

SAMPLE Policy for Board Review of Joint Ventures and Partnerships

In compliance with Internal Revenue Service guidelines for approval and management of any joint venture entered into by ABC Nonprofit, Inc. (“ABC”), the Board of Directors adopts the following guidelines.

Activities Subject to this Policy

For the purposes of this policy, the term “Joint Venture” is defined as any arrangement, including contractual or more formal arrangements undertaken through a limited liability company, partnership, or other entity, though which ABC and another entity jointly undertake any activity or business venture, or otherwise agree to joint ownership of any asset. A Joint Venture may include both taxable and tax-exempt activities.

Approval and Management of Joint Activities

Before making any decision to participate in a Joint Venture, ABC will ensure that the Joint Venture furthers ABC’s exempt purposes and will negotiate at arm’s length contractual and other terms of participation that safeguard ABC’s exemption from federal income tax. Such terms shall be in writing in the operating agreement of the Joint Venture and shall include the following minimum requirements:

- With respect to any whole joint venture (that is, a joint venture in which ABC contributes substantially *all* of its assets to the enterprise), ABC’s control over the Joint Venture through fifty-one percent (51%) or more of the voting rights and/or veto power;
- With respect to any ancillary joint venture (that is, a joint venture to which a portion of ABC’s resources are contributed), ABC would, at a minimum, maintain sole control over the tax-exempt aspects of the Joint Venture and would have voting and ownership interests in the Joint Venture that are consistent with ABC’s capital contributions;
- A requirement that any subsequent contract with ABC’s partner in the Joint Venture be negotiated at arm’s length and for fair market value;
- A requirement that the Joint Venture give priority to ABC’s tax-exempt purposes over maximization of profit for the participants of the Joint Venture; and
- A prohibition on activities that would jeopardize ABC’s tax-exempt status.

Where there is any question as to whether a particular Joint Venture may pose a risk to ABC's tax-exempt status, a decision to enter into such Joint Venture will be made only in consultation with legal and/or tax counsel.

