



## **SAMPLE Org. Conflict of Interest Policy & Annual Form**

### **Article I Purpose**

We believe the trust and confidence of our donors, member agencies and other supporters depend on our continuing to maintain the highest standards of ethical and lawful conduct. It is Corporation's position that all of individuals involved with its mission must comport themselves so that there is not even the appearance of conflict between personal interests and those of Corporation. To ensure the continuity of its high standards of conduct, Corporation desires to set forth the common understandings that must exist among the members of its community regarding practices.

This memorandum is intended to assist in understanding Corporation's policies and practices relating to business transactions to clarify principles that must guide its conduct, and to provide guidance in resolving ethical and legal questions that might arise. The purpose of the Conflict of Interest Policy is to protect Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director or employee of Corporation.

The policy is designed to ensure that all institutional decisions are made solely to promote the best interests of Corporation without favor or preference based on personal considerations, and to provide the highest ethical conduct. This policy is intended to supplement, but not replace any applicable New York State or federal laws governing conflicts of interest applicable to nonprofit Corporations.

### **Article II Duty of Loyalty and General Requirements**

1. The Law. Conflict-of-interest statutes are contained in the New York Not-for-Profit Corporation Law and focus primarily on the duty of loyalty of board of director ("Board") members. This duty broadly commands Board members and officers to be faithful to an organization's best interests and to refrain from using their organizational position or knowledge to advance a personal agenda at the organization's expense.

2. Basis of Decisions. All institutional decisions are to be made solely to promote the best interests of Corporation without favor or preference based on personal considerations, and to provide the highest ethical conduct. Accordingly, with respect to their personal economic interests, Corporation officers, Board members and employees should not be allowed to

participate actively and aggressively as advocates in their own behalf (or on behalf of other organizations in which they have a personal interest), either formally at Board or committee meetings or informally through private contact, communication, and discussion. Similarly, officers, Board members or employees may not obtain for themselves, their relatives, or their friends a material benefit of any kind from their association with Corporation, or from the knowledge gained therefrom. The fairness of transactions involving potential conflicting interests is usually analyzed by comparing them with similar transactions negotiated by parties dealing at “arm’s length” - that is, parties that have no other relationship and are presumed to base their decisions on rational economic interests.

3. Confidential Information. In addition, one of Corporation’s most valuable assets is its confidential information, which includes donor lists, research data, financial data and computer software and equipment information. The security and integrity of all confidential data must be diligently protected. Accordingly, officers, Board members and employees should not disclose or use any confidential information involving Corporation for personal benefit or for non-Corporation related purposes.

### **Article III Definitions**

1. Interested Person. Any director, officer, member of a Corporation committee, or employee who has a direct or indirect financial interest, defined below, is an Interested Person.

2. Financial Interest. A person has a financial interest, if a person has, directly or in directly, through business, investment or family:

- a. an ownership or investment interest in any entity with which Corporation has a transaction or arrangement;
- b. a compensation arrangement with Corporation or with any entity or individual with which Corporation has a transaction or arrangement; or
- c. a potential ownership or investment interest, or compensation arrangement with, any entity or individual with which Corporation is negotiating a transaction or arrangement.

3. Compensation. Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

### **Article IV Procedures**

1. Duty to Disclose. In connection with any actual or possible conflict of interest, an Interested Person must disclose the existence and nature of his or her financial interest to the directors of Corporation and/or members of any Corporation committee considering the proposed transaction or arrangement. The law does not require a prohibition of all conflicts of interests. Rather, the goal is to permit Corporation to manage conflicting interests successfully and to reach optimum decisions with knowledge of the conflicts. Accordingly, so long as transactions are disclosed to the Board, and the transactions are believed to be in the best interests of Corporation, they may lawfully be undertaken.

2. Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest, the Interested Person shall leave the Board or committee meeting which the financial interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists.

3. Procedures to Address Conflict of Interest. The following procedure shall be taken:

- a. The President of the Corporation Board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- b. After exercising due diligence, the Board or executive committee shall determine whether Corporation 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.
- c. If a more advantageous transaction or arrangement is not reasonably attainable under circumstance that would not give rise to a conflict of interest, the Board or executive committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

4. Violation of Conflict of Interest Policy. a. If the Board or a committee has reasonable cause to believe that a member of the Board, committee, officer or employee of Corporation has failed to disclose actual or possible conflicts of interest, it shall inform the person of the basis of such belief and afford the person an opportunity to explain the alleged failure to disclose.

b. If, after hearing the response of the person and making such further investigation as may be warranted in the circumstances, the Board or committee determined that the person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action as is needed in the circumstances, including removal from office.

## **Article IV**

### **Records of Proceedings**

The minutes of the Board and all committees shall contain the following information:

- a. the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest;
- b. the nature of the financial interest;
- c. any action taken to determine whether a conflict of interest was present
- d. the Board's or committee's decision as to whether a conflict of interest in fact existed;
- e. the names of the persons who were present for discussions and votes relating to the transaction or arrangement
- f. the content of the discussion, including any alternative to the proposed transaction or arrangement; and
- g. a record of any votes taken in connection with the matter.

## **Article VI**

### **Periodic Reviews**

To ensure that Corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted to include the following subjects:

- a. Whether compensation arrangement and benefits are reasonable and are the result of arm's length bargaining.
- b. Whether any arrangements with outside service organizations conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further Corporation's charitable purposes and do not result in impermissible private benefit.
- c. Whether agreements with other organizations or employees further Corporation's charitable purposes and do not result in impermissible private benefit.

## **Article VII**

### **Annual Statements**

Each officer, director, member of a committee and employee of Corporation shall annually sign and file with Corporation a statement which affirms that such person:

- a. has received a copy of the Conflict of Interests Policy;
- b. has read and understands the policy;
- c. has agreed to comply with the policy; and
- d. understands that Corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax exempt purposes.

# **SAMPLE**

**Org., INC.**

## **ANNUAL CONFLICTS OF INTEREST STATEMENT**

I have read the \_\_\_\_\_ Conflicts of Interest Policy and have no items to report.

[    ] Without exception.

[    ] Except as described on the attached statement.

I agree to advise \_\_\_\_\_ promptly of any change in circumstances during the year which may create a potential conflict of interest.

Name \_\_\_\_\_  
(print)

Name \_\_\_\_\_  
(signature)

Date \_\_\_\_\_

\*This annual disclosure of conflicts of interest is not intended to apply to individuals who hold shares of stock or other securities in publicly held corporations that interact with \_\_\_\_\_ in the ordinary course of business.