

**Memorial Sloan Kettering Cancer Center
Memorial Hospital for Cancer and Allied Diseases
Sloan Kettering Institute for Cancer Research**

BOARDS OF MANAGERS CONFLICT OF INTEREST POLICY

ARTICLE I

Purpose

The purpose of this *Conflict of Interest Policy* (the “Policy”) is to protect the interests of MSK when it is contemplating entering into a transaction or arrangement that might benefit the private interests of a Covered Person. This Policy is intended to ensure that all institutional decisions are made solely to promote the best interests of MSK without favor or preference based on personal considerations. All capitalized terms used in this Policy are defined in Article II.

This Policy and the *Annual Conflict of Interest Questionnaire* developed and administered under this Policy (the “Questionnaire”) set forth the requirements, standards, and procedures for disclosure, assessment, and management of Conflicts of Interest. This Policy is intended to supplement, but not to replace, any applicable MSK policies, and to comply with New York State and federal requirements applicable to not-for-profit and charitable organizations, including requirements governing Conflicts of Interest and Related Party Transactions.

All Covered Persons have a duty at all times to comply with this Policy and to cooperate in the administration and enforcement of this Policy, the Questionnaire, and any policies, procedures, and guidelines established from time to time in connection with this Policy. The Board shall be responsible for oversight of the adoption of this Policy, and the Joint Conflict of Interest Committee (the “Committee”) shall be responsible for implementing and overseeing the administration of, and compliance with, this Policy.

ARTICLE II

Definitions

(A) An “Affiliate” of MSK shall mean any entity controlled by, or in control of, MSK, including but not limited to Louis V. Gerstner Jr. School for Biomedical Sciences, MSK Insurance US, Inc., and S.K.I. Realty, Inc.

(B) A Covered Person has an “Associational Interest” if he or she, or his or her Family Member, has a non-financial relationship, involvement, or interest, formal or informal, with or in another entity or individual that could render the Covered Person incapable of making a decision with solely the best interests of MSK in mind (*e.g.*, a non-compensated fiduciary position with another organization).

(C) “Board” means the Boards of Managers of MSK.

(D) “Committee” has the meaning set forth in Article I.

(E) A “Conflict of Interest” arises when a Covered Person holds an Interest that may compromise, or could reasonably be viewed as having the potential to compromise, a Covered Person’s impartiality and ability to exercise independent judgment in MSK’s best interests.

(F) “Covered Person” means any Director, Officer, Senior Executive Officer, Key Person, member of the Board of Overseers of Memorial Sloan Kettering Cancer Center, or other person with substantial influence or authority within MSK, as may be determined by the Committee.

(G) “Director” means a member of the Board.

(H) “Disclose” has the meaning set forth in Article IV.

(I) “Disqualified Person” has the meaning set forth in Article VII.

(J) A Covered Person has an “Economic Interest” if he or she has, directly or indirectly, through business, investment, or a Family Member:

(i) an existing or potential ownership or investment interest in any entity or individual with which MSK has a transaction, relationship, or arrangement;

(ii) an existing or potential compensation arrangement with an entity or individual with which MSK has a transaction, relationship, or arrangement; or

(iii) an existing or potential ownership or investment interest in, or compensation arrangement with, an entity or individual with which MSK has a potential transaction or arrangement (*e.g.*, a transaction under negotiation).

(K) A “Family Member” of Covered Person shall mean his or her spouse, domestic partner, ancestors, brothers and sisters (whether whole- or half-blood), children (whether natural or adopted), grandchildren, and great-grandchildren, and spouses or domestic partners of brothers, sisters, children, grandchildren, and great-grandchildren.

(L) An “Interest” is an Economic Interest or an Associational Interest. An Interest is not necessarily a Conflict of Interest. Under Article V, a Covered Person who has an Interest may have a Conflict of Interest if the Committee determines, in accordance with this Policy, that a Conflict of Interest exists.

(M) A “Key Person” shall mean any person, other than a Director or Officer, whether or not an employee of MSK, who (i) has responsibilities or exercises powers or influence over MSK as a whole similar to the responsibilities, powers, or influence of Directors and Officers; (ii) manages either MSK or a segment of MSK that represents a substantial portion of the activities, assets, income, or expenses of MSK; or (iii) alone or with others controls or determines a substantial portion of MSK’s capital expenditures or operating budget.

(N) “MSK” means Memorial Sloan Kettering Cancer Center, Memorial Hospital for Cancer and Allied Diseases, and Sloan Kettering Institute for Cancer Research.

(O) “Officer” means an individual who occupies an officer position, as designated by MSK in accordance with its governing documents, including its Articles of Incorporation and Bylaws.

(P) “Policy” has the meaning set forth in Article I.

(Q) “Questionnaire” has the meaning set forth in Article I.

(R) A “Related Party” shall mean (i) any Director, Officer, or Key Person of MSK or any Affiliate of MSK; (ii) any Family Member of any Director, Officer, or Key Person of MSK or any Affiliate of MSK; or (iii) any entity in which any individual described in clauses (i) or (ii) of this subparagraph has a thirty-five percent (35%) or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent (5%).

(S) A “Related Party Transaction” shall mean any transaction, agreement, or other arrangement in which a Related Party has a financial interest and in which MSK or any Affiliate of MSK is a participant, except that a transaction shall not be a Related Party Transaction if: (i) the transaction or the Related Party’s financial interest in the transaction is *de minimis*; (ii) the transaction would not customarily be reviewed by the Board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms; or (iii) the transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that MSK intends to benefit as part of the accomplishment of its mission, which benefit is available to all similarly situated members of the same class on the same terms.

(T) A “Senior Executive Officer” shall mean MSK’s Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, and Physician-in-Chief, as well as the Director of the Sloan Kettering Institute for Cancer Research.

ARTICLE III

Specific Prohibited Activities

Senior Executive Officers are not permitted to serve on the boards of directors of external for-profit health- or life science-related entities, unless such service is approved by the Committee based on a compelling reason and a determination that such service would significantly advance, and not conflict with, the goals and mission of MSK.

Directors may not invest in, or serve as either a board member or an executive officer of, a company funded by MSK and/or driven largely by intellectual property licensed from MSK; *provided, however, that* an entity with which a Director is affiliated may invest in such companies, subject to Committee approval, if: (i) the Director does not participate in the investment decision or discussions surrounding such decision; (ii) the Director does not disclose MSK confidential information to any persons affiliated with the external entity; (iii) the Director in all respects recuses himself or herself from the external entity’s consideration of any such investment decision; and (iv) the Director does not receive any personal financial gain resulting from the investment or, if the Director does receive personal financial gain from the investment, it is transferred to MSK.

ARTICLE IV

Obligation to Disclose Interests

1. *Initial and Annual Obligation.*

Prior to election or appointment of an individual to the Board or any other position qualifying such individual as a Covered Person, and annually thereafter, such individual shall complete, sign, and submit a Questionnaire to the Senior Vice President and Chief Risk Officer, the compliance officer designated by the Board to discharge responsibilities specified in this Policy, providing accurate and complete responses to all questions therein and identifying, to the best of such individual's knowledge, any entity of which such individual is an officer, director, trustee, member, owner, or employee and with which MSK has a relationship, and any transaction in which MSK is a participant and in which such individual might have a Conflict of Interest. The Senior Vice President and Chief Risk Officer shall provide copies of completed Questionnaires to the Chair of the Committee and to the Chair of the Joint Audit Committee of the Board.

2. *Ongoing Obligation.*

On an ongoing basis, in connection with any potential transaction, arrangement, or relationship that may give rise to a Conflict of Interest or constitute a Related Party Transaction, a Covered Person must disclose in good faith the existence of the potential transaction, arrangement, or relationship and all associated material facts and circumstances, including any change or update to the responses provided in the Questionnaire, to the Senior Vice President and Chief Risk Officer, who shall provide all such changes and updates to the Chair of the Committee. This ongoing disclosure obligation is in addition to and not in lieu of the annual disclosure required under Section IV.1.

“Disclose,” as used in this Policy, shall mean providing promptly to the Senior Vice President and Chief Risk Officer, a written description of all applicable material facts. All such disclosures received hereunder shall be kept with the minutes of meetings of the Committee.

ARTICLE V

Procedures for Assessing and Managing Conflicts of Interest

1. *Determining Whether a Conflict of Interest Exists.*

After disclosure and consideration of an Interest and all material facts associated with the Interest, and after any discussion with the Covered Person or other applicable individuals, the members of the Committee shall vote, without the Covered Person present, to determine whether a Conflict of Interest exists. The Committee shall consider the reputational risks to MSK of even the appearance of a Conflict of Interest in making its determination. All members of the Committee participating in such vote must be individuals without a Conflict of Interest and disinterested with respect to the transaction, arrangement, or relationship.

2. *Decision-Making with Regard to a Conflict of Interest.*

A Covered Person with a Conflict of Interest may not be present at or participate in a Committee deliberation or vote on a matter giving rise to such Conflict of Interest; *provided, however, that* this Policy does not prohibit the Committee from requesting that the Covered Person present information as background or answer questions at a Committee meeting prior to the commencement of deliberations or voting. A Covered Person shall not be allowed to influence or attempt to influence deliberation or voting by the Committee with respect to a matter giving rise to the Covered Person's Conflict of Interest. With respect to any possible Conflict of Interest, the members of the Committee considering and voting on the proposed transaction or arrangement shall be individuals without a Conflict of Interest and disinterested with respect to the proposed transaction, arrangement, or relationship.

A Conflict of Interest may also be considered a Related Party Transaction, which would subject the transaction to the additional requirements set forth in Article VI.

The Committee shall, at its discretion, appoint a disinterested person or committee to investigate alternatives to the proposed transaction, arrangement, or relationship. After exercising due diligence, the Committee shall determine whether MSK can obtain with reasonable efforts an equally or more advantageous transaction, arrangement, or relationship with a person or entity without giving rise to a Conflict of Interest. If a more advantageous transaction, arrangement, or relationship is not reasonably possible under circumstances not producing a Conflict of Interest, the Committee shall determine by a majority vote of the disinterested Committee members whether the transaction, arrangement, or relationship is in MSK's best interests, for MSK's own benefit, and fair and reasonable. The Committee's deliberations shall include an analysis of comparable transactions, arrangements, or relationships, to the extent applicable. If the Committee determines that the proposed transaction, arrangement, or relationship satisfies the criteria of this Article V, then the Committee shall decide whether MSK shall enter into the transaction, arrangement, or relationship.

3. *Conflict Management Plans.*

For any transaction, arrangement, or relationship involving a Conflict of Interest that the Committee approves in accordance with this Policy, the Committee shall determine whether a conflict management plan is in the best interests of MSK, and if so, shall oversee the development of and approve a written conflict management plan setting forth processes and requirements for managing any Conflict of Interest over the term of the transaction, arrangement, or relationship.

4. *Minutes to Reflect the Conflict of Interest Process.*

With respect to any actual or possible Conflict of Interest, the minutes of meetings of the Committee shall contain:

(A) The names of the individuals who disclosed or otherwise were found to have an Interest in connection with an actual or possible Conflict of Interest, the existence and nature of the Interest, any action taken to determine whether a Conflict of Interest was present, and the Committee's decision as to whether a Conflict of Interest in fact existed; and

(B) The names of the individuals present for discussions and votes relating to the transaction, arrangement, or relationship; the content of the discussion, including any alternatives to the proposed transaction, arrangement, or relationship; the terms of the transaction, arrangement, or relationship and the date it was approved or rejected; any actions taken with respect to consideration of the transaction, arrangement, or relationship by anyone who is otherwise a member of the Committee but who had a Conflict of Interest with respect to the transaction, arrangement, or relationship; and a record of any votes taken.

ARTICLE VI

Procedures for Related Party Transactions

MSK shall not enter into a Related Party Transaction unless the transaction is determined by the Committee to be fair, reasonable, and in MSK's best interests at the time of such determination.

With respect to any Related Party Transaction in which a Related Party has a substantial financial interest, the Committee shall: (i) prior to entering into the transaction, consider alternative transactions to the extent available; (ii) approve the transaction by not less than a majority vote of the Committee members present at the meeting; and (iii) contemporaneously document in writing the basis for the Committee's approval, including its consideration of any alternative transactions.

A Related Party shall not participate in deliberations or voting relating to a Related Party Transaction in which such Related Party has an interest; *provided, however*, that the Committee may request that a Related Party present background information or answer questions concerning a Related Party Transaction at a Committee meeting prior to the commencement of deliberations or voting related thereto.

ARTICLE VII

Excess Benefit Transactions

MSK is classified by the Internal Revenue Service as a public charity and, therefore, is subject to the “intermediate sanctions” rules contained in section 4958 of the Internal Revenue Code and accompanying Treasury Regulations. These rules, in general, subject Directors, Officers, Key Persons, and, in certain instances, substantial contributors, as well as their Family Members and entities in which any of the aforementioned parties owns a greater than thirty-five percent (35%) interest (each, a “Disqualified Person”) to excise taxes if an excess benefit transaction has occurred. Officers and Directors of MSK, and any individual having powers or responsibilities similar to those of Officers or Directors of MSK, who knowingly approve an excess benefit transaction are also subject to excise taxes.

An excess benefit transaction has occurred if the economic benefit provided by MSK to a Disqualified Person, either directly or indirectly, exceeds the value of the consideration provided by the Disqualified Person to MSK in return. Examples of excess benefit transactions include payment of excessive remuneration for services and a payment for goods or property that exceeds fair market value.

MSK does not intend to engage in any excess benefit transactions. In the course of its review, the Committee will not approve a transaction or arrangement knowing that it would constitute an excess benefit transaction.

ARTICLE VIII

Execution of Policy

1. *Violations of this Policy.*

If the Committee has reasonable cause to believe a Covered Person has failed to disclose an 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 Committee determines the Covered Person has failed to disclose an Interest, it shall recommend to the Board appropriate disciplinary and corrective action.

2. *Conflict Management Plans.*

The Committee shall monitor and, with support from the Compliance Office, enforce compliance with any conflict management plans approved under this Policy.

3. *Administration.*

The Board shall be responsible for oversight of the adoption of this Policy, and the Committee shall oversee the implementation of and compliance with this Policy and MSK’s compliance with the provisions of applicable law pertaining to Conflicts of Interest and Related Party Transactions.

The Committee may develop and approve such procedures and guidelines as it considers necessary to implement this Policy.

4. *Periodic Reviews.*

To ensure MSK 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.

ARTICLE IX

Annual Attestation

Each Covered Person shall, prior to his or her initial election or appointment and annually thereafter, sign and submit to the Secretary of MSK or designated compliance officer a statement, either attached to or separate from the Questionnaire, attesting that such Covered Person:

- (A) has received a copy of this Policy;
- (B) has reviewed, understands, and agrees to comply with this Policy;
- (C) understands that MSK is a charitable organization and that, to maintain its federal tax-exempt status, MSK must engage primarily in activities that accomplish one or more of its tax-exempt purposes; and
- (D) agrees to report promptly in writing to the Senior Vice President and Chief Risk Officer any change or update to the responses in the Questionnaire, due either to receipt of additional information or to a change in circumstances.

The Senior Vice President and Chief Risk Officer shall provide copies of all completed statements to the Chair of the Committee and to the Chair of the Joint Audit Committee of the Board.

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