



## CONFLICT OF INTEREST POLICY

The officers, directors, trustees, and staff members of nonprofit organizations must be aware of both real and apparent conflicts of interest that may occur in the course of conducting the affairs of the organization and that the appearance of a conflict of interest can be troublesome, even if there is in fact no conflict whatsoever. Those associated with a nonprofit organization may have multiple interests and affiliations and various positions of responsibility within the community. Therefore, it is likely that situations will arise where a person associated with the organization will have conflicting interests and/or duties of loyalty to others.

### I. Purpose.

The purpose of this Conflict of Interest Policy (this “Policy”) is to protect the interests and tax exempt status of Aerial Recovery, a Tennessee Public Benefit Company (hereinafter, “Aerial Recovery”). This Policy sets forth the procedures to be followed when Aerial Recovery is contemplating entering into any transaction or arrangement that may benefit the private interests of an officer, director, trustee, or staff member of Aerial Recovery or may result in a possible excess benefit transaction. This Policy is intended to supplement, but not replace any applicable state or federal laws governing conflicts of interest applicable to non-profit and charitable organizations.

### II. Definitions.

- a. Board.** Collectively refers to the voting Directors and the voting Board of Directors, if applicable.
- b. Conflict of Interest.** A conflict of interest occurs where an Insider’s obligations to further Aerial Recovery’s charitable purposes is at odds with the Insider’s own Financial Interests. For example, a Conflict of Interest would occur where an Insider votes on a contract between Aerial Recovery and a business that is owned by the Insider, or where the subject matter of the vote pertains to the Insider’s compensation. In these situations, the Insider becomes an Interested Person (as defined below).

- c. Directors.** The individual members of Aerial Recovery’s voting Board of Directors, excluding non-voting members comprising the Aerial Recovery “Advisory Board.”.
- d. Financial Interest.** An Insider has a Financial Interest if the Insider has, directly or indirectly, through business, investment, or family:
  - i.** An ownership or investment interest in any entity with which Aerial Recovery has a transaction or arrangement;
  - ii.** A financial arrangement with Aerial Recovery or with any entity or individual with which Aerial Recovery has a transaction or arrangement; or
  - iii.** A potential ownership or investment interest in, or financial arrangement with, any entity or individual with which Aerial Recovery is negotiating a transaction or arrangement.

A financial arrangement may be a direct or indirect remuneration or substantial gifts or favors.

- e. Governing Board.** Any committee of Aerial Recovery with governing board delegated powers and authority.
- f. Insider.** Any officer, director, trustee, or member of a Governing Board of Aerial Recovery.
- g. Interested Person.** Any Insider who has a direct or indirect Financial Interest.
- h. Meeting.** Any annual, regular, or special meetings of the Board.

**III. Duties of Insiders.** Each Insider hereby acknowledges and agrees that he or she has the following duties:

- a. Duty of Care.** Insiders agree to take care to ensure prudent use of all of Aerial Recovery’s assets, including facility, people, and good will.
- b. Duty of Loyalty.** Insiders agree to: (i) ensure that Aerial Recovery’s activities and transactions are advancing its mission; (ii) recognize and disclose Conflicts of Interest; and (iii) make decisions that are in the best interest of Aerial Recovery, not in the best interest of the individual Insider, or any other individual or for-profit entity.

**c. Duty of Obedience.** Insiders agree to ensure that Aerial Recovery: (i) obeys all applicable laws and regulations; (ii) follows its Bylaws; and (iii) adheres to its stated purpose/mission.

**d. Duty to Disclose Conflicts of Interest.** Upon learning of any actual or potential Conflict of Interest, the Insider who may be an Interested Person must disclose the existence and all material details of his or her Financial Interest in the proposed transaction or arrangement to the Board prior to any vote to enter into the proposed transaction or arrangement. If the Insider was unaware of the transaction or arrangement in which he or she may be an Interested Person, then the Insider must notify the Board as soon as the Insider becomes aware of the potential Conflict of Interest.

**IV. Conflict of Interest Analysis.** The procedure for the disclosure and determination of an actual or potential Conflict of Interest shall be as follows:

- i.** The Insider may make a presentation or speech at a Meeting at which the transaction or arrangement is to be voted on by the Board.
- ii.** The Board shall have a reasonable opportunity to ask the Insider questions regarding the potential Conflict of Interest.
- iii.** The Insider shall then excuse himself or herself from the meeting.
- iv.** The chairperson of the Meeting shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- v.** The Board shall discuss the potential Conflict of Interest exists and seek any outside information that may help in analyzing the situation.
- vi.** If the Board determines that a Conflict of Interest does exist, the Board shall consider whether Aerial Recovery 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.
- vii.** If a more advantageous transaction or arrangement is not reasonably possible under the circumstances not producing another conflict of interest, the Board shall determine by a Majority Vote of the disinterested

directors whether the transaction or arrangement is in Aerial Recovery's best interests, for its own benefit, and whether it is fair and reasonable.

- viii.** Given the determination of the Board in Section IV.c.vii above, the Board shall determine whether or not to enter into the transaction or arrangement.
- ix.** If the Board does not have sufficient information to vote upon the Conflict of Interest at the Meeting, the Board shall be given a reasonable period of time to obtain such information, and another meeting shall be scheduled to vote on the Conflict of Interest prior to making a decision on whether to proceed with the transaction or arrangement.

## **V. Violations.**

- a. Failure to Disclose.** If the Board has reasonable cause to believe an Interested Person has failed to disclose an actual or potential Conflict of Interest, the Board shall inform the Interested Person for the basis of such belief and give the Interested Person a reasonable opportunity to explain the alleged failure to disclose.
- b. Further Action.** If, after the explanation and any further investigation as warranted by the circumstances, the Board determines that the Interested Person has intentionally or negligently failed to disclose an actual or potential Conflict of Interest, the Board shall take appropriate corrective and disciplinary action, including, but not limited to requesting the resignation of the Interested Person.

## **VI. Minutes & Records.** The minutes of the Board shall contain:

- a.** The name(s) of the Insider(s) who disclosed or others were found to have a Financial Interest in connection with an actual or potential Conflict of Interest;
- b.** The nature of the Financial Interest;
- c.** Any action taken to determine whether a Conflict of Interest existed;
- d.** The Board's decision as to whether a Conflict of Interest existed;
- e.** The names of the persons who were present for discussions and relating to the transaction or arrangement;
- f.** The content of the discussion, including any alternatives to the proposed transaction or arrangement; and
- g.** A record of any votes taken in connection with the foregoing, including the voting outcomes for each person who voted.

**VII. Compensation.** Any Insider who receives compensation from Aerial Recovery, directly or indirectly, and whose jurisdiction includes voting on compensation matters, shall be: (a) precluded from voting on any matters pertaining to such Insider's own compensation; and (b) prohibited from providing any information to the Board regarding compensation.

**VIII. Annual Statements.** Each Insider shall annually sign a statement which affirms such person:

- a. Has received a then current copy of this Policy;
- b. Has read and understands this Policy;
- c. Agrees to comply with this Policy; and
- d. Acknowledges and understands that Aerial Recovery is a charitable organization and in order to maintain its state and federal tax exempt status, Aerial Recovery must engage primarily in activities which accomplish one or more of its tax exempt purposes.

**IX. Periodic Reviews.** To ensure that Aerial Recovery operates in a manner consistent with its charitable purposes and does not engage in activities that may jeopardize its tax exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation and benefits are reasonable, based on competent survey information and the results of arm's length bargaining;
- b. Whether any partnerships, joint ventures, or arrangements with Insiders conform to Aerial Recovery's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or an excess benefit transaction.

When conducting periodic reviews, Aerial Recovery may, but is not obligated to, use outside advisors. If outside advisors are used, the use of such outside advisors shall not relieve the Board of its responsibility to ensure that periodic reviews are actually conducted.