attorneys involved with a donor's philanthropy, and individuals accumulating greater wealth than they ever expected, people are becoming more interested in making larger gifts and seeking greater control over their gifts. Private Foundations, supporting organizations, and donor-advised funds are complex gift options that allow donors to make substantial gifts to charity, maintain greater involvement over time with their gift, and oversee investment of their gift.

### **Statement**

Private Foundations: Tax laws and regulations restrict various activities and investments of a private Agencies. Such restrictions are intended to discourage potential abuses of the tax-exempt status by a private Agencies.

Supporting Organizations: Supporting organizations offer both the operational advantages for the private Agencies and the tax advantages of the public charities they support. A supporting organization is subject to fewer restrictions than a private Agencies but offers the donor less control.

- **Basic Deduction Rules:** As with gifts to any public charity, donors may deduct up to 50% of adjusted gross income for gifts of cash to a supporting organization, and up to 30% of adjusted gross income for gifts of appreciated property.
- **General Requirements:**
  1. **Organizational and Operations Test:** The supporting organization must be organized and operated exclusively for the benefit of, perform the functions of, or carry out the purposes of one or more specified public charities.
  2. **Control by Non-disqualified Persons Test:** Disqualified persons, or individuals who are employed or controlled by disqualified persons, cannot control the supporting organization, directly or indirectly. Prohibited control results if (a) fifty percent or more of the voting power of the governing body consists of disqualified persons, (b) a disqualified person has a veto power over the actions of the organization, or (c) a contributor retains the right to designate who will receive the income or principal from a contribution.
  3. **Relationship Test:** This test requires that the supporting organization be operated, supervised, or controlled by or in connection with the charity. To meet the “controlled by” requirement, a majority of the governing body of the supporting organization is appointed by the charity. To meet the “supervised or controlled in connection with” requirement, both the supporting organization and the charity are under common control. Therefore, a majority of board members of the supporting organization are made up of officers or trustees or representatives of the charity. To meet the “operated in connection with” requirement, the supporting organization must meet two further tests: the responsiveness test in which it evidences that it is responsive to the needs of the charity, and that typically the charity depends on the supporting organization to provide an amount of support that is significant to the total operation of the charity and its programs.
- **Creation:** A supporting organization can be established as either a corporation or a trust. Generally, an organization established as a trust may be easier and less expensive to create and operate.

Donor Advised Fund: Because donor-advised funds, like supporting organizations are public charities, these terms are often used interchangeably. They tend to be more flexible than private Foundations.

- **Basic Deduction Rules:** A donor can deduct up to 50% of adjusted gross income each year for cash gifts and up to 30% of adjusted gross income for gifts of appreciated property to a donor advised fund.
- **Investments:** Although a donor may be given an opportunity to select investment options, these options must be developed and controlled by the organization providing the donor advised fund. The selections must be advisory, and not final or binding on the fund administrator.
- **Limits on grants:** All gifts from donor-advised funds must be made to properly qualified charitable organizations. Gifts cannot be made for the benefit of the donor advisor, such as to a private Agencies or any organization controlled by the donor or his family. Gifts also may not be made to purchase tickets or in any situation in which the donor will receive direct or indirect benefit.
- **Donor Advice:** The donor may retain the privilege of making recommendations to the administrator of the fund about the timing, amount, and recipients of distributions from the fund.

VMI Donor Advised Fund - The VMI Alumni Agencies Donor Advised Fund, a fund within

the BNY Mellon Charitable Gift, offers a simple and tax-efficient way to maximize the impact of your charitable giving. Contributions may be eligible for a tax deduction and grow tax-free, leveraging the value of your philanthropy.

- Contribute - Make irrevocable gifts of cash, securities, or complex assets to the VMI Alumni Agencies Donor Advised Fund, split into two accounts. All DAF accounts up to and including \$100,000 will be split equally between the VMI Alumni Agencies account and the Discretionary Account. Accounts established with more than \$100,000 will be negotiated regarding percentage placed in VMIAA account and Discretionary Account, but there is a required minimum of \$50,000 to the VMIAA account.
- Recommend the investment strategy that best fits your giving plans

## **Charitable Lead Trusts**

### **Reason for Policy**

Because of the financial benefits of a charitable lead trust, this type of trust generally is a giving vehicle that will have appeal to a high net worth individual. A charitable lead trust can provide significant current income to the Agencies over a period of time. However, a charitable lead trust can take many forms and can have positive or adverse tax consequences for the donor, and therefore it is important to ensure that the donor's objectives are met when he/she establishes this vehicle.

### **Statement**

- A charitable lead trust provides for immediate support to the Agencies through payments for a set period of time as defined in the trust document, after which the assets pass to a non-charitable beneficiary, such as the donor, the donor's children, or other persons the donor specifies.
- Like a charitable remainder trust, the payout can be based on a fixed annuity amount, known as the Charitable Lead Annuity Trust, or based on a percentage of the market value of the assets as valued annually, known as the Charitable Lead Unitrust. However, unlike the charitable remainder trust, the charitable lead trust does not have to meet the minimum payout of 5% and is not restricted by the maximum payout of 50%. Also, a lead trust cannot be established with a net income payout provision, as can be accomplished with a remainder trust. Like a charitable remainder trust, the payout term can be based on the life expectancy of the donor, or a term of years. However, there is no limitation on a 20-year maximum term of years as there is with the remainder trust.
- A charitable lead trust is a fully taxable trust, meaning that the trust pays taxes on its income and capital gains, unlike the charitable remainder trust. Therefore, careful consideration must be given to the assets funding the trust.
- Depending on the donor's objectives, the donor can establish either a Grantor Charitable Lead Trust or a Non-grantor Charitable Lead Trust. In a Grantor Charitable Lead Trust, generally the donor specifies that the assets are to revert back to him/her at the end of the lead interest term. A grantor lead trust can also be created as the result of powers retained by the donor during his/her lifetime. The donor is entitled to an income tax deduction in the year of the gift of the present value of the income payments to the charity, subject to the limitations on deductibility. However, the grantor is taxed on the payments to the charity in subsequent years. Therefore, this type of trust only makes sense if the donor

anticipates that he/she is in a significantly higher tax bracket in the year of the gift than he/she will be in future years. Grantor lead trusts have very limited practicality. In a Non-grantor Charitable Lead Trust, the donor specifies that the assets are to be paid to someone other than himself/herself at the end of the term. Therefore, the donor is making a current gift based on the market value of those assets. Part of the gift is to the charity, and therefore is excludable from estate and gift taxes. The other part of the gift is to the remaindermen and is considered a taxable gift based on the value at the time the trust is established. All capital growth in the value of those assets over the term of the trust passes tax free to the remaindermen.

## **Retained Life Estates**

### **Reason for Policy**

Although the Agencies does not take possession of the property until the tenant has ceased to retain his/her interest to the property, at the time of a gift of real estate with a retained life estate, the Agencies does take title to the property. Therefore, it is necessary to do the same due diligence that is done on outright real estate gifts. In addition, the tenants of the property in a retained life estate gift must continue to pay all the expenses associated with the real estate, and the Agencies must be assured that it is not accepting any liabilities or costs associated with this gift.

### **Statement**

- A donor can give a remainder interest in a personal residence, such as a home, a condominium, or a farm to the Agencies. The donor or other occupants may continue to occupy the residence or operate the farm without disruption for the duration of the donor's life. Thereafter, the residence or farm will either be sold or used by the Agencies for purposes related to the Agencies' or VMI's mission. The personal residence or farm does not have to be the donor's primary residence but must be a personal residence other than rental property.
- A retained life estate is an option for a donor who would otherwise transfer a personal residence to the Agencies at death. It is most appropriate for donors who are healthy and wish to reside in the property for the immediate future.
- As the life tenant of the property, the donor is still obligated to pay real estate taxes and fees for maintenance and insurance.
- The Agencies will only accept a retained life estate based on the life expectancy of the donor, and not based on a fixed term.
- Assuming the donor is the life tenant, he/she will receive an income tax deduction for the value of the remainder interest based on his/her life expectancy and the value of the property.

## **SPECIAL PURPOSE GIFTS**

### **Reason for Policy**

If a donor desires to provide funding for a particular project, it is important that the Agencies is assured that there is sufficient funding for the stated intent and that there is no commitment to funding a position or project that cannot be sustained. In addition, the



Agencies has an obligation to assure that the donor’s intent is satisfied.

**Statement**

**Designated current operating funds** are gifts for current operating purposes but restricted to a particular division, department, project, or purpose by donors or other outside agencies. In order to be considered a gift for tax purposes, a gift cannot be restricted to the benefit of particular individuals and the donor must relinquish complete control over the use of the funds.

**Endowments** the Agencies are required to report information regarding their financial position and activities according to two classes of net assets: net assets with donor restrictions and net assets without donor restrictions. The combined financial statements report amounts separately by class of assets as follows:

**Net assets without donor restrictions** are free from donor-imposed restrictions. Net assets without donor restrictions may be designated for specific purposes by action of the Boards or may otherwise be limited by contractual agreements with outside parties. Revenues, gains, and losses that are not restricted by the donors are included in this classification. Expenses are reported as reductions in this classification.

**Net assets with donor restrictions** are subject to donor-imposed stipulations. Some donor restrictions are temporary in nature; those restrictions will be met by actions of the Agencies or by the passage of time. Other donor restrictions are perpetual in nature, whereby the donor has stipulated the funds be maintained in perpetuity.

**Named Giving Opportunities**

The following funding levels represent minimum funding requirements. Funding levels will vary depending on the discipline and whether the funds are earmarked for new or existing positions.

**CATEGORY  
MINIMUM FUNDING  
FUNDING LEVELS FOR NAMED FUNDS**

Chair	\$3,000,000
Professorship	\$2,000,000
Coaching positions	\$1,500,000
Endowment Named Funds	\$75,000

**INSTITUTE FACILITIES**

Naming Buildings	Policies Set By BOV
Naming Spaces within Buildings	Policies Set By BOV

## GIFT CREDITING POLICY

### **Reason for Policy**

This policy is for the purpose of (1) differentiating between legal credit, CAE reporting credit, and credit for the purpose of stewarding donors, (2) providing consistent crediting policies between various fundraising efforts and campaigns, (3) providing credit to donors that is consistent with the value of their gift, and (4) assuring that credit is applied uniformly for all donors and types of gifts.

### **Statement**

Reporting of gifts to donors for tax purposes will be done in the manner specified in the Internal Revenue Code. Reporting annual fundraising results to the Board of Trustees, the Council for the Advancement of Education (CAE), and other constituents will be guided by the Management Reporting Standards established jointly by the National Association of College and University Business Officers (NACUBO) and the Council for the Advancement and Support of Education (CASE).

### **Reunion Campaigns**

Donors in a reunion year will receive credit in their reunion year totals as defined below:

- **Cash and Marketable Securities:** All acceptable gifts designated for any purpose shall be included at full market value. Marketable securities will be valued at the mean market value on the date of the gift, in accordance with IRS regulations.
- **Pledges:** A pledge will be included in reunion campaigns provided (a) the donor has completed a Declaration of Intent Pledge form, (b) the payment schedule is to be completed within five years, including the reunion year, and (c) **the first pledge payment is received in the year of the commitment.** A single-year pledge must be fulfilled in the fiscal year for which it is being credited. (An exception is a major gift.)
- **Real Estate, Closely Held Stock, and other Non-Traditional Gifts:** Gifts of real estate, closely held stock, tangible personal property or other gifts in kind will be credited if (a) their value is determined by a valid appraisal, (b) it is anticipated that the asset will sell and the proceeds will be received during the reunion crediting period or the asset is to be retained for Agencies use, and (c) the value of the amount credited is documented by any cost incurred on the sale of the asset.
- **Irrevocable Life Income Agreements:** Gifts of irrevocable life income agreements including charitable remainder trusts, pooled income funds, and gift annuities will be counted for their full face value in the year that the agreement is signed and the asset funding the agreement is received. In order to credit a gift done through a charitable trust the Agencies must receive from the donor (a) a copy of the trust agreement, (b) a current trust statement showing the value of the assets, and (c) an agreement by the donor to have the trustee provide regular periodic statements. If the donor retains the right to change the interest of the Agencies, in addition, the donor must sign a Deferred Gift Letter of Commitment.
- **Charitable Lead Trusts:** The donor will be given credit for the face value of payments that will be received within the reunion year and two years following the reunion year. The donor must provide (a) a copy of the trust instrument, and (b) a statement from the managing bank or brokerage firm listing the date and value of the

funding assets.

- **Life Insurance Policies:** Credit for life insurance policies will only be given if the donor names the Agencies as owner **and** beneficiary of the policy. Class reunion giving totals will be credited with the cash surrender value of the policy at the time it is assigned to the Agencies. If the agencies are named as a beneficiary, the amount of the death benefit to be received is credited. A change of beneficiary form must be provided.
- **Revocable Commitments:** Donors who provide for the Agencies through their will, retirement plan, or other revocable commitment during or before their reunion year will be credited for the discounted present value of the commitment. Only commitments with a minimum present value of \$50,000 will be credited. However, if the revocable commitment is a component of a larger gift, and the donor has already contributed 50% of the total gift in current funds (minimum of \$50,000), full credit for face value of the intention will be given. In order to receive credit the donor must provide (a) a copy of the documentation supporting the commitment, (b) a statement or written estimate of the value of the commitment if it is stated in other than a dollar amount, and (c) a Deferred Gift Letter of Commitment.
- **Bargain Sales:** Donors will be credited with the property's fair market value less all purchase, holding, and resale costs. The value must be determined by a valid appraisal and the sale must be completed during the reunion crediting period.
- **Remainder Interest in a Residence or Farm:** A remainder interest is an irrevocable commitment, and the donor will receive credit for the remainder interest as calculated in accordance with IRS regulations if the interest is assigned during or before the donor's reunion year.
- **Wholly Charitable Trusts:** If a donor creates a trust where the principal is invested and the income is distributed to the Agencies and in which all interest in both the principal and interest is irrevocably dedicated to the Agencies, the donor will receive credit for the full fair market value of the trust.

### **Annual Fund Campaigns**

The Annual Giving Program was established to provide VMI with renewable sources of revenue for expenditure in the fiscal year of receipt. In order to encourage annual support from alumni, parents, friends, faculty, staff, and cadets of VMI, all gifts of cash, closely held stock, and marketable securities for any purpose are included in the Annual Giving Program totals. The first priority of the Annual Giving Program is to secure gifts for unrestricted current operating support or athletic scholarships. Annual Giving Program donors will be acknowledged in the appropriate level of The Institute Society and Keydet Club Leadership Program based on the associated credit value of their support.

Approved by-

Board of Trustees Date \_\_\_\_\_  
Board of Governors Date \_\_\_\_\_

**Resolution Governing Donations, Gifts, and  
Philanthropic Support Virginia Military  
Institute ("the Institute") Board of Visitors  
15 September 2020**

Attachment 1

WHEREAS, the Virginia Military Institute (VMI) is a public institution of higher education created by Virginia Code; and

WHEREAS, the VMI Foundation, Incorporated (the "Foundation") is a private corporation organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures for the benefit of VMI and is an organization described in Internal Revenue Code section 501(c)(3) and classified as a publicly supported organization under Internal Revenue Code sections 509(a)(1) and 170(b)(1)(A)(vi); and

WHEREAS, the Foundation assists VMI in generating private support and manages, invests, and administers private gifts and resources, including endowments, real property, and funds held for others, and acknowledges and stewards gifts for VMI's use or benefit in accordance with donor intent and its fiduciary responsibilities, and

WHEREAS, the Foundation is dedicated to assisting VMI in building its endowment and addressing, through financial support, the long-term academic and other priorities of VMI, and

WHEREAS, even though VMI generally encourages those making private gifts for the benefit of VMI to make such gifts to the Foundation, certain gifts continue to be made to VMI, and

WHEREAS, VMI wishes to ensure that private contributions to or for its benefit are ultimately held and managed by the foundation on behalf of VMI.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Foundation shall be the primary depository of gifts made to or on behalf of VMI.
2. The Superintendent and other staff and employees of VMI are hereby authorized to transfer or assign to the Foundation any private contribution to VMI, whether by gift or bequest or other transfer and whether restricted or unrestricted as to use or purpose, unless such transfer or assignment, with respect to any particular contribution, is contrary to the intent of the donor or would inhibit the ability of VMI to carry out the intent of the donor.
3. The Foundation shall not accept (i) gifts that direct academic decision making, or (ii) gifts of \$1,000,000 or more that impose a new obligation on VMI, excluding gifts for scholarships or other financial aid, without first coordinating with, documenting, and receiving approval from VMI.
4. The Foundation shall hold and manage private contributions for the benefit of VMI and in accordance with donor intent.

Lt. Col. Sean P. Harrington  
Secretary of the Board of Visitors of Virginia Military Institute