

# Live Arts Fundraising and Gift Acceptance Policy



## Purpose

Live Arts actively solicits gifts and grants to further our mission of forging theater and community. Because accepting certain gifts could compromise our ability to advance our mission or jeopardize our tax-exempt status, we abide by the following gift acceptance policy.

- The executive director, development director, Board of Directors (Board) and volunteers working on behalf of Live Arts are formally authorized to solicit and/or accept gifts on behalf of Live Arts through individuals, foundations, government entities, corporations, or other sources of contributed income. Funds may be solicited for general operating support, program support, or capital support. These funds may be unrestricted, temporarily restricted, or permanently restricted.
- The Development Committee of the Board is charged with developing and implementing the policies and procedures for soliciting and accepting all gifts to Live Arts.
- The executive director approves all restricted gifts prior to their acceptance by Live Arts; restricted gifts of \$10,000 or more will be reviewed and approved by the executive director in conjunction with the Executive Committee of the Board.

## Philosophy

Live Arts pursues gifts that further its mission, goals, and priorities. In pursuing a gift, we consider how the gift might benefit Live Arts in the most ethical manner possible, and whether it encumbers Live Arts' ability to realize its mission and objectives, including our commitment to advance social justice by dismantling the systems, policies, and practices that have perpetuated patterns of institutional and systemic racism.

To this end, the executive director and Board must consider the following with respect to any gift:

1. *Core Values.* Is the gift consistent with Live Arts' standards, principles, and core values?
2. *Compatibility of Cause.* Will the gift unnecessarily challenge Live Arts' ability to further its mission, goals, or objectives?
3. *Public Relations.* Does the acceptance of the gift place Live Arts in an unfavorable light? Does it present the appearance of a conflict of interest between the donor and Live Arts?
4. *Motivation.* Is there clear charitable intent and commitment by the donor to Live Arts?
5. *Consistency.* Is accepting the gift compatible and in accord with Live Arts' other fundraising activities and gifts?
6. *Credibility.* Are the circumstances surrounding the donor and the gift believable?
7. *Organizational Stability.* Will any potential controversy arising from the gift significantly weaken Live Arts' reputation?
8. *Form of Gift.* Will the nature of an in-kind contribution create problems, such as in advertising or sponsorship?
9. *Source of Gift.* Who is the donor? Is the gift from an individual or a corporation? Does the donor represent a perceived conflict of interest, or might the donor's objectives not accord with Live Arts' mission?

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## Unacceptable Gifts

Live Arts reserves the right to refuse any gift that is not consistent with our mission, goals, and objectives. This includes, but is not limited to, the following:

1. Gifts that violate any federal, state, or local statute or ordinance.
2. Gifts that contain unreasonable conditions (e.g., a lien or other encumbrance) or gifts of partial interest and property.
3. Gifts that are financially unsound.
4. Gifts that could expose Live Arts to legal or other liability.

## Restrictions on Gifts

We encourage unrestricted gifts from donors unless (1) the donor indicates that they are only willing to make a restricted gift or (2) the option of a restricted gift will significantly increase the chances of obtaining a gift from the donor.

In drafting instruments for the gift of restricted funds to Live Arts, we will encourage donors and their advisors to use language that would permit application of the gift to a more general purpose in the event that the Board determines that the designated purpose is no longer feasible.

All receipts from unrestricted bequests, annuities, charitable remainder trusts, or charitable lead trusts shall become part of the general operating fund, unless the Finance Committee determines that a particular unrestricted gift of this type should be deposited in a different account.

## Sole Purpose

Live Arts will not engage in fundraising efforts or campaigns for the benefit of any other organizations, entities, or individuals. Live Arts will not serve as an intermediary for any other organization, entity, or individual to receive charitable donations.

## Administrative Expenses

Live Arts will not pay commissions or finder's fees as consideration for directing a gift to Live Arts. Prospective donors are responsible for their own legal, accounting, appraisal, transportation, and other fees related to any gift they might make to Live Arts.

## Professional Advice

Prospective donors are encouraged to consult with their own independent legal and/or tax advisors about a proposed gift, including about the tax and estate planning implications of the gift. No authorized representative of Live Arts shall provide legal or tax advice to any donor or prospective donor.

Authorized representatives of Live Arts may provide sample bequest language for restricted and unrestricted gifts to ensure that a bequest is properly designated. Such representatives may also provide IRS-approved prototype trust agreements for review and consideration by the donor and their advisors. The sample nature of such language or agreements shall be clearly stated on all documents

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given to donors, However, donors are advised that consultation with their own legal advisors is essential prior to use of such standard language or specimen agreements.

## Conflict of Interest for Personnel

The Board will assure itself that Live Arts employees are circumspect in all dealings with donors in order to avoid even the appearance of any act of self dealing, defined as any transaction in which an employee has a “material financial interest” with a donor. In reviewing self-dealing transactions, the Board will consider financial interest as “material” to an employee if it is sufficient to create an appearance of a conflict. In each case, this will be a question of fact.

Live Arts employees and volunteers working on behalf of Live Arts will not benefit personally by way of commission, contract fees, salary, or other benefits from any donor. (For purposes of this policy, “individual” shall include all Live Arts employees, including any associations, partnerships, corporations, or other enterprises in which an employee holds a principal ownership interest.)

## Types of Gifts

### 1. Acceptable Gifts

Live Arts may accept the following types of gifts:

- a. Cash
- b. In Kind
- c. Tangible Personal Property
- d. Securities
- e. Real Estate
- f. Remainder Interests in Property
- g. Oil, Gas, and Mineral Interests
- h. Bargain Sales
- i. Life Insurance
- j. Charitable Gift Annuities
- k. Charitable Remainder Trusts
- l. Charitable Lead Trusts
- m. Retirement Plan Beneficiary Designations
- n. Bequests
- o. Life Insurance Beneficiary Designations

### 2. Criteria for Acceptance

The following criteria govern the acceptance of each gift form:

- a. Cash  
Cash is acceptable in any form. Checks should be made payable to Live Arts, Inc..
- b. In-Kind  
Gifts of personal or professional services are treated as cash gifts, for the purposes of this policy.
- c. Tangible Personal Property  
All other gifts of tangible personal property are reviewed according to the following criteria:
  1. Does the property fulfill the mission of Live Arts?
  2. Is the property marketable?
  3. Are there any undue restrictions on the use, display, or sale of the property?
  4. Are there any carrying costs for the property?

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## 3. Securities

Live Arts can accept both publicly traded securities and closely held securities.

### a. Publicly Traded Securities

Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically or electronically with the transferor's signature or stock power attached. As a general rule, all marketable securities will be sold upon receipt unless otherwise directed by the Finance Committee. In some cases marketable securities may be restricted by applicable securities laws; the final determination on the acceptance of the restricted securities is made by the Finance Committee or Board of Directors of Live Arts.

### b. Closely Held Securities

Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted after determination that there are no restrictions on the security that would prevent Live Arts from ultimately converting those assets to cash, the security is marketable, and the security will not generate any undesirable tax consequences for Live Arts. If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities is made by the Finance Committee or Board of Directors of Live Arts, with the advice of Live Arts' legal counsel, when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

### c. Valuation

Gifts of securities are acknowledged to the donor at the value received into the account, as of the day received.

## 4. Real Estate

Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, Live Arts requires an initial environmental review of the property to ensure that the property has no environmental damage. Environmental inspections forms are attached as an appendix to this document. In the event that the initial inspection reveals a potential problem, Live Arts will retain a qualified inspection firm to conduct an environmental audit, generally at the expense of the donor. When appropriate, a title binder will be obtained by Live Arts prior to the acceptance of the real property gift, generally at the expense of the donor. Prior to acceptance of the real property, the gift shall be approved by the Finance Committee or Board of Directors of Live Arts, with the advice of Live Arts' legal counsel, when necessary. Criteria for acceptance of the property will include:

- a. Is the property useful for the purposes of Live Arts?
- b. Is the property marketable?
- c. Are there any restrictions, reservations, easements, or other limitations associated with the property?
- d. Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
- e. Does the environmental audit reflect that the property is not damaged?

## 5. Remainder Interests in Property

Live Arts will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of Section 4, above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, Live Arts may use the property or reduce it to cash. Where Live Arts receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary.

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## 6. Oil, Gas, and Mineral Interests

Live Arts may accept oil and gas property interests, when appropriate. Prior to acceptance the gift must be approved by the Finance Committee, with the advice of Live Art's legal counsel, when necessary. Criteria for acceptance of the property include:

- a. Gifts of surface rights should have a value of \$20,000 or greater.
- b. Gifts of oil, gas and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift), the property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
- c. A working interest is rarely accepted. A working interest may only be accepted when there is a plan to minimize potential liability and tax consequences.
- d. The property should undergo an environmental review to ensure that Live Arts has no current or potential exposure to environmental liability.

## 7. Bargain Sales

Live Arts will enter into a bargain sale arrangement in instances when the bargain sale furthers the mission and purposes of Live Arts. All bargain sales must be reviewed and recommended by the Finance Committee and approved by the Board of Directors. Factors used in determining the appropriateness of the transaction include:

- a. Live Arts must obtain an independent appraisal substantiating the value of the property.
- b. If Live Arts assumes debt with the property, the debt ratio must be less than 50% of the appraised market value
- c. Live Arts must determine that it will use the property, or that there is a market for sale of the property allowing sale within 12 months of receipt. Live Arts must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

## 8. Life Insurance

Live Arts must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, Live Arts will include the entire amount of the additional premium payment as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, Live Arts may:

- a. Continue to pay the premiums,
- b. Convert the policy to paid up insurance, or
- c. Surrender the policy for its current cash value.

## 9. Charitable Gift Annuities

Live Arts may offer charitable gift annuities. The minimum gift for funding is \$5,000. The Finance Committee may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity. Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Finance Committee may approve exceptions to this payment schedule. Live Arts will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. Live Arts may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5 year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the Finance Committee approves the arrangement. Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to Live Arts' Board Reserve Fund, or to such specific fund as designated by the donor.

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## 10. Charitable Remainder Trusts

Live Arts may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Finance Committee or Board of Directors of Live Arts. Live Arts will not accept appointment as trustee of a charitable remainder trust.

## 11. Charitable Lead Trusts

Live Arts may accept a designation as income beneficiary of a charitable lead trust. Live Arts will not accept appointment as trustee of a charitable lead trust.

## 12. Retirement Plan Beneficiary Designations

Donors and supporters of Live Arts are encouraged to name Live Arts as beneficiary of their retirement plans. Such designations will not be recorded as gifts to Live Arts until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

## 13. Bequests

Donors and supporters of Live Arts are encouraged to make bequests to Live Arts under their wills and trusts. Such bequests will not be recorded as gifts to Live Arts until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

## 14. Life Insurance Beneficiary Designations

Donors and supporters of Live Arts are encouraged to name Live Arts as beneficiary or contingent beneficiary of their life insurance policies. Such designations will not be recorded as gifts to Live Arts until the gift is irrevocable. Where the gift is irrevocable, but it is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

## **Abbreviated Policy for Public Use**

We solicit and accept gifts that further our mission of forging theater and community. In pursuing a gift, we consider how it might benefit Live Arts in the most ethical manner possible, and how it supports our goals and priorities, including our commitment to advance social justice by dismantling the systems, policies, and practices that have perpetuated patterns of institutional and systemic racism.

We encourage unrestricted gifts that enable our Board and staff to be responsive to the evolving and rapidly changing needs of our community.

Donations are generally accepted from individuals, collaborative partners, corporations, businesses, foundations, and government agencies.

We accept donations of cash; in-kind goods and services; tangible personal property; securities; real estate; remainder interests in property; oil, gas, and mineral interests; bargain sales; life insurance; charitable gift annuities, remainder and lead trusts; retirement plan and life insurance beneficiary designations; and bequests.

Certain types of gifts, including donor-restricted gifts or potentially controversial gifts, must be reviewed prior to acceptance due to the special liabilities they may pose. Review and approval are completed by the executive director, in consultation with the Board of Directors.

Our full Fundraising and Gift Acceptance Policy, including detailed criteria and our donor bill of rights, is available [here](#).

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## The Donor Bill Of Rights

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To ensure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the nonprofit organizations and causes they are asked to support, Live Arts declares that all donors have these rights:

- I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.
- II. To be informed of the identity of those serving on the organization's Board of Directors , and to expect the Board to exercise prudent judgment in its stewardship responsibilities.
- III. To have access to the organization's most recent financial statements.
- IV. To be assured their gifts will be used for the purposes for which they were given.
- V. To receive appropriate acknowledgement and recognition.
- VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.
- VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
- VIII. To be informed whether those seeking donations are volunteers, employees of the organization, or hired solicitors.
- IX. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.
- X. To feel free to ask questions when making a donation and to receive prompt, truthful, and forthright answers.

Adopted	
28 June 2010	
Amended	Nature of Amendment
4 May 2021	Refinement of those who are authorized to fundraise on behalf of Live Arts  Authorizing executive director to solely review and approve restricted gifts under \$10,000 (changed from requiring board approval for all restricted gifts)  Removing policy on capping government funding at 10% of operational budget  Addition of statement on equity as part of our development philosophy  General clean up and paring down of language and legalese  Addition of abbreviated version for public use