PARTICIPATORY ACTION FOR SUSTAINABLE DEVELOPMENT ORGANISATION (PASDO),
6TH MR ROAD,KHUILUNGTANG,DUNGREI,HUNGPUNG

1.DEFINITION AND EXPLANATION:

A conflict of interest may be defined as the existence of interest in different capacities of any person in the same decision. For instance an organisation may take on rent the property belonging to one of the Directors; when such decision is taken then the concerned Director is having simultaneous interest in dual capacity. One, the concerned Director is duty bound to find the right kind of premises at right rent for the NGO, on the other hand the same concerned Director, being the owner of the property, is in his/her personal capacity interested to get the best possible bargain for his/her premises. In this case, there is a clear Conflict of Interest. From the NGO's point of view the Board should bargain for the lowest possible rent and from the Director's personal point of view, he/ she should bargain for the highest possible rent. In such circumstances it is desirable that the concerned director should not participate in the decision making.

2. Whenever there is conflict of interest the interested person should not participate in such decision making. In other words, one should not act as the service provider as well as the service taker at the same time.

3. All the important persons in an organisation, who can influence the decision making, are required to exercise their skills and abilities in a honest and prudent way for the benefit of the organisation. They should not use their power or authority for their personal benefit, directly or indirectly.

With this objective ,PASDO hereby made the Conflict of Interest Policy.

2. CONFLICT OF INTEREST IN THE ORGANISATION :

The following issues may be regarded as material interest:

- Appointment of relatives in Executive or senior management.
- Ownership or partial ownership in organisations when engaged or may seek business or consultancies.
- Payment of fees and remuneration.
- Directorship or management position in other NGOs.
- Providing consultancies in personal capacities.
- Having commercial interest in any decision or resolution.
- Having direct or indirect relationship with the donor or donee organisations.
- When contracts are awarded to relatives of the Executive members.

- Persons supplying goods and services to the organisation are relatives of interested person.

3. DECLARATION OF CONFLICT OF INTEREST:

1. The Executive Committee should declare such interests. The interested Committee member/ Chief Functionary should not participate in the decision making and voting process for that particular resolution. An annual declaration of such interests should be placed in the annual general meeting.

2. Besides the Executive Members the Chief Functionary , Senior Managers, Major Donor, Sister organisation Concern etc. will also be considered to be the interested person in conflict of interest.

3. Normally, it is permissible to have reasonable and legitimate transaction with interested person. However, proper disclosures and decision making processes shall be followed while entering into any such conflict of interest transactions. An annual declaration of such interests shall be placed in the annual General Body meeting.

4. WHO ARE INTERESTED PERSONS:

1. Apart from the Executive members following persons can also be considered as an interested person.

(1) Founder(s) of the institution;

(2) Person who has made a substantial contribution to the organisation. Substantial contribution will be considered as having contribution beyond 20% of organisational annual budget.

(3) The Chief Functionary or senior managers

(4) Any relative of any such founder, person, member or manager as aforesaid;

(5) Any concern or organisation in which any of the persons referred to in (1) to (4) above has a substantial interest.

1.1.WHO IS A 'FOUNDER'

1.1.1. It is important to understand the implication of the scope of the term 'founder' for the purposes of identifying interested person. In case of Societies and not for profit companies, the persons who subscribe to the memorandum of association can be described as the founders of the organisation.

The Supreme Court further held that the expression 'founder of the institution' meant that *'the person concerned should be the originator of the institution, or, at least, one of the persons responsible for the coming into existence of the institution' and that contribution of money was not an inexorable test of a person being a 'founder'*, though it might happen often that person who originated an institution might often also fund it.

1.2.WHO IS A 'RELATIVE'

1.2.1.A "relative" may be defined as *"relative, in relation to an individual, means the husband, wife, brother or sister or parents of that individual"*.

5. MEANING OF SUBSTANTIAL INTEREST

1. Any transaction with an interested person comes under the purview of 'conflict of interest'. In this context, it may also be noted that transaction with organisation or entity where an interested person has 'substantial interest' also comes under the purview of 'Conflict of Interest'. Therefore, it becomes important to understand the meaning and scope of the term 'substantial interest'.

2. The meaning and scope of "substantial interest" under various circumstances could be defined as under :

- The interested persons should not hold more than 20% of the shares of that concern, individually or collectively.
- The interested persons should not hold more than 20% of the voting power of that concern, individually or collectively.
- The interested person should not be the Chief Functionary or be in influential decision making position of such concern.

6. CONFLICT OF INTEREST TRANSACTION:

A conflict of interest as discussed above relates to an interest or benefit, direct or indirect, provided to any persons or organisation discussed above. Following instances will be considered as conflict of interest transaction :

1. Providing advances or loan to either interested person or organisation where such person have substantial interest or to their relatives.

2. Providing donations or gifts to either interested person or organisation where such person have substantial interest or to their relatives.
3. Taking on lease or giving lease of buildings, property, equipment, vehicles etc. to/from either interested person or organisation where such person have substantial interest or to their relatives.

4. Providing employment to either interested person or to their relatives.

5. Providing consultancy contract or other commercial contracts to either interested person or organisation where such person have substantial interest or to their relatives.

6. Undertaking consultancy contract or other commercial contracts from either interested person or organisation where such person have substantial interest or to their relatives.

It may be noted that all the above transaction are not legally prohibited. The organisation may enter into the above type of transaction provided they are reasonable and legitimate. All the above transactions should be done in compliance with the conflict of interest policy of the organisation.

7. BENEFIT TO INTERESTED PERSON WHICH IS PROHIBITED

The conflict of interest transaction may be done if they are reasonable and legitimate with adequate disclosures. However, the organisation will not provide any benefit directly or indirectly to any interested persons.

(1) There should not be lending of funds to specified persons without adequate security and adequate interest. Generally, lending of funds to any individual is not permitted, but there might be circumstances where another charitable organisation might be supported, in such cases also the lending should be made with adequate security and adequate interest.

(2) No building or property of the organisation should be available for the use of the specified persons without charging adequate rent or other compensation.

(3) There should not be payment of salaries or remuneration to specified persons, in excess of what may be reasonably paid for the services rendered by such persons.

(4) No services of the organization should be provided to the specified persons without adequate remuneration or other compensation.

(5) There should not be purchase of services, materials, equipment or other properties from specified persons for consideration which is more than adequate.

(6) There should not be selling of services, materials, equipments or other properties to specified persons for consideration which is more than adequate.

(7) No income or property of the organization will be diverted to any of the specified persons.

(8) There should not be investment of funds of the organization in concerns where the specified persons have substantial interest.

8. DISCLOSURE POLICY AND PROCEDURE FOR CONFLICT OF INTEREST TRANSACTION :

It is legally possible to have transaction with parties having a conflict of interest. However, certain procedure as discussed below should be followed for approval of such transactions:

1. The conflict of interest shall be fully disclosed at the time of the initiation of transaction and also after completion of transaction in various reports and MIS as may be required/ determined.

2. The person having conflict of interest shall be excluded from the discussion and approval of such transactions.

3. The transaction must be through a normal competitive bid or procurement procedure as the case may be. Otherwise justifiable reason for such transaction shall be on record.

4. The Executive Committee or the authorised body shall determine that the transaction is in the best interest of the organization. In other words Executive Committee or the authorised body shall collectively take the responsibility of such transaction.

5. Disclosure regarding the transaction shall be made to the Chief Functionary (Project Director), if the transaction does not pertain to any Executive Committee members. If the Chief Functionary (Project Director), himself/herself is involved, then the disclosure shall be made to the Executive Committee. Such authority, before whom such disclosure is made shall make the necessary due diligence and inform the Executive Committee or General Body on case to case basis.

6. Disclosure regarding the transaction shall be made to the President if the transaction pertains to any Executive Committee members. If the

President is involved then the disclosure shall be made to the General Body of the organisation. Such authority before whom such disclosure is made shall make the necessary due diligence in this regard on case to case basis.

7. The Executive or an authorised body shall determine whether a conflict of interest exists and whether such transaction can be treated as reasonable, fair, transparent and in the interest of the organisation.

9. PROCEDURE OF HANDLING CONFLICT OF INTEREST TRANSACTION

The various issues/steps involved in an conflict of interest transaction shall be as under :

1. An interested person shall only be allowed to pursue/initiate conflict of interest transaction/decision if it qualifies under non-negotiable norms. For instance, the relative of the Chief Functionary should not be appointed as the Statutory Auditor.

2. The matter shall be subjected to a basic due diligence by the Executive/Management Team, unless the matter is such that it should be addressed only at the Executive Committee level.

3. The interested person may make presentation before the Executive Committee, however any interested EC Members shall not be present at the time of decision making. Such person shall not be eligible to vote for such resolution.

4. The Executive Committee shall further investigate the matter directly or through a person or committee, to ensure that the transaction is in the best interest of the organisation.

5. Once a positive finding/report is available, then the resolution shall be passed with a majority vote without considering the vote of the interested person.

6. The interested person shall declare, on record, all the relevant information and possible conflict of interest in the transaction.

10. VIOLATION OF CONFLICT OF INTEREST POLICY:

The Executive Committee of PASDO shall review various important transaction/ decision, periodically, to ensure that all the decision taken is in compliance with the conflict of interest policy of the organisation. The Executive Committee of PASDO shall also ensure that there is no violation of the conflict of interest policy. In this context the following are relevant:

1. A proceeding pertaining to violation of the conflict of interest policy may be initiated if the Executive Committee of PASDO has reason to believe that any such violation might have occurred. Or Executive Committee receives any written complaint with relevant facts or evidence.

2. The failure of disclosure of interest by any interested person could also be a primary reason for initiating and proceeding of violation of conflict of interest policy. It should be noticed that even if a transaction is fair and reasonable, it should still follow the conflict of interest policy and adequate disclosure should be made prior to the transaction by the interested person.

3. Whenever a proceeding of violation of conflict of interest policy is initiated, the concerned interested person shall be provided adequate opportunity of being heard.

4. The findings of any inquiry for investigation against violation of conflict of interest policy shall be placed before the meeting of the Executive Committee. The Executive Committee may decide to take necessary disciplinary/penal action. They may also initiate appropriate legal action wherever there is a serious violation.

11. CONFLICT OF INTEREST DISCLOSURE STATEMENT

All the Executive Committee and other interested persons should provide a conflict of interest disclosure statement, annually. A suggested format of such statement is provided in Annexure II.

Annexure I : SAMPLE OF THE MINUTES RECORD OF CONFLICT OF INTEREST TRANSACTION

A sample of the minutes record involving a conflict of interest transaction could be as under :
"A motion was moved by Mr./Ms. ________________ toward approval of a rent agreement for renting out the ___________ property of the NPO to Mr./Ms __________________ who happens to be an Executive Committee member.

The details of the agreement and the due diligence report was placed before the Committee. The members present verified the process of identifying the tenant and the adequacy of rent. It was found that the rent payable was comparable to the market rates for similar premises.

The motion was second by _______________. The resolution was passed unanimoulsy with a vote of 7 - 0 and the interested member Mr./Ms. ___________________ did not participate in the vote.

Annexure II
A MODEL FORMAT OF CONFLICT OF INTEREST DISCLOSURE STATEMENT

1. Name of the Organization :

2. Name of the Interested Person :

3. Capacity/Position/Relation of the Interested Person :

4. Address of the Interested Person **:**

5. Have you or any of your related persons/organisations provided services or rented out properties or had any monetary transaction ____________ in the past year ? If yes, provide details.

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6. If the probable conflict of interest transaction is provided by related persons/organisations, than the identity of the related persons/organisations and your relationship may be disclosed:

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7. Have you or any of your related persons/organisations purchased services or taken on rent property or provided/taken any tangible or intangible services during the past year? If yes provide details :

____

If, similar transactions as mentioned above are provided by your relative or related organisation, then provide the details below :

____

8. Please indicate whether you or any of your relative or related organisation had any direct or indirect interest in any business transaction(s) in the past year. If yes provide details

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9. Please indicate whether you or any of your relative or related organisation had taken any loan or advances (including travel and programme advance) or deposits in the past year. If yes provide details

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10. Please indicate whether you or any of your relative or related organisation had given any loan or advances (including travel and programme advance) or deposits in the past year. If yes provide details

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11. Please indicate whether you or any of your relative or related organisation had receive any benefit or undue advantage in the past year. If yes provide details

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12. Please indicate whether you or any of your relative or related organisation have any interest in any donor contract, project, asset, liability or legal proceeding where the PASDO is involved. If yes provide details

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13. Please indicate whether you or any of your relative or related organisation is privy to or aware of any events, transactions, arrangements or other situations that have occurred or may occur in the future and which should be brought to the notice of the Executive Committee in accordance with the conflict of interest policy. If yes provide details

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I HEREBY CONFIRM that I have read and understood the conflict of interest policy and the information provided above are complete and adequate to the best of my knowledge, in compliance both in letter and spirit of the conflict of interest policy. I further submit that if I become aware of any information that might require additional disclosure then, I will inform the appropriate authorities immediately.

________________________________ ____________________

Sd/-
Gajendra Prasad Mohanty
Project Director