

Madan Bhandari University of Science and Technology

Gift-In-Kind Rules 2080 (2023 AD)

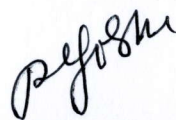
The Board of Trustees of Madan Bhandari University of Science and Technology approved the following Rules pursuant of Clause 37 of Madan Bhandari University of Science and Technology Act, 2079 (2022 AD).

1. **Short Title and Commencement:** (1) These Rules shall be called "**Gift-In-Kind Rules 2080 (2023 AD)**".
(2) These Rules come into force immediately.
2. **Definitions:** Unless the subject or context requires otherwise in these Rules:
 - a. "Gift-in-Kind: means non-cash gift as per the Rule 3, Sub-Rule (2) of these Rules.
 - b. "Gift" means a philanthropic gift (also referred to herein as a "donation") as per these Rules.
3. **Purpose:** (1) (a) establishes roles and responsibilities within the University for treating gifts-in-kind to the University;
 - (b) provides procedures for the acceptance of gifts-in-kind by the University, as a complement to the University's *Gift Acceptance Rules, 2080*;
 - (c) provides Rules for documenting such gifts, determining their fair market value, receipting for them and other ancillary matters; and
 - (d) applies to all gift-in-kind being considered or having been accepted by the University, whether or not an official donation receipt is requested by the donor.(2) Gifts-in-kind are non-cash gifts, such as rare books, archival records and artifacts, natural history objects/specimens, artwork, musical instruments, equipment and supplies, or real property. The University may accept such a gift of property as a charitable donation if the property gifted supports the goals of the University and of the receiving unit, respects its academic freedom and preserves its integrity, and respects its principles and values. Gifts-in-kind do not include gifts of services.
 - (3) These Rules governs University employees, volunteers and leaders on matters pertaining to gift-in-kind and provides them with an efficient review framework.
 - (4) These Rules and its published guidelines provide public information about the University's policies and procedures specific to gift-in-kind, in order to inform the public about University procedures pertaining to potential gift-in-kind.
4. **Principles:** (1) To be accepted by the University, a proposed gift-in-kind must conform with the following principles:
 - (a) The gift-in-kind must be consistent with the scope of the University's mission, goals, priorities and strategic plans;
 - (b) The gift-in-kind must have been obtained by the donor in a matter conforming with national and international heritage and cultural property legislation, and with any other relevant regulations (e.g. pertaining to permitted export, protected artifacts or species, ownership of artwork, environmental conditions for real property) and agreements;

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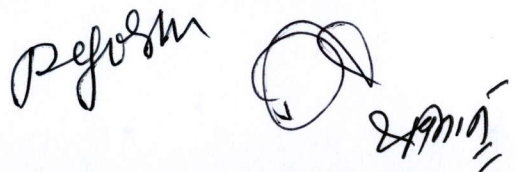
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- (c) The gift-in-kind and any receipting for it must be compliant with these Rules and other applicable University policies and procedures, including notably the *University's Gift Acceptance Rules, 2080* in effect from time to time;
 - (d) The gift-in-kind must be on terms which allow the University to uphold the principles of academic freedom, freedom of expression and institutional autonomy;
 - (e) The gift-in-kind must be easily convertible into cash unless it is intended for retention or a collecting unit. If retained, the gift-in-kind must:
 - (i) Support one or more of the following purposes:
 - support the training of the mind;
 - advance the knowledge or abilities of the receiving unit;
 - advance the educational and/or research mission of the University
 - pertain to the heritage of the University institution and community; and/or
 - contribute to the appreciation of art in the community; and
 - (ii) Be financially neutral to the University operation, including with respect to indirect and infrastructure costs. However, costs related to the acceptance and maintenance of a gift-in-kind may be allowable, if they have been assessed, and a source of funds to sustain these costs has been identified and secured.
 - (f) The donor must agree that the gift-in-kind may be managed by the University at the University's discretion once title transfers to the University (e.g. may be retained, disposed of, or redirected), subject to relevant exceptions under:
 - (i) applicable legislation pertaining to certified cultural property and heritage objects; and
 - (ii) any other applicable University Rules/policy in effect from time to time.
 - (g) The University is committed to avoiding actual or perceived conflicts of interest in its acceptance of gifts; and
 - (h) The University shall not accept a gift-in-kind that would require a purchase of goods or services in contravention of the University's *Procurement Rules, Procedures* or practices in effect from time to time, in order for the University to maintain or use the proposed gift-in-kind.
- (2) The types of gift-in-kind listed below will not be recognized as charitable donations by the University:
- (a) professional or personal services from an individual or corporation;
 - (b) items of personal clothes or accessories, except where of special historical or cultural significance to the University or connected with a purpose outlined in Rules 4, Sub-Rule (1), (e) above;
 - (c) human organs and tissues;
 - (d) items from University staff gained from the normal conduct of University business (e.g. specimens, materials purchased with research funds, course books); and
 - (e) items that may have come from or did come from illegal or unethical activity (such as protected artifacts or species, or stolen artwork).
5. **Gift Acceptance for Gift-in-Kind:** (1) If approached for a potential gift-in-kind, the University must first determine whether to accept such proposed gift-in-kind, pursuant to the University's *Gift Acceptance Rules 2080* in effect from time to time. All proposed gift-in-kind shall be directed to the designated



contact by the Office of Vice President for Administration and Finance to guide the matter through the applicable gift-in-kind acceptance and approval steps in accordance with University policies and procedures.

- (2) Proposed gifts-in-kind (i) with a fair market value of Rs. 10 Million or (ii) which would put the donor at the cumulative giving level of Rs. 10 Million or more for gift-in-kind, must be submitted to the President and gifts-in-kind below a fair market value below Rs. 10 Million to the Vice President Administration and Finance.
 - (3) The University cannot guarantee to a donor that any gift-in-kind will be placed on display permanently, or that a collection shall remain together as a group storage. Items offered with restrictions on their use will require special consideration before acceptance.
 - (4) Gift-in-kind will not be accepted under any arrangements other than as an absolute and irrevocable gift. Permanent loans of material will not be accepted by the University.
 - (5) Specific acceptance appraisal or receipting criteria, and any other gift-type or unit-specific requirements for certain types of gift-in-kind or pertaining to various University units shall be set out in Guidelines.
 - (6) In order to avoid any actual or perceived conflict of interest in connection with a gift-in-kind, those responsible for accepting a gift-in-kind shall take special care when reviewing potential gift-in-kind from donors with close involvement in University activities (e.g. staff; members of University governing or advisory bodies or affiliated organizations; active volunteers), particularly where the potential donor wishes to receive an official donation receipt and/or the proposed gift-in-kind may result in an actual or perceived benefit to the potential donor or a person designated by the potential donor. Such special care shall include consultation with the head of the proposed receiving unit (or head of unit's supervisor if the head of the unit wishes to make the donation) for review under the Regulation on Conflicts of Interest prior to any acceptance.
6. **Documentation for Gift-in-Kind:** (1) The University requires a signed Deed of Gift between the donor and the University for all University-recognized gift-in-kind. In addition, for
- (i) gift of real property or
 - (ii) gift-in-kind with a fair market value of Rs.10,000,000 or more or
 - (iii) other situations involving gift-in-kind as may be identified by a Legal Advisor, the University requires a notarial Deed of Gift, or equivalent document for other jurisdictions, to be signed by the donor and the University.
- (2) Deeds of Gift for gift-in-kind must be approved by the Office of the Vice President Administration and Finance and signed in accordance with the *Procurement Rules* in effect from time to time.
 - (3) When considering and/or documenting a gift-in-kind which is subject to regulation (e.g. permitted export, protected artifacts or species, ownership of artwork, environmental conditions for real property) or presents potential risks, the University will require representations and relevant documentation (e.g. permit, license or certificate) from the donor concerning compliance with applicable laws and ethical practices.
 - (4) For proposed donations of real property, the University requires the following documentation in order to determine acceptance:
 - (i) an updated certificate of location and survey plan from a land surveyor;

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(ii) a legal opinion confirming valid title and that the property is free and clear of all material encumbrances such as mortgages, servitudes etc.; and

(iii) an environmental study provided by an environmental firm.

7. **Determining the Fair Market Value of Gift-in-Kind; Appraisals:** (1) Determining the fair market value of a gift-in-kind is necessary, in order to permit the University to administer the gift, and issue an official donation receipt if requested; all in compliance with applicable accounting and legal requirements for registered charities.

(2) Determination of the fair market value of any gift-in-kind must be conducted according to professional standards and principles and in accordance with applicable laws.

(3) For gift-in-kind valued under Rs.100,000, an external professional appraisal may not be required if recent invoices, receipts or other supporting documents are available from the donor, or if an internal appraisal is conducted by qualified professional staff.

(4) For gift-in-kind with a fair market value between Rs.100,000 and Rs.5,000,000 one independent appraisal is required from a qualified and knowledgeable expert.

(5) Subject to (i) Sub-Rule (6) below in the case of real property, and (ii) any express exceptions to this Sub-Rule (5) for a given unit as may be set out in the Guidelines for other (i.e. not real property) types of gift-in-kind with a fair market value of Rs.5,000,000 and more for an individual item, two (2) independent appraisals are required from a duly qualified and knowledgeable expert. The Vice President Administration and Finance has authority to permit exceptions under Guidelines or case-by-case exceptions to this requirement for two (2) appraisals, in which case a single qualified appraisal shall apply. The receiving unit concerned shall raise any such proposed exceptions to the usual appraisal requirements at an early stage in the gift acceptance process, so that the donor may be appropriately informed.

(6) For proposed donations of real property, the University requires the following documentation in order to determine fair market value:

(i) two (2) independent appraisals by licensed real estate appraisers or evaluators; and

(ii) one (1) written inspection report from a building inspector (or other relevant expert) approved by the Office of the Vice President Administration and Finance.

(7) The appraiser(s) shall provide the University with a signed certificate confirming that the appraiser is:

(i) accredited or otherwise qualified in the field of the evaluation;

(ii) knowledgeable about valuation procedures;

(iii) arm's length from the donor; and

(iv) independent from the University.

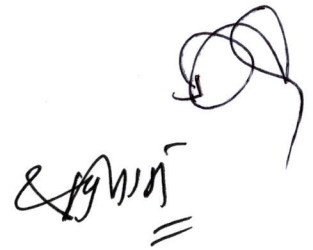
A sample certificate of appraiser form is set out in the Guidelines. Appraisers may adapt such sample form, provided their certification is signed and includes each substantive element from the sample form.

(8) The cost of independent appraisal(s) is to be borne by the potential donor or another identified source as if such source is agreed to in writing between (i) the Vice President Administration and Finance and (ii) the receiving unit concerned.

(9) All appraisals must be current at the time of the donation., pursuant to



8. **Receipting and Compliance for Gift-in-Kind:** (1) The Office of the Vice President for Administration and Finance is the only University unit authorized to issue official donation receipts or other receipts related to philanthropic gifts, including gift-in-kind.
(2) Where the donor of a gift-in-kind has not requested an official donation receipt, the University may still require certain documents or representations from the donor in order to assure compliance with these Rules and applicable legislation.
9. **Authority:** The Executive Council has the authority and responsibility to develop operational guidelines and procedures, to support the University's management of gift-in-kind, in compliance with these Rules.
10. **Miscellaneous:** These Rules shall be reviewed at least every five (5) years and prior to a major fundraising campaign being undertaken by the University.

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