

## NYeC Conflict of Interest and Related Party Transaction Policy

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### NEW YORK EHEALTH COLLABORATIVE, Inc. Conflict of Interest and Related Party Transaction Policy

#### I. Purpose and Application of Policy

A. All Directors, Officers (as such terms are defined below) and employees owe a duty of loyalty to New York eHealth Collaborative, Inc. (“NYeC” or the “Corporation”) and must act in good faith toward NYeC and in NYeC’s best interests, rather than in their own interests or the interests of another entity or person, and must comply with applicable legal requirements.

B. This Conflict of Interest and Related Transaction Policy (“policy”) applies to and is designed to ensure that Covered Persons (as defined below) act in NYeC’s best interest and comply with applicable legal requirements, including but not limited to Sections 715 and 715-a of the New York Not-for-Profit Corporation Law (“NFP Corporation Law”).

C. This policy also provides guidelines for the disclosure and handling of actual and potential conflicts of interest on the part of NYeC Employees who are not Key Persons.

D. This policy is intended to supplement, not replace, any applicable federal, state, or local laws governing conflicts of interest applicable to nonprofit organizations.

#### II. Definitions

A. **Audit and Compliance Committee:** the committee of the NYeC Board of Directors constituted to fulfill the requirements of Section 712-a of the NFP Corporation Law.

B. **NYeC Board of Directors (or Board):** the governing board of NYeC. For purposes of this policy, where appropriate, the term includes any committee of the Board that has been delegated applicable responsibilities (e.g., Executive Committee) in accordance with the Board’s bylaws and the committee’s charter.

C. **Director:** any member of the NYeC Board of Directors.

D. **Officer:** the Board chair or president, vice president(s), secretary, treasurer and such other officers as may be elected or appointed by the NYeC Board of Directors.

E. **Covered Person:** any Director, Officer or Key Person of NYeC.

F. **NYeC Employee:** any employee of NYeC who is not also a Key Person.

G. **Relative:** an individual’s (1) spouse or domestic partner (as defined in §2994[a] of New York Public Health Law), (2) ancestor, child (whether natural or adopted), grandchild, great-grandchild, sibling (whether whole- or half-blood); or spouse or domestic

partner of a child (whether natural or adopted), grandchild, great-grandchild or sibling (whether whole- or half-blood).

H. **Key Person:** any person, other than a Director or Officer, whether or not an employee of NYeC, who (i) has responsibilities, or exercises powers or influence over the corporation as a whole similar to the responsibilities, powers, or influence of directors and officers; (ii) manages the corporation, or a segment of the corporation that represents a substantial portion of the activities, assets, income or expenses of the corporation; or (iii) alone or with others controls or determines a substantial portion of the corporation's capital expenditures or operating budget, in accordance with applicable IRS rules.

I. **Disclosure Questionnaire:** the written statement required by §715-a of the NFP Corporation Law identifying, to the best knowledge of the person submitting such statement, any entity of which such person is a director, officer, trustee, member, owner (either as a sole proprietor or partner), or employee and with which NYeC has a relationship, and any transaction in which NYeC is a participant and in which such person might have a conflicting interest.

J. **Related Party Transaction:** any transaction, agreement or any other arrangement in which a Related Party has a financial interest and in which NYeC or any Affiliate of NYeC is a participant, except those transactions listed as exceptions in §102(a)(24) of the NFP Corporation Law.

K. **Related Party:** (i) any Director, Officer or Key Person of NYeC or any Affiliate of NYeC; (ii) any Relative of any individual described in clause (i) of this definition; or (iii) any entity in which any individual described in clauses (i) and (ii) of this definition has a thirty-five percent 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.

L. **Affiliate:** any entity controlled by or, in control of, NYeC.

### III. Conflict of Interest

A. **Conflict of Interest:** A conflict exists when, in the judgment of the NYeC Board of Directors ("Board"), the interests of NYeC come into conflict with a financial, personal or other interest of a Covered Person, or whenever a Covered Person's personal, financial or other interest could be reasonably viewed as affecting his or her objectivity or independence in fulfilling their duties to NYeC. While it is not possible to describe or anticipate every instance in which a conflict of interest may exist, a conflict of interest may arise where a Covered Person has, **either directly or indirectly through a Related Party:**

1. a direct or indirect interest (financial or otherwise) in a transaction, agreement or any other arrangement in which NYeC or any Affiliate participates;
2. a compensation arrangement or other interest in a transaction with NYeC;
3. a compensation arrangement or other interest in or affiliation with any entity or individual that: (i) sells goods or services to, or purchases goods or services

from, NYeC; (ii) competes with NYeC; or (iii) NYeC has, or is negotiating, or contemplating negotiating, any other transaction or arrangement with;

4. the ability to use his or her position, or confidential information or the assets of NYeC, to his or her (or an Affiliate's or Relative's) personal advantage or for an improper or illegal purpose;
5. solicited or accepted any gift, entertainment, or other favor where such gift might create the appearance of influence on the Covered Person (other than gifts of nominal value, which are clearly tokens of respect and friendship unrelated to any particular transaction);
6. acquired any property or other rights in which NYeC has, or the Covered Person or Related Party knows or has reason to believe at the time of acquisition that NYeC is likely to have, an interest;
7. an opportunity related to the activities of NYeC, unless the NYeC Board of Directors has made an informed decision that NYeC will not pursue that opportunity;
8. been indebted to NYeC, other than for amounts due for ordinary travel and expense advances; or
9. any other circumstance that may, in fact or in appearance, make it difficult for the Covered Person to exercise independent, objective judgment or otherwise perform effectively.

#### **IV. Duty to Disclose**

A. All Covered Persons shall submit a Disclosure Questionnaire and an Affirmation of Compliance to NYeC's Compliance Officer, who has been appointed by the Board's Audit & Compliance Committee (i) upon the Covered Person's association with NYeC (including, in the case of a director, prior to the director's initial election to the Board) and (ii) annually thereafter. The NYeC Compliance Officer shall provide a copy of all Disclosure Questionnaires to the Audit & Compliance Committee.

B. A Covered Person is under a continuing obligation to disclose any actual or potential conflict of interest and, where they have an interest in a Related Party Transaction, must disclose the material facts concerning such interest in good faith.

C. Such disclosures shall be made by filing a supplemental Disclosure Questionnaire, as soon as an actual or potential conflict or interest in a Related Party Transaction is known or reasonably should be known. To the extent possible, disclosures should be made in advance, before any action is taken on the matter. The supplemental Disclosure Questionnaire shall be provided to the NYeC Compliance Officer. The NYeC Compliance Officer shall provide a copy of all supplemental Disclosure Questionnaires to the Audit & Compliance Committee.

D. Covered Persons are at all times expected to err on the side of caution and disclose all instances where a conflict of interest or the appearance of a conflict may exist.

## **V. Procedures for Addressing Conflicts and Related Party Transactions**

A. The Board will review all actual and potential conflicts of interest and Related Party transactions and determine whether to approve or ratify any such matters. The Board may only approve, and NYeC may only enter into, the underlying matter if the Board determines that such matter, under the terms and within the circumstances and conditions presented, is fair, reasonable, and in the best interests of NYeC at the time of such determination. In making its determination, the Board will consider, without limitation:

1. Alternative transactions to the extent available;
2. NYeC's mission and resources;
3. The possibility of creating an appearance of impropriety that might impair the confidence in, or the reputation of, NYeC (even if there is no actual conflict or wrongdoing); and
4. Whether the conflict may result in any private inurement, excess benefit transaction or impermissible private benefit under laws applicable to tax-exempt organizations.

Unless provided otherwise in NYeC's Bylaws, a majority of the directors of the Board shall constitute a quorum for a meeting and the affirmative vote of a majority of directors present at a meeting at which a quorum is present shall constitute the action of the Board with respect to any matter that is the subject of this policy.

Persons with an interest in any matter under review by the Board are not permitted to be present at or participate in any deliberations or voting by the Board with respect to the matter giving rise to the potential conflict, and must not attempt to influence improperly the deliberation or voting on such matter. In appropriate circumstances, any such person may be called upon to provide information relevant to the determination (e.g., to present information as background or answer questions) prior to the commencement of deliberations or voting related thereto. Notwithstanding the foregoing, a director with an interest in a matter under review by the Board shall be deemed to be present at the meeting for purposes of determining whether a quorum is present. In the event NYeC and/or a Covered Person in error enters into or otherwise participates in a conflict of interest transaction that requires pre-approval by the Board pursuant to this policy, such transaction shall promptly upon discovery of such error be presented to the Board for its review and the Board shall in accordance with the procedures prescribed by applicable law consider whether to (i) ratify such transaction; (ii) direct the rescission or modification of the transaction (if possible to do so); (iii) take any disciplinary action; and/or (iv) make changes to NYeC's controls and procedures in connection with such error.

## **VI. Violations of the Conflicts of Interest Policy**

A. If the Board has reasonable cause to believe a Covered Person has failed to disclose actual or possible conflicts of 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.

B. If, after hearing the response of the Covered Person and making such further investigation as may be warranted in the circumstances, the Board determines that the Covered Person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate remedial or corrective action.

## **VII. Records of Proceedings**

A. The minutes of the Board meeting at which a **possible or actual conflict of interest** with respect to a Covered Person is discussed or voted upon shall contain:

1. 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's decision as to whether a conflict of interest in fact existed.

2. 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 therewith.

B. The minutes of the Board meeting at which a **Related Party Transaction** is discussed or voted upon shall contain:

1. The names of the persons who disclosed a Related Party Transaction, the Related Parties with respect to such Related Party Transaction, a description of the Related Party Transaction, the content of the discussion, and the basis for the Board's approval of the Related Party Transaction, including its consideration of any alternative transactions.

2. The names of the persons who were present for discussions and votes relating to the Related Party Transaction and a record of the votes taken in connection therewith.

## **VIII. Annual Confirmation of Compliance**

A. Each Covered Person shall annually sign an Affirmation of Compliance, which affirms such person:

1. Has received a copy of the conflicts of interest policy;
2. Has read and understands the policy;
3. Has agreed to comply with the policy; and
4. Has agreed to file a supplemental Disclosure Questionnaire whenever a potential conflict arises.

## **IX. NYeC Employee Conflicts of Interest**

All employees of NYeC, including those who are Key Persons as defined herein, must comply with the “Employee Conflicts of Interest” provisions in the NYeC Employee Handbook (note: employees of NYeC who are also Key Persons must additionally comply with this Conflicts of Interest and Related Party Transactions Policy).

A NYeC Employee with an actual or potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict to their supervisor or the NYeC Compliance Officer. NYeC Employees should also disclose any matters that could be perceived to be in conflict with NYeC’s best interest.

In the event that NYeC’s Compliance Officer determines that a conflict exists, the NYeC employee shall thereafter refrain from participating in deliberations, discussions, as well as any decisions or other actions, relating to the matter, as directed by the NYeC Compliance Officer. The CEO shall be responsible for determining the proper manner in which NYeC handles decisions which involve unresolved NYeC Employee conflicts of interest. In making such determinations, the CEO may consult with NYeC’s General Counsel and/or Compliance Officer.

The CEO shall report to the Board at least annually concerning NYeC Employee conflicts of interest which have been disclosed and contracts and transactions involving NYeC Employee conflicts which the CEO has approved.