

Conflict of Interest Policy

Lowell Observatory Foundation

Adopted July 16, 2015, Amended February 9, 2016

Article I – Purpose

The purpose of this conflict of interest policy is to protect the interest of the Lowell Observatory Foundation (the “Foundation”) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a trustee of the Foundation (a “conflict of interest”).

Article II – Definitions

1. Interested Person

An interested person is any trustee of the Foundation, who:

- a. Has a direct or indirect financial interest, as defined below; or
- b. Whether or not the transaction is brought before the Board of Trustees of the Foundation for action, knows at the time of the commitment that the interested person or related person either:
 - (i) Is a party to the transaction, or
 - (ii) Has a financial interest in the transaction, or
 - (iii) Is so closely linked to the transaction that such transaction would have such financial significance to the interested person or a related person that the interest would reasonably be expected to exert an influence on the interested person’s judgment if the interested person were called on to vote on the transaction, or
- c. When the transaction is brought or is of such character and significance to the Foundation that it would in the normal course of business be brought before the Board of Trustees of the Foundation for action, knows at the time of commitment that any of the following persons either (A) is a party to the transaction, or (B) has a financial interest in the transaction, or (C) is so closely linked to the transaction that such transaction would have such financial significance to the person that the interest would reasonably be expected to exert an influence on the interested person’s judgment if the interested person were called on to vote on the transaction:
 - (i) An entity, other than the Lowell Observatory or related entities, of which the interested person is a director, general partner, managing member, agent, employee or beneficiary, or
 - (ii) A person that controls one of more of the entities specified in item (i) of this subdivision, or

- (iii) An entity that is controlled by or is under common control with one or more of the entities specified in item (i) of this subdivision, or
- (iv) A person who is a director, general partner, managing member, agent, employee or beneficiary of one or more of the entities specified in item (i) of this subdivision, or
- (v) An individual who is a general partner, principal or employer of the interested person.

Simultaneous service by a Foundation Trustee who is also on the Advisory Board of the Lowell Observatory shall not be deemed to be a conflict of interest in the consideration of the amount of grants or funding to be provided to the Lowell Observatory by the Lowell Observatory Foundation. In similar fashion, service on the Foundation Board of Trustees by the Sole Trustee of the Lowell Observatory shall not be deemed to be a conflict of interest in the consideration of any funding or grants provided to the Observatory by the Foundation.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or a related person:

- a. An ownership or investment interest in any entity with which the Foundation is negotiating a transaction or arrangement.
- b. A compensation arrangement with any entity or individual with which the Foundation is negotiating a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

3. Related Person

A related person of an interested person means either: (i) the spouse of the interested person, or an ancestor or sibling of such spouse; (ii) a child, grandchild, great grandchild, sibling or ancestor of the interested person; (iii) the spouse of a child, grandchild, great grandchild, sibling or ancestor of the interested person; (iv) an individual having the same home as the interested person or a trust or estate of which an individual specified in this Article II, Section 3, is a substantial beneficiary; or (v) a trust or estate of which the interested person is a fiduciary; or (vi) an incompetent, minor or other protected person for which the interested person is a fiduciary.

4. Qualified Person

A qualified person means any trustee of the Foundation who is not an interested person with respect to a transaction or arrangement under consideration.

5. Control of Entity

- a. For a corporation shall mean owning more than 35 percent of the combined voting power;
- b. For a partnership or limited liability company shall mean owning 35% of the profits interest;
- c. For a trust or estate shall mean owning more than 35 percent of the beneficial interest.

Article III – Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the conflict of interest and be given the opportunity to disclose all material facts to the trustees and any others who may have governing board delegated powers considering the proposed transaction or arrangement. In cases where an actual or possible conflict of interest is discovered after a transaction or arrangement is completed, any such interested person must report and disclose all known material facts to the trustees within 15 days of such discovery for their review and considered action.

2. Determining Whether a Conflict of Interest Exists

After disclosure of an actual or possible conflict of interest and all material facts, and after any discussion with the interested person, he/she shall leave a meeting of the Board of Trustees while the determination of a conflict of interest is discussed and voted upon. Only qualified persons shall decide if such a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at a meeting of the Board of Trustees. If the interested person has a duty of confidentiality with respect to the information relating to the transaction or arrangement preventing him/her from disclosing all material facts known to him/her regarding the transaction or arrangement, 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 Chairman of the Board of Trustees shall, if appropriate, appoint a qualified person or committee containing qualified persons to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the Board of Trustees shall determine whether the Foundation 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. If a more advantageous transaction or arrangement is not reasonably possible under circumstances which does not present a conflict of interest, the Board of Trustees shall

determine by a majority vote of the qualified persons who are trustees whether the transaction or arrangement is in the Foundation'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 transaction or arrangement.

4. Violation of the Conflicts of Interest Policy
 - a. If the Board of Trustees has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
 - b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board of Trustees determines the member 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 of Trustees 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 of Trustees' 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, 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 V – Compensation

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

Article VI – Annual Statements

Each trustee, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a. Has received a copy of the Conflicts of Interest Policy,

- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands the Foundation 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.

Article VII – Periodic Reviews

To ensure the Foundation operates in a manner consistent with its charitable 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 any 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 Foundation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further its charitable 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 Foundation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of Trustees of its responsibility for ensuring periodic reviews are conducted.

CERTIFICATE OF ADOPTION

The foregoing Policy was adopted by the Board of Trustees of the Lowell Observatory Foundation on the 16th day of July 2015. Amended the 9th day of February 2016.

LOWELL OBSERVATORY FOUNDATION

Conflict of Interest Policy Acknowledgment

By signing below, I, the undersigned, hereby acknowledge that I have:

- a. Received a copy of the conflicts of interest policy for the Lowell Observatory Foundation
- b. Read and understand that policy,
- c. Agree to comply with the policy, and
- d. Understand that the Foundation is an organization exempt from tax as one described in Section 501(c)(3) of the Internal Revenue Code, 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.

Signature: _____

Date:

Name: _____

Title/Position: _____