



**THE FIT FOUNDATION**  
**CONFLICT OF INTEREST AND DISCLOSURE POLICY**

**Adopted December 2, 2009**

As a tax-exempt charitable organization, The Fashion Institute of Technology Foundation (the “Organization”) has a special obligation to uphold the public trust. The affairs of the Organization must be conducted in a manner that avoids impermissible private benefit, or the appearance of such private benefit. This obligation requires that any individual who has authority to make decisions on behalf of the Organization, such as a director, officer, committee member, or employee, takes steps to inform the Board of Directors (the “Board”) of any personal interest he or she might have in a transaction or contract between the Organization and a third party.

**Duty of Loyalty and Intermediate Sanctions**

Under New York law, directors and officers have a duty of loyalty to the Organization obligating them to make decisions for the benefit of the Organization with undivided commitment to the Organization and without regard to personal interests. Furthermore as a public charity, the Organization is subject to the “intermediate sanctions” provisions of the Internal Revenue Code. Intermediate sanctions impose penalty taxes on any person with substantial influence over the affairs of the Organization who engages in an “excess benefit transaction” with the Organization. Directors, officers, committee members, and staff therefore may not use their positions within the Organization to unfairly further their own financial interests or otherwise derive personal advantage.

While the duty of loyalty and intermediate sanctions do not preclude the Organization from entering into contracts and transactions with its directors, officers, committee members, and staff, the Board should be informed of any potential conflict of interest and authorize such transactions only after determining that they are both reasonable and in the best interests of the Organization.

**Conflict of Interest**

A conflict of interest will arise whenever the Organization considers entering into a contract or transaction (including a compensation arrangement) with any individual or entity that has substantial influence over the affairs of the Organization or has authority to make decisions on its behalf. Such “interested persons” include, but are not limited to, the following:

- (i) directors and officers of the Organization;
- (ii) members of a committee of the Board;



- (iii) employees responsible for the day-to-day management and operation of the Organization;
- (iv) a founder of the Organization;
- (v) a substantial contributor to the Organization;
- (vi) a family member of any director, officer, committee member, employee, founder, or substantial contributor of the Organization;
- (vii) an entity of which any director, officer, committee member, employee, or substantial contributor of the Organization or a family member of any such individual is a director, trustee, officer, committee member, or employee; and
- (viii) an entity in which directors, officers, committee members, employees, or substantial contributors of the Organization or family members of any such individuals have a material financial interest through either ownership or managerial control.

### **Disclosures**

Whenever any director, officer, committee member, or employee of the Organization becomes aware that the Organization is considering a transaction that potentially creates a conflict of interest, he or she is obligated to notify the Board and to disclose all material facts relating to his or her interest in the transaction. The Board will determine whether an actual conflict of interest exists and take action that the Board deems appropriate. The interested person may not be present when the Board makes its determination other than to answer questions. If no conflict of interest is found to exist, the minutes of the meeting must record the basis of the Board's determination.

### **Withdrawal and Abstention**

If the Board determines that a transaction would create a conflict of interest, the transaction must be approved in advance by only those Board members who do not have a conflict with respect to the transaction. Any interested person therefore must recuse him- or herself from consideration of the transaction. He or she may not vote on the transaction or be present when the vote is taken. He or she furthermore may not be present during any discussion of the transaction other than to answer questions. Interested persons, however, may be counted for the purpose of determining whether a quorum exists at the meeting even though they are temporarily absent while the transaction is considered.

### **Comparability Data**

In determining whether the transaction or arrangement is in the Organization's best interests, the Board will review available information regarding the cost or benefit of



comparable transactions or arrangements, if any, and may investigate whether the Organization should and is able to obtain with reasonable efforts a more advantageous transaction or arrangement that would not give rise to a conflict of interest. The Board may appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

### **Documentation**

The minutes of any meeting at which a conflict of interest transaction is considered must reflect that the interested person made adequate disclosures, withdrew from consideration of the transaction and abstained from voting. The minutes must detail the terms of the transaction, the date the transaction was approved, the Board members present during the debate and who voted on the transaction, any data the Board relied upon in determining that the transaction is reasonable and in the best interests of the Organization, how such comparability data was obtained, the disclosures made by the interested person, and whether the interested person otherwise participated in any discussions or proceedings (*i.e.*, to answer questions). As with all minutes, the minutes documenting a conflict of interest transaction must be reviewed and approved by the Board at its next meeting.

### **Acknowledgment and Annual Statements**

Each director, officer, member of a committee of the Board, and key employee must sign annually a statement affirming that such person: (a) has received a copy of this Conflict of Interest and Disclosure Policy, (b) has read and understands this Policy, and (c) has agreed to comply with this Policy.

Each director, officer, member of a committee of the Board, and key employee additionally must complete and submit to the Secretary a disclosure statement naming the entities conducting business with the Organization in which he, she, or a family member is a director, trustee, officer, committee member, or employee or has a material financial interest. The Secretary will review the information and periodically distribute reports to all directors.

### **Violations of the Conflict of Interest and Disclosure Policy**

If the Board or a committee has reasonable cause to believe that an interested person has failed to disclose an actual or possible conflict of interest, it will inform the interested person of the basis for such belief and afford him or her an opportunity to explain the alleged failure to disclose. If, after hearing the response and making such further investigation as may be warranted in the circumstances, the Board determines that the interested person has in fact failed to disclose an actual or possible conflict of interest, it will take appropriate action which may include recommendation to the Board for removal from the Board or termination of employment, as well as reconsideration of whether the transaction or arrangement was in the best interests of and fair and reasonable to the Organization at the time it was undertaken. If it is determined that the transaction was not fair and reasonable to the Organization, the Organization, in its discretion, may avoid the contract and/or require the interested person to restore the Organization to the financial position it would have been in if such person had been dealing under the highest



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fiduciary standard. Where the latter remedy is employed, the interested person will be required to make payments of cash or property to the Organization in amounts equal to the value of the excess benefit he or she received plus interest. Any interested person who violates this Policy also may be liable for taxes imposed under the federal intermediate sanctions regulations.



## **THE FIT FOUNDATION**

### **Conflict of Interest Policy**

#### **Acknowledgment**

I hereby acknowledge that I have received a copy of the Conflict of Interest Policy of The FIT Foundation and that I have read it and understand it. I hereby agree to abide by and comply with the procedures contained in the Conflict of Interest Policy.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_



## THE FIT FOUNDATION

### Disclosure Statement

In the space below, please indicate the entities that do or may do business with The FIT Foundation (the "Organization") (i) in which you or a member of your immediate family holds a position as a director, trustee, officer, committee member, or key employee or (ii) in which you or a family member has a material financial interest.

- (1) Entities in which you or a family member are a director, trustee, officer, committee member, or key employee:

(List name of family member (if relevant), name of entity, and position held.)

- (2) Entities in which you or a family member have a material financial interest (i.e., ownership interest or managerial control):

(List name of family member (if relevant), name of entity, and nature of the interest.)

The above information is correct and complete to the best of my knowledge.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_