

GARDEN OF DREAMS FOUNDATION

CONFLICT OF INTERESTS POLICY

Article I

Purpose

The purposes of this Conflict of Interests Policy are (i) to ensure that the charitable purposes and mission of Garden of Dreams Foundation ("GDF") is not compromised or abrogated by GDF's relationship with any of its members, directors, officers, employees or volunteers, (ii) to protect the interest of GDF when it is contemplating entering into a contract, transaction or arrangement that might benefit the private interest, directly or indirectly, of a member, director, officer, employee or volunteer of GDF, or a member of the Committee of GDF with board-delegated powers (a "committee member"), and (iii) to avoid "excess benefit transactions" under Section 4958 of the Internal Revenue Code. This Conflict of Interests Policy is intended to supplement but not replace applicable New York State laws governing contracts, transactions or arrangements between a New York not-for-profit corporation, its officers and directors (and others).

Article II

Definitions

A. Conflict of Interests

A Conflict of Interests means any contract, transaction or arrangement involving GDF and the interests, directly or indirectly, of a member, director, officer, committee member, employee or volunteer and includes, but is not limited to, contracts, transactions or arrangements described in Section 715 of the New York Not-For-Profit Corporation Law (the "N-PCL"), *i.e.*:

1. A contract, transaction or arrangement between GDF and one of its members, directors, officers, committee members, employees or volunteers; and
2. A contract, transaction or arrangement between GDF and another corporation, firm, association or other entity in which one or more of GDF's members, directors, officers, committee members, employees or volunteers are members, directors, officers, committee members, employees or volunteers, respectively or have a Financial Interest.

In addition, a Conflict of Interests means any contract, transaction or arrangement involving GDF and the interests, directly or indirectly, of a member, director, officer, committee member, employee or volunteer, which has the potential to or does in fact, compromise or abrogate GDF's charitable purposes or mission.

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B. Interested Person

The term "Interested Person" means:

1. Any of GDF's current members, directors, officers, committee members, employees or volunteers;
2. Any corporation, firm, association or other entity in which any member, director, officer, committee member, employee or volunteer of GDF is a member, director, officer, member of the Committee, employee or volunteer of such corporation, firm, association or other entity (or holds a position in such corporation, firm, association or other entity with responsibilities or powers similar to those of a member, director, officer, committee member, employee or volunteer); or
3. Any corporation, firm, association or other entity in which any member, director, officer, committee member, employee or volunteer of GDF has a direct or indirect Financial Interest.

C. Financial Interest

1. A person has a Financial Interest in a corporation, firm, association or other entity if such person has, directly or indirectly, through business, investment, or Family, a Substantial Ownership or Investment Interest in such corporation, firm, association or other entity.
2. A Substantial Ownership or Investment Interest in any corporation, firm means an aggregate beneficial equity interest of 10 percent or more of such corporation, firm, association or other entity.

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D. Family

The term "Family" with respect to a person means such person's spouse, ancestors, siblings (by the whole or half blood), children, grandchildren, great grandchildren, and the spouses of siblings, children, grandchildren, and great grandchildren.

E. Thirty Five Percent Controlled Entity

The term "Thirty Five Percent Controlled Entity" means:

1. A corporation in which Disqualified Persons (as defined in Article II, Section H.1. and H.2.) own more than 35 percent of the "combined voting power."
2. A partnership in which Disqualified Persons (as defined in Article II, Section H.1. and H.2.) own more than 35 percent of the profits interest.
3. An estate or trust in which Disqualified Persons (as defined in Article II, Section H.1. and H.2.) own more than 35 percent of the beneficial interests.

"Combined voting power" means voting power represented by holdings of voting stock, direct or indirect, but does not include voting rights held only as a director or trustee.

F. Compensation

The term "Compensation" includes all forms of direct and indirect remuneration from GDF, including gifts or favors that are substantial in nature.

G. Excess Benefit Transaction

The term "Excess Benefit Transaction" means any contract, transaction or arrangement in which an economic benefit is provided by GDF directly or indirectly, to or for the use of any Disqualified Person, and the value of the economic benefit exceeds the consideration (including the performance of services) received by GDF for providing such benefit. To the extent provided in Treasury Regulation § 53.4958-5, an "Excess Benefit Transaction" also includes transactions in which the amount of an economic benefit provided by GDF to or for the use of a Disqualified Person is determined in whole or in part by the revenues of one or more of GDF's activities.

H. Disqualified Person

The term "Disqualified Person" with respect to a contract, transaction or arrangement means the following persons.

1. Any person in a position to exercise substantial influence over GDF's affairs at any time during the five-year period ending on the date of the contract, transaction or arrangement.
2. Any member of the Family of any person in a position to exercise substantial influence over GDF's affairs at any time during the five-year period ending on the date of the contract, transaction or arrangement.
3. Any Thirty Five Percent Controlled Entity of (a) any person in a position to exercise substantial influence over GDF'S affairs at any time during the five year period ending on the

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date of the contract, transaction or arrangement or (b) a member of the Family of any such person.

Article III

Per Se Conflict of Interests

A. Loans

GDF shall not make a loan to a director, officer or standing committee member or to a corporation, firm, association or other entity in which one or more of GDF's directors, officers or standing committee members is a director, officer or standing committee member or has a Financial Interest.

B. Compensation

No director, officer, committee member, employee or volunteer who receives Compensation from GDF for services shall vote on matters pertaining to that person's Compensation.

Article IV

Procedures in Other Cases

A. Duty of Members, Directors, Officers, Committee Members, Employees or Volunteers to Make Complete Disclosure

In connection with any contract, transaction or arrangement between GDF and one or more third parties that is not described in Article III, if (i) any member, director, officer, committee member, employee or volunteer is an Interested Person, (ii) any member, director, officer, committee member, employee or volunteer knows or has reason to know that one or more of such third parties is an Interested Person or (iii) any member, director, officer, committee member, employee or volunteer knows or has reason to know of any other basis for why such contract, transaction or arrangement may present a Conflict of Interests (any of the foregoing being referred to herein as a "Disclosure Event"), the relevant members, directors, officers, committee members, employees or volunteers must disclose in good faith to the Board or a special committee of the Board (the "Committee") that is considering the contract, transaction or arrangement the material facts concerning the existence and nature of their relationship to, and/or Financial Interest in, the contract, transaction or arrangement, or such other basis for why such contract, transaction or arrangement may present a Conflict of Interests.

The procedure set forth above may be satisfied if disclosure (as described herein) is made by a member, director, officer, committee member, employee, volunteer, an Interested Person or a third party to the Committee appointed by the GDF Board, either at the beginning of the fiscal

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year, in the case of potential conflicts of interest which will be recurring throughout the year, or if disclosure (as described herein) is made to the Committee at the time the potential conflict of interest becomes known to any member, director, officer, committee member, employee, volunteer, Interested Person or third party.

The Board of GDF hereby authorizes such Committee receiving, in the first instance, the disclosure from any member, director, officer, committee member, employee, volunteer, Interested Person or third party to make a determination as to whether a conflict of interest exists as well as how to resolve such conflict. When the Committee considers whether a conflict of interest exists, those individuals shall also review the facts and circumstances in connection with the specific criteria set forth in Subsection D of this Article IV. In other cases, the Committee may refer the potential conflict of interest issue to the Board for its consideration. In cases where the matter is referred to the Board, the procedures set forth in this Article IV shall govern.

B. Board or Committee Identifications of Possible Conflict of Interests

The Board or the Committee may also identify the possibility that (i) a director, officer, committee member, employee or volunteer is an Interested Person, (ii) one or more of such third parties are Interested Persons or (iii) there is another basis for why such contract, transaction or arrangement may present a Conflict of Interest through information known to Board or committee members or otherwise available to the Board or Committee. The fact that the Board or the Committee may so identify a possible Conflict of Interest shall have no effect on the obligations of members, directors, officers, committee members, employee or volunteer to make disclosures pursuant to Article IV, Section A.

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C. Determining Whether a Conflict of Interests Exists

1. If, pursuant to Article IV, Section A, members, directors, officers, committee members, employees or volunteers have made a disclosure in good faith to the Board or the Committee that is considering the contract, transaction or arrangement:

- a. such members, directors, officers, committee members, employees or volunteers shall leave the Board or Committee meeting while the remaining Board or committee members discuss the contract, transaction or arrangement and the possible existence of a Conflict of Interests;
- b. the remaining Board or committee members shall decide if the contract, transaction or arrangement presents a Conflict of Interests;
- c. members, directors, officers, committee members, employees or volunteers who have made a disclosure pursuant to a Disclosure Event shall not be counted in determining the presence of a quorum for any vote concerning the existence of a Conflict of Interests; and
- d. such persons shall neither participate in, nor use personal influence with regard to, the deliberations concerning the existence of a Conflict of Interests.

2. If, pursuant to Article IV, Section B, the Board or the Committee has made a determination that a member, director, officer, committee member, employee or volunteer is an Interested Person, that one or more third parties to the contract, transaction or arrangement is an

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Interested Person or that there is another basis for such contract, transaction or arrangement presenting a Conflict of Interests:

- a. the Board or Committee shall ask such members, directors, officers, committee members, employees or volunteers as it believes may be Interested Persons or may have a relationship and/or Financial Interest in an Interested Person to leave the meeting while the remaining Board or committee members discuss the contract, transaction or arrangement and the possible existence of a Conflict of Interests;
- b. the remaining Board or committee members shall decide if the contract, transaction or arrangement presents a Conflict of Interests;
- c. members, directors, officers and committee members who have been asked to leave the meeting shall not be counted in determining the presence of a quorum for any vote concerning the existence of a Conflict of Interests; and
- d. such persons shall neither participate in, nor use personal influence with regard to, the deliberations concerning the existence of a Conflict of Interests.

D. Procedures for Considering a Contract, Transaction or Arrangement Where a Conflict of Interests Exists

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The following procedures shall apply where the Board or Committee determines pursuant to Article IV, Section C, that a Conflict of Interests exists in connection with a contract, transaction or arrangement.

1. If the Board or Committee determines that a Conflict of Interests exists because of Section 715 of the N-PCL, the contract, transaction or arrangement may be authorized, but only by a vote sufficient to approve the contract, transaction or arrangement without including the vote of any director, officer, committee member, employee or volunteer that is an Interested Person or that has a Financial Interest in an Interested Person. In addition, the Board shall follow the procedures set forth in Article V.

2. If the Board or Committee determines that a Conflict of Interests exists because of a reason other than Section 715 of the N-PCL, the Board or Committee shall take and/or require such action as it deems appropriate under the circumstances, including, but not limited to, the following:

- a. The individual deemed to have a Conflict of Interest will articulate in writing the reasons that the contemplated contract, transaction or arrangement furthers the charitable purposes and mission of GDF. The Board or Committee shall investigate, or may appoint a person or committee to investigate on its behalf, alternatives to the contract, transaction or arrangement that would not give rise to a Conflict of Interests;

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- b. following such investigation, the Board or Committee shall determine whether GDF can obtain a more advantageous contract, transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a Conflict of Interests;
- c. if a more advantageous contract, transaction or arrangement cannot reasonably be obtained from a person or entity that would not give rise to a Conflict of Interests, the Board or Committee shall, by a majority vote of the directors or committee members: (i) determine whether the contract, transaction or arrangement is in GDF's best interest and for GDF's own benefit; (ii) determine whether the contract, transaction or arrangement is fair and reasonable to GDF; and (iii) decide whether to enter into the contract, transaction or arrangement in conformity with such determination; and
- d. if a more advantageous contract, transaction or arrangement can reasonably be obtained from a person or entity that would not give rise to a Conflict of Interests, the Board or Committee shall not enter into the contract, transaction or arrangement that does involve a Conflict of Interests unless the Board or Committee determines that such contract, transaction or arrangement is at least as fair and reasonable to GDF as would otherwise then be obtainable by GDF.

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If the Board chooses to authorize the contract, transaction or arrangement after following the foregoing procedures, the Board shall follow the procedures set forth in Article V as well as its usual procedures for approving contracts, transactions or arrangements.

E. Waiver of Interested Persons Process

In the event the presence and/or vote of such Interested Person is necessary or required for the authorization of any contract, transaction or arrangement (pursuant to the Bylaws of GDF, the quorum and voting structure of the Board or Committee or otherwise), Article IV, Section C and D shall not apply, and such Interested Person may fully participate in the process of considering and voting on a contract, transaction or arrangement.

F. Procedures for Considering a Contract, Transaction or Arrangement Where No Conflict of Interests Exists

Following due deliberation pursuant to Article IV or upon waiver of such provision, Section C, the Board or Committee may determine that a contract, transaction or arrangement does not present a Conflict of Interests. In such cases the Board or Committee need take no further action prior to approving the contract, transaction or arrangement pursuant other than pursuant to Article V and its usual procedures for approving contracts, transactions or arrangements.

Article V

Preventing Application of Intermediate Sanctions

The Board and its Committees recognize that whether or not a contract, transaction or arrangement presents a Conflict of Interests it may be an Excess Benefit Transaction.

Accordingly, all contracts, transactions or arrangements shall be reviewed as well under the following procedures to prevent the authorization of an Excess Benefit Transaction.

A. Determination of Whether the Contract, Transaction or Arrangement Involves a Disqualified Person

As part of its review of any contract, transaction or arrangement, the Board and each Committee shall determine whether a Disqualified Person is a party to such contract, transaction or arrangement.

B. Three-Step Review

1. If, pursuant to Article V, Section A, the Board or the Committee determines that a contract, transaction or arrangement involves a Disqualified Person, the Board or Committee shall not authorize such contract, transaction or arrangement until it has obtained appropriate data regarding whether the contract, transaction or arrangement is comparable to the terms of a contract, transaction or arrangement that would be obtained from an independent third party. The Board or the Committee has appropriate data on comparability if, given the knowledge and experience of its members, it has information sufficient to determine comparability. Relevant

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information in this regard includes, but is not to be limited to: (a) in the case of compensation, compensation paid by similar organizations (both taxable and tax-exempt) for functionally comparable positions, the availability of similar services in the organization's geographic area, actual written offers from similar institutions competing for the disqualified persons services and independent surveys and (b) in the case of property transfers, independent appraisals.

2. Once the Board or Committee has obtained appropriate data on comparability, the Board or Committee may proceed to vote on the contract, transaction or arrangement. Such vote shall be subject to the provisions of Article IV of this Conflict of Interests Policy. In addition, any Board or Committee member having a conflict of interest with respect to the contract, transaction or arrangement shall recuse himself or herself from the vote in respect of the contract, transaction or arrangement. A person does not have a conflict of interest with respect to any contract, transaction or arrangement involving a Disqualified Person for these purposes if-

- such person is not the Disqualified Person;
- such person is not a member of the Family of the Disqualified Person;
- such person is not in an employment relationship subject to the direction and control of the Disqualified Person;
- such person is not receiving compensation or other payments subject to approval by the Disqualified Person;
- such person has no material financial interest affected by the contract, transaction or arrangement; and

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- the Disqualified Person has not approved and will not approve a transaction providing an economic benefit to such person.
3. The Board or Committee shall document the basis for its authorization of the contract, transaction or arrangement prior to its next meeting.

A decision of the Board or the Committee is “documented” if the minutes or other corporate records of the Board or Committee note:

- the terms of the contract transaction or arrangement and the date it was approved;
- the members of the Board or Committee who were present during debate on the contract, transaction or arrangement and those who voted on it;
- the comparability data obtained and relied on, and how it was obtained; and
- the actions taken by anyone who had a conflict of interest (as defined in Article V, Section B.2. of this Conflict of Interests Policy).

C. Waiver of Three-Step Review

1. The Board may, from time to time by majority vote, choose to authorize any contract, transaction or arrangement without undertaking the three-step review required by Article V, Section B. The Board shall note the basis for foregoing such review in the minutes of the Board meeting authorizing such contract, transaction or arrangement, or in a recital clause to a unanimous written consent authorizing such contract, transaction or arrangement.

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2. Any Committee may, from time to time by majority vote, seek the Board's approval to authorize a contract, transaction or arrangement without undertaking the three-step review required by Article V, Section B. The Committee shall note the basis for such request in the minutes of the Committee seeking such approval and the Board shall note the basis for granting such approval in the minutes of the Board meeting granting such approval or in a recital clause to a unanimous written consent granting such approval.

Article VI

Violations of the Conflict of Interests Policy

If the Board or Committee has reasonable cause to believe that a member, director, officer, committee member, employee or volunteer has failed to make disclosure when there was a Disclosure Event and such member, director, officer, committee member, employee or volunteer knew or should have known that there was a Disclosure Event, the Board or Committee shall inform such member, director, officer, committee member, employee or volunteer of the basis for such belief and afford such member, director, officer, committee member, employee or volunteer an opportunity to explain the alleged failure to disclose. If, after receiving the response of such member, director, officer, committee member, employee or volunteer and making such further investigation as may be warranted in the circumstances, the Board or Committee determines that such member, director, officer, committee member, employee or volunteer has in fact failed to disclose a Conflict of Interests, it shall take appropriate disciplinary and corrective action, which may include temporary suspension of such person's duties and

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responsibilities or “cause” for dismissal of such person as a member, director, officer, committee member, employee or volunteer (subject in the case of officers to any contrary provisions in any contractual arrangements with such person).

Article VII

Records of Proceedings

The minutes of the Board and all Committees shall contain:

- A. the names of members, directors, officers, committee members, employees or volunteers who disclosed that they are, or whom the Board or the Committee identified as, Interested Persons, and a description of the contract, transaction or arrangement that gave rise to such disclosure or identification.
- B. the name and address of all corporations, firms, associations or other entities that were identified as Interested Persons;
- C. the nature of any member’s director’s, officer’s, committee member’s, employee’s or volunteer’s relationship with and/or Financial Interest in an Interested Person;
- D. the names of the directors or committee members who were present during the taking of the action to determine whether a Conflict of Interests was present;
- E. the steps taken by the Board or Committee to determine whether a Conflict of Interests was present;

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- F. the Board's or Committee's decision as to whether a Conflict of Interests was present and the basis for such decision;
- G. in a situation in which the Board or Committee decided that a Conflict of Interests was present because of Section 715 of the N-PCL, the Board's or Committee's decision as to whether to proceed with the contract, transaction or arrangement and the names of the persons who voted to approve the contract, transaction or arrangement; and
- H. in a situation in which the Board or Committee decided that a Conflict of Interests was present for a reason other than Section 715 of the N-PCL, the actions taken by the Board or Committee pursuant to Article IV, Section D, paragraph 2 and the names of the persons who voted to approve the contract, transaction or arrangement.

Article VIII

Annual Statements

Each director, officer, committee member, employee and volunteer shall annually sign a statement that affirms that such person (i) has received a copy of this Conflict of Interests policy, (ii) has read and understands the policy, (iii) has agreed to comply with the policy and (iv) understands that GDF is a charitable organization and that, in order to maintain its Federal tax exemption under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended (the "Code"), GDF must engage primarily in activities which accomplish its tax-exempt purposes.

Article IX

Periodic Reviews of Code Section 501(c)(3) Issues

- A. To ensure that GDF is operated exclusively for purposes that are consistent with its status as an organization exempt from federal income taxation under Code Section 501 (a) because it is described in Code Section 501(c)(3), the Board shall conduct periodic reviews of GDF's Code Section 501(c)(3) status no less than annually. The periodic reviews shall, at a minimum, include the following subjects:
1. Whether Compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining; and
 2. Whether partnership arrangements, joint venture arrangements, and service arrangements conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further GDF's charitable purposes and do not result in inurement or impermissible private benefit.
- B. In conducting such periodic reviews, the Board may, but need not, use outside experts or advisors. If outside experts or advisors are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

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Article X

Amendments

This Conflict of Interests Policy shall be amended by the Board of Directors from time to time as necessary to take into account developments in applicable New York State law and federal tax law governing Code Section 501(c)(3) organizations.

Article XI

Adoption and Effective Date

This Conflict of Interests Policy was adopted by the Board of Directors on April 16, 2004 and became effective immediately