

CONFLICT OF INTEREST POLICY

Outercurve Foundation

Article I

Purpose

This Conflict of Interest Policy (the “Policy”) is adopted by the Board of Directors (the “Board”) of the **Outercurve Foundation** (the “Organization”) to protect the interests of the Organization when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or member of the Board (each a “Director”) of the Organization or might result in a possible excess benefit transaction. The purpose of this Policy is to educate the Organizational Representatives (as defined below) on what constitutes a conflict of interest, to assist the Organizational Representatives in identifying and disclosing actual and potential conflicts of interest, and to help ensure the avoidance of conflicts of interest wherever possible. This Policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and tax-exempt organizations. In the event that there is an inconsistency between the requirements and procedures prescribed in this Policy and those existing under applicable state and federal laws, such state and federal laws shall prevail.

Notwithstanding any provisions of this Policy to the contrary, no exercise of a Member’s rights under the Bylaws of the Organization, or action taken by an Organizational Representative in connection with such exercise, shall represent a conflict of interest under this Policy.

Article II

Definitions

- 1. “Family Member”** means a person’s spouse, child (natural or adopted) or step-child, parent or step-parent, in-law (father, mother, brother or sister in-law), grandchild, grandparent, brother, sister or half/step brother or sister, and any person with whom such person or such person’s Family Member shares living quarters under circumstances that closely resemble a marital relationship or who is financially dependent on such person.
- 2. “Interested Person”** means any Organizational Representative who has a direct or indirect Financial Interest, as defined below.
- 3. Financial Interest.** A person has a “financial interest” if the person has, directly or indirectly, through business, investment, or a Family Member:
 - a.** An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
 - b.** A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
 - c.** A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.
- 4. “Organizational Representative”** means any Director, principal officer, or member of a committee with powers delegated by the Board.

Notes: The term “compensation” includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A Financial Interest is not necessarily a conflict of interest. Under Article III, Section 2 of this Policy, a person who has a Financial Interest may have a conflict of interest only if Board or appropriate committee decides that a conflict of interest exists.

Article III **Procedures**

1. Duty to Disclose

Organizational Representatives have a fiduciary duty and obligation to avoid conflicts of interest and to report and disclose conflicts of interest as provided in this Policy. All conflicts of interest are not necessarily prohibited or harmful to the Organization, however, full disclosure of all actual and potential conflicts of interest is required. Except in exceptional circumstances, such disclosure must be made in advance of initiating the activity giving rise to the conflict.

In connection with any actual or possible conflict of interest, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Directors and members of committees with Board delegated powers considering the proposed transaction or arrangement. For purposes of this Policy, potential conflicts of interest could include the following:

a. When an Organizational Representative proposes to act on any issue, matter, transaction or arrangement in which the Organization has an interest and the Organizational Representative may have a direct or indirect Financial Interest that is separate from that of the Organization.

b. Situations in which there is an appearance that an Organizational Representative is using inside information that is confidential and proprietary to the Organization for such Organizational Representative's or such Organizational Representative's Family Member's benefit, is acting in such Organizational Representative's own interests rather than the best interests of the Organization, has the ability to exercise undue influence over the Organization's decisions, or is receiving favorable treatment by the Organization because of his or her status as an Organizational Representative.

c. An Organizational Representative or his/her agent or close friend or Family Member, or an employer of an Organizational Representative has a Financial Interest in another entity that is a party to a transaction or arrangement with the Organization.

d. An Organizational Representative is a director, officer or trustee of another entity that is a party to a transaction or arrangement with the Organization, and the transaction or arrangement is one that should be considered by the Board.

e. A transaction or arrangement which presents or which may present a conflict between an Organizational Representative's obligations to the Organization and the Organizational Representative's personal, business or other interests.

f. An Organizational Representative or his or her Family Member gives to or accepts from any Organizational member or potential member, or any individual or entity that does or is seeking to do business with the Organization or is seeking to receive (or has received) a financial commitment from the Organization, any gifts, entertainment or other favors. This does not include giving or accepting items or services (including entertainment) of nominal or insignificant value that is not related to any particular transaction, arrangement or activity of the Organization.

g. Circumstances, conduct, relationships, transactions or arrangements that, if made known to the public, could materially damage the Organization's reputation or status.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, he/she shall leave the Board or applicable committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide, in accordance with the procedure described below in this Article III, if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

Following full disclosure of a possible conflict of interest or any condition listed above, and after determining that a conflict of interest exists, the Board shall vote to authorize or reject the transaction or to take any other action deemed necessary to address the conflict and protect the Organization's best interests. When handling conflicts of interest, reasonable effort should be made to avoid the conflict. In cases where it is not reasonably possible to avoid a conflict of interest or the appearance of a conflict of interest, reasonable and good faith effort should be made to mitigate the effects of the conflict. The recommended procedure for addressing an actual or potential conflict of interest situation is as follows:

a. An Interested Person may make a presentation at the Board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

b. The chairperson of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

c. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested Directors or members of such committee whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the proposed transaction or arrangement with the Interested Person.

4. Violations of the Conflicts of Interest Policy

a. If the Board or committee has reasonable cause to believe an Interested Person has failed to disclose actual or possible conflicts of interest, it shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose.

b. If, after hearing the Interested Person's response and after making further investigation as warranted by the circumstances, the Board or committee determines the Interested Person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV **Records of Proceedings**

The minutes of the Board and all committees with Board delegated powers shall contain:

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, 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.

b. The names of the persons who were present for discussions and votes relating to the

transaction or arrangement, a summary of the content of the discussion, including a summary of any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V

Compensation

a. A Director who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that Director's compensation.

b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

c. No Director or member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any such committee regarding compensation.

Article VI

Annual Statements

Each Organizational Representative shall annually sign an Affirmation of Conflict of Interest Policy and Disclosure Form in the form attached hereto (the "Annual Affirmation and Disclosure Form"), which affirms that such person:

- a.** Has received a copy of the Policy,
- b.** Has read and understands the Policy,
- c.** Has agreed to comply with the Policy,
- d.** Understands the Organization is tax-exempt 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, and
- e.** Describes any relationships which could contribute to or constitute a conflict of interest.

All completed Affirmation and Disclosure Forms provided by Organizational Representatives shall be provided to and reviewed by the Board, and, if appropriate, shall be reviewed by the Board in consultation with legal counsel.

Article VII

Periodic Reviews

To ensure that the Organization operates in a manner consistent with tax-exempt purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.

b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the Organization's tax-exempt purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII
Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

