

# American Mountain Guides Association

## Conflict of Interest Policy

Approved October 19, 2008

### Preamble

The purpose of this Policy is to ensure that all persons in positions of leadership for the American Mountain Guides Association (“AMGA”) perform their duties in ways that serve AMGA’s best interests. Specifically, this Policy applies to all the Members of the Board of Directors, all Officers and the Executive Director (collectively, “Management Persons”). With respect to AMGA affairs, Management Persons must act exclusively in the interests of the AMGA; they must not act in their personal interests or in the interest of others. Management Persons must have undivided loyalty to the AMGA. Management Persons may never use their positions within the AMGA or the property of the AMGA to unfairly benefit themselves financially, to unfairly benefit another person financially, or to impair the interests of the AMGA.

### Definitions

**Financial Interest**: A Management Person has a financial interest in a transaction or arrangement if the person has, directly or indirectly, through business, investment, or Family (as defined below):

1. An ownership or investment interest in any entity with which the AMGA has a transaction or arrangement;
2. A compensation arrangement with the AMGA or with any entity or individual with which the AMGA has a transaction or arrangement;
3. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the AMGA is negotiating a transaction or arrangement.

A financial interest is not necessarily a conflict of interest. Under the provisions of this conflict of interest policy titled “Managing, Disclosing and Determining Conflicts of Interest,” the Board or Governance Committee (as defined below) will decide whether a conflict of interest exists.

**Family**: For purposes of this conflict of interest policy, “family” includes spouses, domestic partners, parents, brothers, sisters, children, grandchildren, the spouses of children and grandchildren, aunts, uncles or cousins, and any other blood relative that resides in the same household as the Management Person.

## **Duties of Management Persons**

As part of their leadership positions, Management Persons owe the following duties to the AMGA:

**Duty of Care:** The Duty of Care entails the responsibility to be familiar with the AMGA's finances, to oversee the AMGA's operations and to participate regularly in the AMGA's governance. In carrying out these duties, Management Persons must act in good faith using the same degree of diligence, care and skill that any prudent person would use in a similar position and under similar circumstances.

**Duty of Loyalty:** The Duty of Loyalty is the duty to hold the interests of the AMGA paramount to all other interests in any decision-making process that could affect the AMGA. As part of fulfilling this duty, no Management Person may engage in any transaction or arrangement involving the AMGA that confers a secret profit or unfair gain on the Management Person or any other party. As part of this Duty of Loyalty, Management Persons must completely and fully disclose any conflicts they may have between the interests of the AMGA and their own interests. Additionally, this Duty of Loyalty precludes Management Persons from becoming Management Persons for organizations which are in conflict with the AMGA, as determined by the Board or Governance Committee (as defined below).

**Duty of Obedience:** The Duty of Obedience requires Management Persons to act in accordance with the AMGA's rules and policies, and in furtherance of its goals as stated in the mission statement, articles of incorporation and bylaws. Pursuant to this Duty, Management Persons must ensure that the AMGA complies with all state and federal laws. Neither the AMGA nor the Management Persons may act outside the scope of their corporate powers.

### **Managing, Disclosing and Determining Conflicts of Interest**

**Conflicts of Interest:** Management Persons face conflicts of interest in their decision-making processes when the best interests of the AMGA conflict with a Management Person's own personal, business, financial or other goals. Because Management Persons must place the best interests of the AMGA first, a group of Management Persons must closely scrutinize all of the AMGA's business transactions in which an individual Management Person may have a financial interest. This review must take place before the completion of the business transaction to ensure that such transactions are in the best interests of the AMGA.

**Duty to Disclose:** Any Management Person who believes he or she may have a material personal financial interest in a transaction under consideration by the AMGA (the "Interested Party") must fully disclose the interest before beginning to negotiate the proposed transaction or arrangement ("Transaction"). To achieve full disclosure, the Interested Party must submit a disclosure report ("Disclosure Report") to the Board of Directors (the "Board"), or any committee designated by the Board to handle such matters (the "Governance Committee"). In this Disclosure Report, the Interested Party must divulge, to the best of his or her knowledge, his or her personal interest in the Transaction and provide all material facts that would help the Board or Governance Committee to determine whether the Transaction serves the best interests

of the AMGA. Unless otherwise specified by the Board, the Executive Committee shall act as the Governance Committee.

**Determining a Conflict of Interest:** After submitting a complete Disclosure Report to the Board or Governance Committee, the Interested Party shall absent himself or herself from the Board or Governance Committee meeting while the Board or Governance Committee discusses and votes on the potential conflict of interest. The Board or Governance Committee, excluding any Interested Party, shall decide if a conflict of interest exists.

If the Board or Governance Committee determines that a conflict of interest does exist, the Board or Governance Committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the Transaction. The disinterested person or committee shall conduct due diligence on the Transaction and advise the Board or Governance Committee whether the AMGA could use reasonable efforts to achieve a more advantageous Transaction without giving rise to a conflict of interest.

If the AMGA could not reasonably achieve a more advantageous Transaction while avoiding a conflict of interest, the Board or Governance Committee shall determine whether the Transaction is in the AMGA's best interest and whether it is fair and reasonable. The Transaction may be approved only upon a vote of a majority of the disinterested members of the Board or Governance Committee.

### **Response to Violations of this Policy**

If the Board or Governance Committee has reasonable cause to believe that a Management Person has failed to comply with this conflict of interest policy, the Board or Governance Committee may inform the particular Management Person of the basis for such belief and afford her or him an opportunity to explain the alleged failure to comply. The Board or Governance Committee shall hear the Management Person's explanation and make such further investigation as may be warranted in the circumstances. If the Board or Governance Committee determines that such Management Person has failed to comply with this conflict of interest policy, it may take action including, without limitation, removal or termination of the Management Person.

A Management Person who receives compensation, directly or indirectly, from the AMGA is precluded from voting on matters related to his or her compensation. The AMGA may pay only reasonable and necessary compensation to Management Persons.

### **Gifts**

Management Persons may not accept a gift other than a gift of nominal value, without the approval of the Board or Governance Committee. In addition, Management Persons may not receive or give any gift that is not permitted by generally accepted business ethical standards. If there is a dispute with respect to such ethical standards, the Board or Governance Committee shall determine whether it is ethical to give or receive the gift in question.

## **Records**

If the Board or Governance Committee discusses a potential conflict of interest, the minutes of that meeting must contain all of the following:

- The name of the Management Person discussed, the nature of the potential conflict of interest and information regarding the manner in which the conflict was disclosed;
- A summary of the Board or Governance Committee's determination regarding the existence of a conflict of interest, a summary of all actions taken to investigate the Transaction and the conflict of interest and a summary of any decision to approve the Transaction despite the existence of a conflict of interest; and
- The names of all persons who were present to discuss and vote on the potential conflict of interest and the Transaction.

### **Management Person Affirmation Statement and Disclosure Statement**

Each Management Person shall annually sign a Management Person Disclosure Statement which affirms that such person:

- Has received a copy of this conflict of interest policy;
- Has read and understands the policy; and
- Has agreed to comply with the policy.

While conducting any business that may affect the AMGA, each Management Person has the duty to place the interests of the AMGA above his or her personal or financial interests. If a Management Person questions whether he or she may have an interest in a Transaction, he or she must disclose the potential interest to the Board or Governance Committee. Management Persons have a continuing responsibility to comply with the requirements of this conflict of interest policy.

This policy is intended to supplement but not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

### **Arbitration**

Any Management Person, with the exception of the Executive Director, who disputes a decision of the Board or Governance Committee with respect to this conflict of interest policy shall have the rights of appeal as set forth in Section XIX of the Bylaws of the AMGA.