

# THE RUTH AND HAL LAUNDERS CHARITABLE TRUST

## CONFLICT OF INTEREST AND AVOIDANCE OF SELF-DEALING POLICY

### *Article I – Preamble*

The following is a statement of the conflict of interest and avoidance of self-dealing policy adopted by the Board of Trustees of The Ruth and Hal Launders Charitable Trust (“the Trust”). The purpose of the policy is both to protect the Trust’s interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Trustee of the Trust, and to insure compliance by the Trustees of the Trust with the so-called self-dealing rules governing private foundations. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest and avoidance of self-dealing transgressions which apply to nonprofit and charitable corporations. This policy is also intended to provide specific procedures which will assist the Board of Trustees and officers of the Trust to fulfill their fiduciary duties of due care and loyalty so that they do not profit improperly at the expense of the Trust.

### *Article II – Definitions*

1. **“Interested Person”** – Any Trustee or officer of the Trust who has a Financial Interest, as defined below, with respect to a transaction or arrangement is an Interested Person and has a conflict of interest with respect to that transaction or arrangement.
2. **“Financial Interest”** – A person has a Financial Interest if, either directly or indirectly, through business, investment or family, the person has –
  - a. an ownership or investment interest in any entity with which the Trust has a transaction or arrangement, or
  - b. a compensation arrangement with the Trust or with any entity or individual with which the Trust has a transaction or arrangement, or
  - c. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Trust is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

3. **“Outside Participant”** – A person is an Outside Participant if the person serves as an officer, employee or voting member of the executive board of an organization which might be expected to apply for a grant from the Trust.

### *Article III – Procedures for Interested Persons*

1. **Duty to Disclose** – In connection with any possible conflict of interest, an Interested Person must disclose the existence and nature of his or her Financial Interest to the Board when the proposed transaction or arrangement is considered unless the existence or nature of the Financial Interest is already known or has been previously disclosed to the Board.
2. **No Participation in Decision** – After disclosure of the Financial Interest, the Interested Person shall not participate in the Board meeting while the transaction or arrangement is discussed and voted upon. However, Trustees may participate in a decision to set compensation for all Trustees at a uniform level since conflict cannot be avoided on such an issue.
3. **Procedures for Addressing the Conflict of Interest**
  - a. The Board shall determine by a majority vote of the disinterested Trustees whether a proposed transaction or arrangement is in the Trust’s best interest and for its own benefit and whether the transaction is fair and reasonable to the Trust. The Board shall make its decision as to whether to enter into the transaction or arrangement in conformity with its determination.
  - b. Any payment by the Trust in the nature of compensation for services under an arrangement in which an Interested Person has a Financial Interest must be fair and reasonable to the Trust and not exceed an amount ordinarily paid for like services by like enterprises under like circumstances. Any such arrangement under which the Trust is to pay a fixed fee should be reviewed by the Board from time to time to determine whether the compensation and benefits to be paid are consistent with this fairness standard.
4. **Violations of the Conflict of Interest Policy**
  - a. If the Board has reasonable cause to believe that any Trustee or officer has failed to disclose a conflict of interest, it shall inform that person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.
  - b. If, after hearing the response of the Trustee or officer and making such further investigation as may be warranted in the circumstances, the Board determines that the person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate corrective action.

#### *Article IV – Conduct of Proceedings*

1. If any Trustee, officer or employee (or spouse, or descendant or descendant’s spouse, of a Trustee, officer or employee) is an Outside Participant with respect to a grant applicant, the Trustee, officer or employee shall not participate in the Board meeting while the grant application is discussed and voted upon.
2. The minutes of the proceedings of the Board shall reflect any disclosure of a Financial Interest and the nature of any such interest, in addition to 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.

#### *Article IV – Self-Dealing Rules*

Each co-trustee agrees to avoid any committing or undertaking any act or omission which would comprise an act of self-dealing as follows. All references to sections refer to the Internal Revenue Code of 1986, as amended, unless the context states otherwise:

1. For purposes of this section, the term “self-dealing” means any direct or indirect—
  - a. sale or exchange, or leasing, of property between a private foundation and a disqualified person;
  - b. lending of money or other extension of credit between a private foundation and a disqualified person;
  - c. furnishing of goods, services, or facilities between a private foundation and a disqualified person;
  - d. payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person;
  - e. transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation; and
  - f. agreement by a private foundation to make any payment of money or other property to a government official (as defined in section 4946 (c)), other than an agreement to employ such individual for any period after the termination of his government service if such individual is terminating his government service within a 90-day period.
2. Special rules

For purposes of paragraph (1)—

- a. the transfer of real or personal property by a disqualified person to a private foundation shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the foundation assumes or if it is subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of the transfer;
- b. the lending of money by a disqualified person to a private foundation shall not be an act of self-dealing if the loan is without interest or other charge (determined without regard to section 7872) and if the proceeds of the loan are used exclusively for purposes specified in section 501 (c)(3);
- c. the furnishing of goods, services, or facilities by a disqualified person to a private foundation shall not be an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for purposes specified in section 501 (c)(3);
- d. the furnishing of goods, services, or facilities by a private foundation to a disqualified person shall not be an act of self-dealing if such furnishing is made on a basis no more favorable than that on which such goods, services, or facilities are made available to the general public;
- e. except in the case of a government official (as defined in section 4946 (c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the private foundation shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive;
- f. any transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946 (a)), pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, shall not be an act of self-dealing if all of the securities of the same class as that held by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value;
- g. in the case of a government official (as defined in section 4946 (c)), paragraph (1) shall in addition not apply to—
  - (i) prizes and awards which are subject to the provisions of section 74 (b) (without regard to paragraph (3) thereof), if the recipients of such prizes and awards are selected from the general public,
  - (ii) scholarships and fellowship grants which would be subject to the provisions of section 117 (a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170 (b)(1)(A)(ii),

- (iii) any annuity or other payment (forming part of a stock-bonus, pension, or profit-sharing plan) by a trust which is a qualified trust under section 401,
  - (iv) any annuity or other payment under a plan which meets the requirements of section 404 (a)(2),
  - (v) any contribution or gift (other than a contribution or gift of money) to, or services or facilities made available to, any such individual, if the aggregate value of such contributions, gifts, services, and facilities to, or made available to, such individual during any calendar year does not exceed \$25,
  - (vi) any payment made under chapter 41 of title 5, United States Code, or
  - (vii) any payment or reimbursement of traveling expenses for travel solely from one point in the United States to another point in the United States, but only if such payment or reimbursement does not exceed the actual cost of the transportation involved plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702 of title 5, United States Code, for like travel by employees of the United States; and
- h. the leasing by a disqualified person to a private foundation of office space for use by the foundation in a building with other tenants who are not disqualified persons shall not be treated as an act of self-dealing if—
- (i) such leasing of office space is pursuant to a binding lease which was in effect on October 9, 1969, or pursuant to renewals of such a lease;
  - (ii) the execution of such lease was not a prohibited transaction (within the meaning of section 503 (b) or any corresponding provision of prior law) at the time of such execution; and
  - (iii) the terms of the lease (or any renewal) reflect an arm's-length transaction.

### 3. Definitions

For purposes of this section—

#### a. Taxable period

The term “taxable period” means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

- (i) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,
- (ii) the date on which the tax imposed by subsection (a)(1) is assessed, or
- (iii) the date on which correction of the act of self-dealing is completed.

b. Amount involved

The term “amount involved” means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subsection (d)(2)(E), the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

- (i) in the case of the taxes imposed by subsection (a), shall be determined as of the date on which the act of self-dealing occurs; and
- (ii) in the case of the taxes imposed by subsection (b), shall be the highest fair market value during the taxable period.

c. Correction

The terms “correction” and “correct” mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any instance taking actions to insure that the private foundation is in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

*Article VI – Written Acknowledgments*

Each Trustee and officer shall upon request sign and deliver to the Secretary of the Trust a statement which affirms that such person –

1. has received a copy of the Conflict of Interest and Avoidance of Self-Dealing Policy (“the Policy”),
2. has read and understands the Policy, and
3. has agreed to comply with the Policy.

**Acknowledgment and Agreement of the Board of Trustees of  
The Ruth and Hal Lauanders Charitable Trust**

We, the undersigned, being all of the co-trustees of The Ruth and Hal Lauanders Charitable Trust, hereby acknowledge the following:

1. That we have each received a copy of the Conflict of Interest and Avoidance of Self-Dealing Policy (“the Policy”),
2. That we have each read and understand the Policy, and
3. That we each agree to comply with the Policy.

*/s/ Jerome L. Lonnes*

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**Jerome L. Lonnes, Trustee**

1-20-19  
Date: \_\_\_\_\_

*/s/ Rebecca F. Fehrs*

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**Rebecca F. Fehrs, Trustee**

11-23-18  
Date: \_\_\_\_\_

*/s/ Eugenie W. Maine*

\_\_\_\_\_  
**Eugenie W. Maine, Trustee**

1-20-19  
Date: \_\_\_\_\_

*/s/ Catherine Whelan McEvoy*

\_\_\_\_\_  
**Catherine Whelan McEvoy  
also known as Catherine P. Whelan, Trustee**

1-20-19  
Date: \_\_\_\_\_

*/s/ Jeffrey J. Fairfield*

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**Jeffrey J. Fairfield, Trustee**

1-20-19  
Date: \_\_\_\_\_

*/s/ John H. Webb*

\_\_\_\_\_  
**Jack H. Webb  
also known as John Webb, Trustee**

10-15-18  
Date: \_\_\_\_\_