

FORM OF CONFLICT OF INTEREST AND ETHICS POLICY FOR FLAGSTAFF SKI CLUB, INC.

* * *

CONFLICT OF INTEREST *[AND ETHICS]* POLICY

OF

FLAGSTAFF SKI CLUB, INC.

An Arizona Non-Profit for Youth Alpine Sports

ARTICLE I. INTRODUCTION AND PURPOSE

FLAGSTAFF SKI CLUB, INC. (FSC) requires its directors, officers, employees, and volunteers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. The Board of Directors (the “Board”) of FSC, recognizing that it is entrusted with resources devoted to charitable purposes, has adopted this Conflict of Interest *[and Ethics]* Policy (the “Policy”). The purpose of this Policy is to protect FSC’s interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a director, officer, or other person in a position of authority within FSC. FSC strives to avoid conflicts of interest to ensure that it continues to operate in accordance with its tax-exempt purpose. This Policy is intended to supplement but not replace any state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

ARTICLE II. DEFINITIONS AND KEY CONCEPTS

- A. **Covered Persons.** Covered Persons are FSC’s directors, officers, and key employees.
- B. **Key Employees.** A “key employee” is any employee of FSC other than an officer or director who receives more than \$50,000 in annual compensation and meets at least one of the following criteria: (1) has management responsibility over at least ten percent of FSC’s assets, income, expenses, or activities; (2) has or shares authority to control or determine at least ten percent of FSC’s capital expenditures, budget, or employee compensation; or (3) has responsibilities, powers, or influence over FSC as a whole similar to those of officers or directors.
- C. **Duty of Loyalty.** Conflicts of interest can place personal interests at odds with the fiduciary “duty of loyalty” owed to FSC. The duty of loyalty requires that a director, manager, principal, or officer refrain from using their position for personal gain, and avoid acting on issues in which their personal or financial interests could conflict with the interests of FSC.

- D. Conflict of Interest.** A conflict of interest may arise if a Covered Person is in a position to make or influence FSC's decision about a matter in which the Covered Person has a financial or personal interest. Conflict of interests may arise with respect to matters in which a Covered Person, a family member of a Covered Person, or an entity in which a Covered Person or family member of a Covered Person has a business relationship has a financial interest in the matter.
- E. Family Member.** A "family member" is a spouse, parent-in-law, ancestor, sibling (whole or half), child, grandchild, or great-grandchild of the Covered Person.
- F. Business Relationship.** A Covered Person or family member is considered to have a "business relationship" with an entity if it is an entity (i) in which the Covered Person or a family member has a substantial financial interest as an owner or investor in the entity or (ii) in which the covered Person or family member has an "agency relationship" (i.e., is a director, officer, or employee).
- G. Potential and Actual Conflicts of Interest.** Acts that mix the personal or financial interests of a Covered Person with the interests of FSC are indicative of a conflict of interest. Not every potential conflict is an actual conflict, however. A Covered Person who has an interest in a matter involving FSC may have a conflict of interest requiring application of the mitigating procedures described in this Policy only if the appropriate party designated in Article V decides that such a potential conflict of interest is actual or material. However, acts that even have the appearance of a conflict of interest can be damaging to the reputation of FSC. Consequently, FSC seeks to avoid potential and actual conflicts of interest, as well as the appearance of conflicts.

ARTICLE III. ACTIVITIES THAT MAY PRESENT A CONFLICT OF INTEREST

The following is a non-exclusive list of the types of activities that may present a conflict of interest and should be disclosed in accordance with Article IV.

- A. Adverse Interest.** Participation by a covered Person in decisions or negotiations related to a contract, transaction, or other matter between FSC and: (i) the Covered Person; (ii) a family member of the Covered Person; or (iii) an entity in which the Covered Person or a family member of such person has a business relationship.
- B. Competing Interests.** Competition by a Covered Person with FSC in the purchase or sale of property or property rights, interests, or services, or, in some instances, competition directly for the same donor or external resources.
- C. Use of Resources.** Use of FSC's resources (for example, staff, contracts, donor lists, or name) for financial or personal purposes of the Covered Person or a family member of such person.

ARTICLE IV. DISCLOSURE

The primary obligation of any person subject to this Policy who may be involved in a conflict of interest situation is to bring it to the attention of those designated under the disclosure procedures in this Article so that the potential conflict can be evaluated and addressed. A Covered Person should not make the decision about whether a conflict of interest exists unilaterally.

- A. **Duty to Self-Disclose.** A Covered Person shall disclose all material facts regarding their interest in a transaction, agreement, or arrangement that may result in a conflict of interest at the time that any actual or potential conflict of interest [*or ethical question*] arises. Covered Persons shall make such disclosures to *[designate the appropriate persons to receive disclosure such as the Chairperson or the Chairperson of the Audit Committee or other]*, or, if the potential conflict of interest first arises in the context of a Board meeting, the entire Board.
- B. **Annual Disclosure.** In accordance with Article XI, Covered Persons shall make an annual disclosure of ongoing relationships and interests that may present a conflict of interest.
- C. **Disclosure of Conflicts of Others.** If a Covered Person becomes aware of any conflict of interest involving another Covered Person, they should report it in accordance with the requirements of this Article IV.

ARTICLE V. EVALUATING CONFLICTS

- A. **Determination by the Board.** After disclosure of all material facts and any follow-up discussion with the Covered Person with a potential conflict of interest, the Board shall determine whether a conflict of interest exists. The Covered Person shall not be present at the meeting while the Board is discussing or determining whether a conflict of interest exists.
- B. **Relevant Factors for Determination.** Factors the Board may consider when determining whether an actual conflict exists include (i) the proximity of the Covered Person to the decision-making authority of the other entity involved in the transaction; (ii) whether the amount of the financial interest or investment is *de minimis* relative to the overall financial situation of FSC; and (iii) the degree to which the Covered Person might benefit personally if a particular transaction were approved.

ARTICLE VI. PROCEDURES FOR ADDRESSING CONFLICTS

- A. Covered Person or Family Member Has a Material Financial Interest.** Subject to the exceptions in Article VI, Section B, if a conflict of interest exists that involves a transaction in which a Covered Person or a family member of a Covered Person has a material financial interest, including transactions to which an entity in which a Covered Person or family member of a Covered Person has an ownership interest is a party, the Board may only approve the transaction if the procedures below are followed:
- i. The Covered Person may make a presentation at the Board meeting at which such transaction is being considered, but after the presentation, they shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
 - ii. FSC's [*Chairperson/President/Vice President*] shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
 - iii. After exercising due diligence, the Board shall determine whether FSC could 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.
 - iv. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board shall determine whether the transaction or arrangement is in FSC's best interest, for its own benefit, and whether it is fair and reasonable.
 - v. The transaction must be approved by a vote of a majority of the directors in office, without counting the vote of any interested director.
- B. Exceptions.** The following matters are not subject to the procedure in Article VI, Section A.
- i. an action fixing the compensation of a director as a director or officer;
 - ii. a transaction which is part of a charitable program of FSC if it results in a benefit to a Covered Person or their families because they are in the class of persons intended to be benefited by the charitable program, so long as it is approved by FSC in good faith and without unjustified favoritism; and
 - iii. a transaction about which the interested director or officer has no actual knowledge involving an amount that does not exceed the lesser of one percent of the gross receipts of FSC for the preceding fiscal year or \$10,000.
- C. Other Circumstances.** In all other circumstances where it is determined that an actual conflict of interest exists, the decision-making body will recommend an appropriate course of action to protect the interests of FSC. All disclosures and the outcome of the deliberation about whether a conflict of interest exists will be recorded in the minutes of the appropriate deliberative meeting.

ARTICLE VII. RECORDS OF PROCEEDINGS

The minutes of the Board meeting convened to consider a transaction in which a Covered Person has a conflict of interest or potential conflict of interest shall contain:

- i. The names of the Covered Persons who disclosed or whom otherwise were found to have a financial or other interest in connection with an actual or possible conflict of interest, the nature of the financial or other interest, any action taken to determine whether a conflict of interest was present, and the Board's decision as to whether a conflict of interest in fact existed.
- ii. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

ARTICLE IX. VIOLATIONS OF THE CONFLICT OF INTEREST POLICY.

If the Board has reasonable cause to believe that a Covered Person has failed to disclose actual or possible conflicts of interest, it shall inform the Covered Person of the basis for such belief and afford the Covered Person an opportunity to explain the alleged failure to disclose. If, after hearing the Covered Person's response and after making further investigation as warranted by the circumstances, the Board determines the Covered has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

[ARTICLE X. COMPENSATION

A director who receives compensation from FSC for services is precluded from voting on matters pertaining to that director's compensation for services. No director who receives compensation, directly or indirectly from FSC, is prohibited from providing information or recommendations to the Board or committee of the Board regarding compensation.]

ARTICLE XI. ANNUAL STATEMENTS

Each person subject to this Policy shall annually sign a statement adopted by the Board that at a minimum affirms that such person:

- i. has received a copy of this Policy;
- ii. has read and understands the Policy;
- iii. has agreed to comply with the Policy; and
- iv. understands FSC is charitable and in order to maintain its federal tax exemption must engage primarily in activities which accomplishes one or more of its tax exempt purposes.

In addition, Covered Persons shall make an annual disclosure of ongoing relationships and interests that may present a conflict of interest. Disclosures should address current affiliations, as well as past affiliations for the prior two years. Conflict of interest disclosure forms will be submitted to the President of the Board of Directors annually, and when appropriate, at or prior to action on relevant business transactions.

[ARTICLE XII. CODE OF ETHICS

In conducting business and activities connected with FSC, a Covered Person shall follow these guidelines:

- (a) **Ethical Conduct.** *Be honest and ethical in his or her conduct, including ethical handling of actual or apparent conflicts of interest between personal and professional relationships. A Covered Person should not engage in activities which have or may have the appearance of impropriety or conflict of interest, or that may call into question the actions or integrity of FSC, or of the Covered Person as he or she relates to FSC.*
- (b) **Legal Compliance.** *Comply with applicable laws and regulations, including the California Nonprofit Integrity Act of 2004, and report their concerns to the appropriate person listed in Article III if it appears that any other director, officer, employee or contractor of FSC is not complying with applicable laws or regulations with respect to FSC's business.*
- (c) **Confidentiality.** *Maintain the confidentiality of all internal information about FSC, including its donors, clients, and beneficiaries, except when authorized or otherwise legally obligated to disclose such information.*
- (d) **Fair Dealing.** *Deal fairly with FSC's staff, donors, volunteers, beneficiaries, and suppliers.*
- (e) **Protect Assets.** *Protect and ensure the proper use of FSC's assets, including, its name, goodwill, donor community, and reputation.*
- (f) **Personal Influence.** *Be mindful of the interaction between their relationships inside and outside of FSC, and not allow inappropriate personal influence over the affairs of FSC.*
- (g) **Commitments.** *Do not "speak for" FSC or make or imply commitments by FSC without proper internal authorization and communication.*
- (h) **Loans.** *FSC should not make loans to Covered Persons except to induce persons who have been offered a position to join FSC, as approved by the Board.]*

CONFLICT OF INTEREST [AND ETHICS] POLICY
SCHEDULE 1: CONFLICT OF INTEREST DISCLOSURE FORM

The undersigned, as a director, manager, principal, officer, or member of a committee with governing board-delegated powers, of FLAGSTAFF SKI CLUB, INC. (FSC), acknowledges that:

1. they have received a copy of FSC's Conflict of Interest Policy (the "Policy");
2. they have read and understand the Policy;
3. they have agreed to comply with the Policy;
4. they understand FSC is charitable and 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
5. the following on-going relationships and interests may present a conflict of interest:
(disclosures should address current affiliations, as well as past affiliations for the prior two years, and should include all of the following: the undersigned's employer, all corporations (nonprofit and for-profit) of which the undersigned is a board member or officer, and the names of such of the undersigned's Family Members or business affiliates or any other relationships the undersigned has which the undersigned believes may present a potential conflict)