

# CONFLICT OF INTEREST POLICY

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This Conflict of Interest Policy (this "**Policy**") is adopted as of [EFFECTIVE DATE] (the "**Effective Date**") by the Board of Directors (the "**Board**") of:

[ORGANIZATION LEGAL NAME], a [STATE] [ENTITY TYPE, e.g. nonprofit corporation] with its principal office at [ORGANIZATION ADDRESS] (the "**Organization**").

This Policy applies to each director, officer, trustee, and member of a committee with board-delegated powers, and to [KEY EMPLOYEES / ALL EMPLOYEES, AS THE BOARD DETERMINES] (each, an "**Interested Person**").

**Recitals.** The Organization is committed to acting in furtherance of its charitable, educational, or other exempt mission and to protecting its interests when it considers a transaction or arrangement that might benefit the private interest of an Interested Person. This Policy supplements, and does not replace, any conflict-of-interest provisions of applicable law, which may be stricter. The Board adopts this Policy to identify, disclose, and manage actual and potential conflicts of interest. In adopting this Policy, the Board resolves as follows.

## 1. Purpose

**1.1 Objective.** The purpose of this Policy is to protect the Organization's interests when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Interested Person or might result in an excess-benefit transaction or impermissible private benefit.

**1.2 Supplemental to law.** This Policy is intended to supplement but not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

## 2. Definitions

**2.1 Interested Person.** Any director, officer, trustee, committee member with board-delegated powers, or other person designated in the introduction who has a direct or indirect Financial Interest.

**2.2 Financial Interest.** A person has a "**Financial Interest**" if the person has, directly or indirectly, through business, investment, or family: (a) an ownership or investment interest in any entity with which the Organization has or is negotiating a transaction or arrangement; (b) a compensation arrangement with the Organization or with any entity or individual with which the Organization has or is negotiating a transaction or arrangement; or (c) a potential ownership, investment, or compensation interest in any entity or individual with which the Organization is negotiating a transaction or arrangement.

**2.3 Conflict of interest.** A "**Conflict of Interest**" exists when an Interested Person's Financial Interest may, or may appear to, influence the person's judgment in the discharge of duties to the Organization. A Financial Interest is not necessarily a Conflict of Interest until the Board or committee determines that one exists under Section 4.

### 3. Duty to Disclose

**3.1 Disclosure.** In connection with any actual or possible Conflict of Interest, an Interested Person must disclose the existence of the Financial Interest and all material facts to the directors and members of any committee with board-delegated powers considering the proposed transaction or arrangement.

**3.2 Annual statement.** Each Interested Person will sign the disclosure statement in **Exhibit A** on becoming an Interested Person and annually thereafter, affirming that the person has received, read, and agrees to comply with this Policy and disclosing any known Financial Interests.

**3.3 Ongoing duty.** Disclosure is a continuing obligation. An Interested Person must update a prior disclosure promptly when circumstances change.

### 4. Procedures for Addressing a Conflict of Interest

**4.1 Recusal from discussion.** After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, the Interested Person will leave the meeting while the Board or committee discusses and votes on the transaction or arrangement.

**4.2 Determination of conflict.** The remaining Board or committee members will decide whether a Conflict of Interest exists.

**4.3 Investigating alternatives.** The Chair of the Board or committee may, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

**4.4 Approval standard.** After exercising due diligence, the Board or committee will determine whether the Organization can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a Conflict of Interest. If a more advantageous transaction is not reasonably attainable, the Board or committee will determine by a majority vote of the disinterested members whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and fair and reasonable, and will make its decision as to whether to enter into the transaction in conformity with that determination.

### 5. Violations of the Policy

**5.1 Investigation.** If the Board or committee has reasonable cause to believe an Interested Person has failed to disclose an actual or possible Conflict of Interest, it will inform the person of the basis for that belief and afford the person an opportunity to explain the alleged failure to disclose.

**5.2 Corrective action.** If, after hearing the person's response and making further investigation as warranted, the Board or committee determines the person has failed to disclose an actual or possible Conflict of Interest, it will take appropriate disciplinary and corrective action, which may include voiding the transaction or removing the person from office to the extent permitted by law and the Governing Documents.

### 6. Records of Proceedings

**6.1 Meeting minutes.** The minutes of the Board and of any committee with board-delegated powers will contain: (a) the names of the persons who disclosed or were found to have a Financial Interest, the nature of the Financial Interest, any action taken to determine whether a Conflict of Interest was present, and the Board's or committee's decision as to whether a Conflict of Interest in fact existed; and (b) the names of the persons present for discussions and votes, the content of those discussions including any alternatives considered, and a record of any votes taken.

## 7. Compensation

**7.1 Recusal on compensation.** A voting member of the Board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

**7.2 Compensation committees.** No voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization may vote on matters pertaining to that member's compensation.

**7.3 Reasonableness.** All compensation arrangements will be reviewed for reasonableness in light of comparable data, and the basis for the determination will be documented contemporaneously.

## 8. Annual Statements and Periodic Reviews

**8.1 Annual statements.** Each Interested Person will annually sign a statement affirming that the person has received a copy of this Policy, has read and understands it, has agreed to comply with it, and understands that the Organization is charitable and, to maintain its tax-exempt status, must engage primarily in activities that accomplish its exempt purposes.

**8.2 Periodic reviews.** To ensure the Organization operates in a manner consistent with its exempt purposes and does not engage in activities that could jeopardize its status, the Board will conduct periodic reviews addressing whether compensation arrangements and benefits are reasonable and the result of arm's-length bargaining, and whether transactions conform to the Organization's written policies, are properly recorded, and further charitable purposes.

**8.3 Use of outside experts.** In conducting the periodic reviews, the Organization may, but need not, use outside advisors. Use of outside experts does not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

**ADOPTED** by the Board of Directors as of the Effective Date.

### BOARD CHAIR

### SECRETARY

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed name: [NAME]

Printed name: [NAME]

Title: **Board Chair**

Title: **Secretary**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

### Acknowledgment of Interested Person (Exhibit A summary):

#### INTERESTED PERSON

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed name: [NAME]

Title: [TITLE / N/A]

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