

## RELATED PARTY TRANSACTIONS POLICY AND PROCEDURE

### Purpose

The purpose of this Related Party Transaction Policy ("Policy") is to establish guidelines and procedures for identifying, disclosing, and managing transactions between Whittaker's Wings Foundation Limited ("the Charity") and its related parties.

Transactions between the Charity and its related party may raise many issues, both legally and reputationally, including the following:

- an actual or perceived conflict of interest between the Charity (or its directors) and the related party;
- a potential breach of duties by the Charity directors where they fail to act in the best interests of the Charity, given their interests in the related party, and
- a potential breach of Chapter 2E of the *Corporations Act*, which provides that a public company must not provide a *financial benefit* to a related party without first obtaining member approval, subject to certain exceptions.

*(A 'financial benefit' is defined broadly in the context of related party transactions, and can include providing or receiving services, buying, or selling assets, and taking up or releasing obligations in relation to the related party.)*

### Scope

This Policy applies to all directors, officers, employees, volunteers, and other individuals associated with Whittaker's Wings Foundation Limited, as well as any entities in which such individuals have any financial or non-financial interest.

### Definition of Related Parties

While the term 'related parties' is currently not defined in the ACNC Act, the ACNC refers to the definition of 'related parties' provided by the Australian Accounting Standards Board to include the following in the context of charities registered with the ACNC:

- a person that is connected to the charity, such as a director or a Close Family Member of the director that has control or joint control of the charity,
- an organisation that is connected to the charity and has control or significant influence over the charity, such as a parent entity of the charity,

- an organisation that the charity has control or significant influence over, such as a subsidiary entity,
- an organisation that is a member of the same group as the charity (for example, fellow subsidiaries),
- a member, or a Close Family Member, of the key management personnel of the charity (the people with authority and responsibility for planning, directing, and controlling the activities of the charity directly or indirectly), and
- an associate (an entity over which the charity has significant influence) or joint venture (a joint arrangement whereby the charity with another entity or other entities have joint control of the arrangements and have rights to the net assets of the arrangement).

### **Identification of Related Party Transactions**

All directors, officers, employees, and volunteers are responsible for promptly identifying and disclosing any potential related party transactions to the Charity's governing body.

### **Approval Procedure and Process**

- Any proposed related party transaction must be presented to the Board of Directors for review and approval,
- Any interested party involved in the related party transaction must recuse themselves from the decision-making process and abstain from voting,
- The Board of Directors will evaluate the transaction based on its fairness, reasonableness, and alignment with the Charity's mission and best interests.

### **Arm's Length Exception to Obtaining Member Approval**

If the financial benefit is provided on terms that would be reasonable if the parties were dealing at arm's length (i.e. if the parties were unrelated), or terms which are less favourable than that, then member approval does not need to be obtained.

In determining objectively what constitutes "arm's length" in the circumstances, the Charity must consider the following factors:

- how the terms of the overall transaction compare with those of any comparable transactions in similar circumstances where the parties were dealing on an arm's length basis,
- the nature and content of the bargaining process involved prior to entering the transaction,
- the impact of the transaction on the Charity (for example, considering a cost/benefit analysis of the transaction from the Charity's perspective, and whether the transaction is aligned with the purpose or strategic goals of the Charity),
- any alternative options available to the Charity; and

- any expert advice received by the Charity in relation to the transaction.

In certain circumstances, it may be appropriate for the Charity to obtain independent advice on whether the terms of a proposed related party transaction are fair, reasonable and “arm’s length”. The Charity should only rely on the arm’s length exception from obtaining member approval for related party transactions where the Board has determined that the arm’s length exception does apply. The Board must not rely on the arm’s length exemption where it is merely arguable that the arm’s length exemption could apply.

### **Disclosure Requirements**

- Related party transactions shall be disclosed in the Charity’s financial statements in accordance with applicable accounting standards and reported in a Register of Interest or Register of Conflicts ledger.
- Directors, officers, and key management personnel must disclose any potential related party transactions in writing to the Board of Directors and relevant staff,
- The Charity will maintain a register of related party transactions, which will be regularly reviewed and updated,
- All related party transactions and relevant interests must be disclosed to the Board (and in the case of transactions before the transaction is entered into),
- Directors must not vote on, and must not be present for discussion or votes in relation to, any proposed transaction in which they have material personal interests,
- Decisions and negotiations in relation to the proposed related party transaction must only be undertaken by those directors who are independent of the related party,
- The terms of the related party transaction must be fair and reasonable, and on arm’s length terms or otherwise in accordance with the Corporations Act,
- Member approval must be sought in advance of entering into the related party transaction where required (i.e. subject to the “arm’s length” and other exceptions provided in the Corporations Act),
- The related party transaction must be determined to be in the best interests of the Charity and consistent with the charitable purpose and objectives of the Charity; and
- Where the Board determines to enter into a related party transaction, it must be:
  - appropriately documented,
  - recorded in a register of the Charity related party transactions, and
  - disclosed to members of the Charity.

Directors must also ensure that they comply with their duties (including those under the ACNC Governance Standards) when considering any related party transaction.

### **Monitoring and Reporting**

The Board of Directors shall monitor and review related party transactions on an ongoing basis. The Charity's financial statements and disclosures will be subject to external audit to ensure compliance with applicable regulations and standards.

### **Non-Compliance**

Any individual found to violate this Policy may be subject to disciplinary action, including but not limited to removal from their position or legal action as appropriate.

### **Review and Revision**

This Policy will be reviewed Annually and revised as needed to ensure its continued effectiveness and compliance with relevant laws and regulations.