

CONFLICT OF INTEREST POLICY

TT-FOA-25

Effective Date

Standard Operating Policy – Finance,
Operations & Administration



24 August 2021

DOCUMENT CONTROL

Document Information

Property	Description
Document Title	Conflict of Interest Policy
Document No.	TT-FOA-23
Document Author	Tshiamiso Trust Board
Change Date	21 October
Active Date	24 August 2021

Change Record

Date	Effective Date	Author	Version	Signature
14/10/2020	n/a	H Pretorius	2	
31/07/2021	24 August 2021	K Sedupane	3	
21/10/2021	24 August 2021	T Mtshemla	4	

Approvals

The signatures below confirm that the reviewers agree with the content of the document and that this document is approved for implementation within Tshiamiso Trust.

Name	Position	Signature	Date
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Kgomotso Molebatsi	Chairperson: HR, Remuneration and Governance Committee		
Daniel Kotton	Chief Executive Officer	<i>Daniel Kotton</i>	02/11/2021

This document is effective from the date of the last approval signature.

Document Location

The original signed document is held by: The Trust
When printed this document is uncontrolled.

1. POLICY SCOPE

1.1 Purpose & Objectives of the Policy

1.1.1 The purpose of this document is to outline the Conflict & Declaration of Interests Policy (the “**Policy**”) for the Tshiamiso Trust (“the **Trust**”). The Trust is committed to the highest legal, ethical, and moral standards.

1.1.2 Conflicts of interest are not uncommon and not always possible to avoid. It is however important that these incidents are identified and appropriately managed in the Trust to ensure that the Trust maintains the highest levels of integrity and legitimacy by maintaining a reasonable balance between the possible competing interests of the Trust’s Board of Trustees, prescribed officers, Management, Employees and Contractors in their commitment and dedication to the Trust on the one hand, and their personal interests.

1.1.3 This Policy sets out the Trust’s position on conflict of interest, including the requirement that a conflict of interest is avoided wherever possible, and, where not possible, identified, declared, and actively managed. The Policy establishes a general standard of conduct in relation to the Trust and its activities.

1.1.4 The Policy also provides an understanding of what constitutes a conflict of interest and how to avoid and manage a conflict of interest.

1.1.5 The aim of the Policy is to:

- a) provide an appropriate framework that adequately addresses the legal duties and applicable governance recommendations as far as a conflict of interest is concerned, and not only to identify and clarify the required and expected behaviour by the Trust’s Board of Trustees, prescribed officers, Management, Employees and Contractors, but to also ensure full compliance with statutory and best practice requirements; and
- b) protect the Trust’s Board of Trustees, prescribed officers, Management, Employees and Contractors from impropriety.

2. POLICY GOVERNANCE

2.1 Applicability

The Policy applies to the Board of Trustees, Employees (full-time, part-time or temporary), Independent Contractors and Consultants as well all Governance Structures and Prescribed Officers of the Trust that are established in terms the Trust Deed.

2.2 Roles and Responsibilities

2.2.1 Board of Trustees, Committee Members and Prescribed Officers

The Board of Trustees (the “**Board**”) is committed to conducting the business of the Trust in an honest and ethical manner. The Board is ultimately responsible for ensuring that all financial, reputational, and other risks are appropriately managed (“**Risk Management**”) and for ensuring that appropriate systems, practices, and culture are in place in order to mitigate against possible Risks. The Board recognises that the need to ensure that all business relationships are founded on professional principles and that relationships are kept at arms’ length, meaning that parties in the relationship are independent and always act in the best interest of the Trust, The Board is also ultimately responsible to ensure that the Trust complies with all applicable laws and regulations (“**Compliance**”). Whilst the Board has the power to delegate the Management of Risk and Compliance, it still remains ultimate Accounting Authority.

2.2.2 Management

Management is responsible for publishing, enforcing, reviewing and, where necessary, for the updating of the Policy. Management’s responsibilities include the following:

- Maintaining the Central Conflicts’ of Interest and Gifts Register
- Driving awareness and providing appropriate training on the Policy
- Adopting internal procedures to identify, mitigate and document conflicts of interests
- Determining the best course of action to resolve, manage or avoid conflicts of interest, including further escalation to the Board of Trustees where necessary.

2.2.3 Employees, Independent Contractors and Consultants

Employees, independent contractors and consultants must avoid conflicts of interest where they have an interest in or stand to benefit from any transaction to which the Trust is also Party. This applies whether the employee has an interest and stands to benefit:

- Individually
- In association with their family members
- In association with business partners
- In relation to business interest

Employees, Independent Contractors and Consultants (personnel) are required, on an ongoing basis, to notify and report any perceived or actual conflict of interest to whoever they report to (“**Line Manager**”). Employees personal ownership interest or other relationship that might affect their ability to exercise impartial, ethical business judgements in the area of their responsibilities. Line Managers in turn must report such potential conflicts of interest to the Chief Financial Officer (“**CFO**”) who must determine whether it constitutes a conflict of interest and if so, what steps should be taken to remove or mitigate the conflict of interest (“**Remedial Action**”). All Employees must co-operate fully with Management to ensure that the Remedial Action is implemented.

2.2.4 **Other Governance Bodies established in terms of the Trust Deed**

At the beginning of each governing body, committee or panel meeting, all members have to declare whether any of them has any conflict of interest in respect of a matter on the agenda. Any such conflicts should be managed proactively, as determined by the governing body, committee or panel.

2.2.5 **Internal Audit**

Internal Audit is responsible for:

- assessing the Trust’s internal business management and control processes and the extent to which Remedial Action has been implemented; and
- reporting thereon to the Board’s Finance Risk Audit Committee (“**FRA Committee**”).

Internal Audit will conduct, as a minimum, annual reviews of this Policy and the Trust’s Risk Management and Compliance in general and will provide reports to the Trust on the adequacy of the Policy and Risk Management and Compliance.

2.2.6 All the persons listed in this Section 2 must report all known instances of non-compliance with this Policy in line with the Trust’s Whistleblowing Policy and process.

2.3 **Policy Review**

The Policy will be reviewed on an annual basis taking into account any changes in Compliance and the Trust's operational requirements.

2.4 **Ownership of Policy**

Ownership of the Policy will be vested in the CFO.

2.5 **Approval of Policy**

The Policy and any amendments from time to time must be reviewed by the FRA Committee for recommendation and approval by the Board.

3. **WHAT IS A CONFLICT OF INTEREST?**

A conflict of interest occurs when there is a direct or indirect conflict, in fact or in appearance, between the interests of a person described in paragraph 2.1 and the interests of the Trust. It applies to financial, economic and other interests in any opportunity from which the Trust may benefit, or which may be to the detriment of the Trust, including the use of the Trust's confidential information, as more fully outlined in Annexure B of this Policy.

Any reference to a conflict of interest in this policy includes an apparent or potential or real conflict of interest

4. **POLICY STATEMENT**

4.1 The Trust is committed, in terms of its Code of Conduct, to the highest legal, ethical, and moral standards. are expected to share this commitment. It is the Trust's Policy therefore that:

- 4.1.1 a consistent and constructive set of guidelines must exist to prevent conflicts of interest in *order to promote good governance*;
- 4.1.2 the business practices and policies of the Trust must prevent all possible conflicts of interest in accordance with relevant legislation and the value system of the Trust;
- 4.1.3 all interests must be disclosed openly, and any resulting conflict be managed appropriately in the best interest of the Trust; and

- 4.1.4 clear guidelines on the acceptance and declarations of gifts by the Trust's governing bodies and personnel must exist.

5. PRINCIPLES & PROCEDURES FOR MANAGEMENT OF CONFLICTS OF INTEREST

- 5.1 As a general rule, a conflict of interest must be avoided at all times. Where it is impossible to avoid a conflict of interest, the conflict must be disclosed to the appropriate persons and managed in accordance with this policy.
- 5.2 Upon appointment to the Trust, a Trustee, prescribed officer, member of Management, Employee or Contractor/ Consultant must make a full declaration in writing in the manner regarding anything that may raise a conflict or a possible conflict of interest with the Trust, and such declaration must be updated annually
- 5.3 The Trust must record and maintain all declared interest in a Conflict-of-Interest Register.
- 5.4 If a Trustee, prescribed officer, member of Management, Employee or Contractor/ Consultant believes that they have a conflict of interest post their engagement, or something that others could reasonably perceive as a conflict of interest, they should report it to their respective Line Managers without delay.
- 5.5 Where a gift or other personal benefit is received by a Trustee, prescribed officer, member of Management, Employee or Contractor/ Consultant, they must declare receipt of the gift in writing to their designated line/reporting manager (or the Chairperson in the case of Trustees) and the gift must be captured in the Conflicts register.
- 5.6 Additional guidelines are contained in **Appendix B** hereto.

6. COMMON LAW

6.1 The common law imposes a duty on Trustees, prescribed officers, executives and Management, employees and contractor/ consultants to always act in good faith as far as the Trust is concerned. Any individual appointed in a position of trust, or as a “fiduciary”, is expected to maintain a certain standard of conduct. This basic duty gives rise to a number of particular duties, which include the following:

- the duty to act in good faith in the interests of the Trust;
- the duty to account for profits;
- the duty not to misappropriate opportunities proposed to or pursued by the Trust;
- the duty not to compete improperly with the Trust;
- the duty to disclose interests in contracts with the Trust;
- the duty to only exercise powers for the purpose for which they were conferred; and
- the duty to always act independently and to exercise an unfettered and objective judgement in respect of the Trust.

6.2 Breach of any of the above common law duties may form the basis of a civil claim for damages by the Trust.

Appendix A: Glossary of terms

Appendix B: Conflicts of Interest Guidelines

“APPENDIX A”

GLOSSARY OF TERMS

TERMINOLOGY	DESCRIPTION
Actual Conflict of Interest	A real conflict between an individual's duties to the Trust and their private interests.
Conflict Of Interest	<p>Any situation in which a person listed in Paragraph 2.2 above has any of the following actual or potential interest including:</p> <ul style="list-style-type: none"> (i) a financial interest; (ii) an ownership interest; or (iii) a relationship with a third party that may, in rendering any service to or on behalf of the Trust: <ul style="list-style-type: none"> (a) Influence the objective performance of their obligations to the Trust; or (b) Prevent a Trust Employee or from rendering an unbiased and fair service to the Trust, or from acting in the best interests of the Trust. <p>Conflict of interest may include the following:</p> <ul style="list-style-type: none"> • Real or perceived financial gain resulting from recommendations to the Trust that may have the effect of prejudicing the Trust (even if such prejudice does not eventuate); • An outcome of service delivery or transaction that may not best serve the interests of the Trust; • Cash or other incentives, of whatsoever nature, that may be received by an Employee, or Related Party as a result of effecting any predetermined transaction or choice of product; and • A transaction or choice of product that may directly or indirectly benefit an Employee, Service Provider or Related Party even if this does not have the effect of prejudicing the Trust.

Gift	A token bestowed upon a person without expectation of tangible compensation, and in regard of which no direct or indirect contractual obligation exists, including gifts related to cultural and hospitality practices, and those related to sporting events;
Policy	This Conflict-of-Interest Policy approved by the Board of Trustees of the Tshiamiso Trust and as amended from time to time.
Employees	Permanent, temporary workers, agents and Personnel, wherever they are located and whether they work or are contracted for the Trust on a full or part-time basis
KING IV™	King IV Report on Corporate Governance for South Africa, 2016. ¹
Potential Conflict of Interest	An individual has private interests that could conflict with their duties to the Trust. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.
Related Party	<p>For the purpose of the Policy –</p> <p>(a) an individual is related to another individual if they—</p> <ul style="list-style-type: none"> (i) are married, or live together in a relationship similar to a marriage; or (ii) are separated by no more than two degrees of natural or adopted consanguinity or affinity; <p>(b) an individual is related to a juristic person if the individual directly or indirectly controls the juristic person; and</p> <p>(c) a juristic person is related to another juristic person if—</p> <ul style="list-style-type: none"> (i) either of them directly or indirectly controls the other, or the business of the other; (ii) either is a subsidiary of the other; or (iii) a person directly or indirectly controls each of them, or the business of each of them. <p>“Inter-related” when used in respect of three or more persons, means persons who are related to one another in a linked series of relationships, such that two of the persons are related, and one of them is related to the third in any such manner, and so forth in an unbroken series.</p>

¹ The King IV Report on Corporate Governance for South Africa, 2016. Copyright and Trademarks are owned by the Institute of Directors in South Africa (IODSA).

Personnel	Independent contractors, consultants and any others who provide services to, or on behalf of, the Trust.
Prescribed officer	a person who, within the Trust, performs any function that has been designated by the Trust Deed.

“APPENDIX B”

Conflicts of Interest Guidelines

A. Defining Conflicts of Interest

A conflict of interest may not always be clear-cut and easy to define. The decisive factor is whether a private or personal advantage may be gained, either directly or indirectly, by a Trustee, Prescribed Officer, Employee or Personnel of the Trust by virtue of their occupation or their employment or other contractual or fiduciary relationship with the Trust. Whether or not the Trust is adversely affected or deprived of any advantage, is immaterial. Given the nature of the issues covered by the Policy, each situation should be judged on its merits and each individual has a personal obligation to exercise their own judgment and common sense in deciding whether or not to report that they have a potential conflict of interest and if in doubt, Employees should always report their potential conflict of interest. If any Employees has any questions or require any guidance, they should consult their respective Line Manager.

B. Identifying Conflicts of Interest

The “trust test” must be applied to determine whether there is an actual or potential conflict of interest. The “trust test” entails enquiring whether the Trust, any of its stakeholders, or the public in general would trust a Personnel’s judgment if they knew that the Personnel was involved in a particular situation or activity. If the answer to this enquiry is “yes”, then the situation or activity does not give rise to a conflict of interest. However, if the answer is “no” or “maybe”, then that particular situation or activity is likely to give rise to an actual or potential conflict of interest.

Employees must in addition complete the conflicts of interest register/ declaration twice a year. Complaints regarding conflict of interest should immediately be escalated to the Legal & Compliance Manager.

C. Possible Examples of Conflict of Interest

Set forth below is specific guidance for some areas of potential conflict of interest. It is not possible to encompass every situation that may give rise to a conflict of interest, but the examples listed below will serve as a basic guide to define some of the important areas where conflicts may arise, and which Employees are expected to avoid. Ultimately, it is the responsibility of each individual to avoid any situation that creates or appears to create a conflict of interest.

1. “Moonlighting” (having a second job)

- 1.1. Employees should avoid acquiring any business interest or participating in any activity outside the Trust, which would create, or appear to create:
 - 1.1.1 an excessive demand upon their time, attention and energy which would deprive the Trust of their best efforts on the job; or
 - 1.1.2 a conflict of interest.
- 1.2. If a member of the Trust’s Personnel wishes to pursue a second job with any other entity or to participate in any outside business venture, they must ensure that their engagement in such activity does not create a conflict of interest with the Trust or in any way use or risk disclosure of the confidential information of the Trust.
- 1.3. Any outside activity should be strictly separated from the employment of the Employee with the Trust and should not harm their job performance with the Trust. An Employee may further not use any of the Trust’s time or resources for these outside activities, which resources shall include, but not be limited to, any of the Trust’s systems or stationery.
- 1.4. An Employee is required to receive the written approval from their Line Manager prior to engaging in any such activity.
- 1.5. The "Moonlighting" provisions as stated in the Policy do not apply fully to part-time Employees, depending upon the circumstances and terms of their employment.

2. Service on Boards and Committees

- 2.1. Employees must obtain written approval of their Line Manager prior to accepting any position to serve on a board of directors, an advisory board, board of trustees or on a committee of any entity other than the Trust.
- 2.3. The Trust may at any time rescind prior approvals to avoid a conflict or appearance of a conflict of interest for any reason deemed to be in the best interests of the Trust.
- 2.4. The Trust 's consent is not required for Employees on boards of charitable or community organisations, as long as such service does not constitute an actual conflict of interest or

otherwise conflict or interfere with an Employee's duties with the Trust and does not reflect negatively on the Trust.

- 2.5. Any such position should be strictly separated from the employment of the Employee with the Trust and should not harm their job performance. An Employee may further not use any of the Trust's time or resources for such a position, which resources shall include, but not be limited to, any of the Trust's systems or stationery.

3. Recruitment

The Trust does not approve of nepotism and understands that all applicants have the right to apply for vacant positions. Therefore, where family members, friends or business associates of a person referred to in paragraph 2.2 of this Policy apply for vacant positions, the guidelines contained in HR policies and processes must be followed.

4. Procurement

The persons described in paragraph 2.2 who are involved in procuring goods and services on behalf of the Trust may not directly or indirectly accept any reward from any person. This applies whether the reward is for themselves or for any other person.

Disciplinary steps will be taken against any person who accepts any reward that is subject to the above, whether for himself or herself, or on behalf of any other person. If any person knows about or suspects a contravention of this section, he or she must report it to the Legal & Compliance Unit.

5. Improper Personal Benefits

- 5.3. No Employee may receive commissions or other remuneration related to the sale of any product or service of the Trust except as specifically provided under an Employee's contract or as specifically agreed with their Line Manager, or the Board of Trustees.
- 5.4. In accordance with an Employee's obligation to act in the best interests of the Trust, all Employees are prohibited from soliciting, accepting, receiving, or from agreeing to solicit, accept or receive, directly or indirectly, any gifts, entertainment, payments, fees, services, loans or other personal favours (collectively "personal benefits"), of a character that goes beyond common courtesies consistent with ethical and accepted business practices, for themselves and/or any member of their family, from any person, supplier, client, business entity or other third party that does or seeks to do business with, or is in competition with the Trust.

- 5.5. In the event of uncertainty as to whether a personal benefit goes beyond common courtesies consistent with ethical and accepted business practices, it is the duty of an Employee to seek a directive from the Chief Financial Officer in such instance.
- 5.6. Any bribe or attempted bribe must be reported to the Chief Financial Officer as soon as possible.
- 5.7. Employees are further prohibited from granting undisclosed personal benefits or to in any other way improperly influence any supplier, customer, or governmental official in the performance of their duty.

6. Investments in Public Companies

- 6.3. The Trust respects the right of all Employees to make personal investment decisions as they see fit, as long as these decisions do not contravene any provisions of the Policy, any applicable legislation, or any other policies or standard operating procedures of the Trust, and provided these decisions are not made on the basis of material non-public information acquired by reason of an Employee's or connection with the Trust.
- 6.4. No Employee may have a significant financial interest (indirect ownership, direct ownership or otherwise) in a public company whose business is one in which the Trust is engaged or contemplates engaging.
- 6.5. A "*significant financial interest*" means – is an ownership interest of greater than 10% of the outstanding securities of the other entity.
 - 6.5.1. an interest or investment large enough in Rand or as a percentage of the individual's total investment portfolio that it creates the appearance of or results in a conflict of interest.
- 6.6. Any such investment must not involve the use of confidential "insider" or proprietary information, such as confidential information that might have been gleaned about the other company by virtue of the Trust's relationship with the other company.

7. Investments in Private Companies

- 7.1. The Trust respects the right of all Employees to make personal investment decisions as they see fit, as long as these decisions do not contravene any provisions of the Policy, any applicable legislation, or any other policies or standard operating procedures of the Trust, and provided these



decisions are not made on the basis of material non-public information acquired by reason of an Employee's connection with the Trust.

- 7.2. Employees may find themselves in a position to invest in customers, business partners or suppliers of the Trust. It is imperative that Employees presented with such opportunities understand the potential conflict of interest that may occur in these circumstances. Employees must always serve the Trust first. Investing in private companies with which the Trust has an actual or potential business relationship may not be in the Trust's best interests.
 - 7.3. Employees may not invest in private companies that are customers, partners, or suppliers of the Trust without the prior written consent of their Line Manager.
 - 7.4. If an investment is made with the requisite approval, and the Employee subsequently finds themselves in a potentially conflicted position due to their job responsibilities or those of others in their chain of command, the employee is expected to recuse themselves from any involvement in the relationship of the Trust with that company. If the conflict is so fundamental as to undermine the Employee's ability to undertake an important job activity, a discussion of possible divestiture may be required. Furthermore, with respect to any investment or financial interest in a third party, Employees should be extremely careful to avoid activities such as recommending or introducing the third party to other parts of the Trust unless there is a clear disclosure of the financial interest.
- 8.**
- 8.2. The actions of family Employees outside the workplace may also give rise to conflicts of interest because they may influence an Employee's objectivity in making appropriate decisions on behalf of the Trust. The Trust requires that each Employee discloses to their Line Manager, if an Employee's family member becomes or is employed by, sits on the board of directors of, or has a significant financial interest in, a company that is a customer, supplier or competitor of the Trust.
 - 8.3. A "*significant financial interest*" in a company for the purpose of determining family member conflicts, is an ownership interest of greater than 10% of the outstanding securities of the other entity.

9. Impartiality of decisions

Employees must select and deal with suppliers, customers and other persons doing or seeking to do business with the Trust in a completely impartial manner, without favour or preference based upon any considerations other than the best interest of the Trust.

10. Prohibited acquisitions

Employees may not acquire, directly or indirectly, real estate, an interest in any business entity, or any other property that such Employee knows, or has reason to believe, may be of acquisition interest to the Trust.

11. Sale of goods and/or services by Employees and

11.1. The Trust is mindful that Employees may from time to time sell goods and/or services to staff employed by the Trust. Any such sale of goods and/or services should be strictly separated from the employment of the Employee with the Trust and should not harm their job performance with the Trust. An Employee may further not use any of the Trust's time or resources for such sale of goods and/or services, which resources shall include, but not be limited to, any of the Trust's systems or stationery.

11.2. The Trust must under no circumstances accept any liability of any nature whatsoever or howsoever arising that the Employee selling such goods and/or services and/or any other party may suffer or incur, as a result of and/or pursuant to the sale of such goods and/or services.

“APPENDIX C”

Conflicts of Interest Register

Purpose:

To record the incidence of conflicts of interest by the Trust to ensure compliance with the requirements of legislation. This register should act as a summary document with more detailed history contained in the conflicts file where appropriate (copy of agreement).

Ref No and ID of Conflict	Date Received	Received from	Received by	Internal referred	Description	Activity Update	Status	Outcome Description/ comments & learnings

Version number	1	Last Updated on: _____	Last Updated by: _____
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