

# Ambit Energy

## Policies and Procedures

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### SECTION 1: CODE OF ETHICS

Ambit Marketing, LLC (Herein "Ambit" or the "Company"), are guided by core principles established by our Co-Founders that emphasize integrity, excellence, commitment and enthusiasm in all that we do. Everything we do is based on our commitment to improve the lives of our Customers, employees and Independent Consultants ("Consultants"). We want Consultants who will embrace these values with us. Therefore, we insist that Consultants operate within the following Code of Ethics, which are part of, and form the foundation of, the Policies & Procedures.

**1.1: INTEGRITY AND RESPONSIBILITY.** Consultants will conduct themselves with integrity and responsibility and will make the Golden Rule of "do unto others as you would have them do unto you" as the cornerstone on which they build their business.

**1.2: DECEPTIVE AND UNLAWFUL PRACTICES.** Consultants will uphold the values of Ambit and will not engage in any deceptive, unlawful or unethical consumer or recruiting practices that may be detrimental or reflect poorly on Ambit, the network marketing industry or themselves. Consultants will support and advocate the Policies & Procedures and will respect the spirit and intent in which they were written.

**1.3: HONESTY IN REPRESENTING THE AMBIT OPPORTUNITY.** Consultants will familiarize themselves with Ambit's Compensation Plan and energy service and will represent those to their Customers and prospective Independent Consultants realistically and without misleading or providing false expectations. Any claims, representations or statements Consultants make regarding Ambit will be those included in the Ambit literature.

**1.4: DOWNLINE SUPPORT.** Consultants will, to the best of their ability, accept and fulfill their responsibilities to train, motivate, support and encourage all Independent Consultants who join their sales organization. Consultants will treat their business like any other prestigious enterprise and will fulfill commitments they make to their Customers, their fellow Consultants and employees of the Company.

**1.5: ADHERENCE WITH LAWS.** Consultants will abide by local, state and federal laws that govern their independent business. Consultants understand that it is their responsibility to comply with these laws, the laws of their industry and with Ambit's Policies & Procedures, as they may be amended from time to time.

**1.6: COMPLIANCE WITH CODE OF ETHICS.** Consultants will uphold this Code of Ethics and recognize that its success will require diligence to create awareness among all of Ambit's Independent Consultants. Consultants will not, in any way, attempt to persuade, induce or coerce another party to breach this Code. Any such action is considered a violation of this Code and, thereby, a violation of Ambit's Policies & Procedures.

### SECTION 2: INTRODUCTION

**2.1: POLICIES AND COMPENSATION PLAN INCORPORATED INTO CONSULTANT AGREEMENT.** These Policies & Procedures, in their present form and as amended at the sole discretion of Ambit Marketing, LLC (hereafter referred to as "Ambit" or the "Company"), are incorporated into, and form an integral part of, the Ambit Consultant Agreement. Throughout these Policies, when the term "Agreement" is used, it collectively refers to the Ambit Consultant Application and Agreement, these Policies & Procedures, the Ambit Compensation Plan and the Ambit Business Entity Application (if applicable). These documents are incorporated by reference into the Ambit Consultant Agreement (all in their current form and as amended by Ambit). It is the responsibility of each Consultant

to read, understand, adhere to and ensure that he or she is aware of and operating under the most current version of these Policies & Procedures. When sponsoring or enrolling a new Consultant, it is the responsibility of the sponsoring Consultant to ensure that the applicant is provided with, or has online access to, the most current version of these Policies & Procedures and the Ambit Compensation Plan prior to his or her execution of the Consultant Agreement.

**2.2: PURPOSE OF POLICIES.** Ambit is a direct sales company that markets its products through Independent Consultants. It is important to understand that your success and the success of your fellow Consultants depends on the integrity of the men and women who market our products and services. To clearly define the relationship that exists between Consultants and Ambit, and to explicitly set a standard for acceptable business conduct, Ambit has established the Agreement.

Ambit Consultants are required to comply with all of the Terms and Conditions set forth in the Agreement which Ambit may amend at its sole discretion from time to time, as well as all federal, state and local laws governing their Ambit business and their conduct. Because you may be unfamiliar with many of these standards of practice, it is very important that you read and abide by the Agreement. Please review the information in this manual carefully. It explains and governs the relationship between you, as an independent contractor, and the Company. If you have any questions regarding any policy or rule, do not hesitate to seek an answer from anyone in your upline or Ambit.

**2.3: CHANGES TO THE AGREEMENT.** Because federal, state and local laws, as well as the business environment, periodically change, Ambit reserves the right to amend the Agreement and its prices at its sole and absolute discretion. By signing the Consultant Agreement, a Consultant agrees to abide by all amendments or modifications that Ambit elects to make. With the exception of amendments to or termination of Section 9.2.2, which are discussed below, amendments shall be effective upon notice to all Consultants that the Agreement has been modified. Notification of amendments shall be published in official Ambit materials. Ambit may amend or terminate Section 9.2.2 in its sole and absolute discretion; however, no amendment shall apply to a dispute of which Ambit has actual notice on the date of amendment, and a termination of Section 9.2.2 shall not be effective until ten days after reasonable notice of termination is given to Consultants or as to disputes which arose prior to the date of termination. The Company shall provide, or make available to all Consultants, a complete copy of the amended provisions by one or more of the following methods: (1) posting on the Company's official website; (2) electronic mail (email); (3) inclusion in Company periodicals; (4) inclusion in product bonus checks; (5) special mailings; or (6) Ambit-provided Consultant back office application (PowerZone). The continuation of a Consultant's Ambit business, or a Consultant's acceptance of bonuses or commissions, constitutes acceptance of any and all amendments.

**2.4: DELAYS.** Ambit shall not be responsible for delays or failures in performance of its obligations when performance is made commercially impracticable due to circumstances beyond its reasonable control. This includes, without limitation, strikes, labor difficulties, riot, war, fire, death, curtailment of a party's source of supply or government decrees or orders.

**2.5: POLICIES AND PROVISIONS SEVERABLE.** If any provision of the Agreement, in its current form or as may be amended, is found to be invalid or unenforceable for any reason, only the invalid portion(s) of the provision shall be severed and the remaining terms and provisions shall remain in full force and effect. The severed provision, or portion thereof, shall be reformed to reflect the purpose of the provision as closely as possible.

**2.6: WAIVER.** The Company never gives up its right to insist on compliance with the Agreement and with the applicable laws governing the conduct of a business. No failure of Ambit to exercise any right or power under the Agreement or to insist upon strict compliance by a Consultant with any obligation or provision of the Agreement, and no custom or practice of the parties at variance with the terms of the agreement, shall constitute a waiver of Ambit's right to demand exact compliance with the Agreement. Waiver by Ambit can be effectuated only in writing by an authorized officer of the Company. Ambit's waiver of any particular breach by a Consultant shall not affect or impair Ambit's rights with respect to any subsequent breach, nor shall it affect in any way the rights or obligations of any other Consultant. Nor shall any delay or omission by Ambit to exercise any right arising from a breach affect or impair Ambit's rights as to that or any subsequent breach. The existence of any claim or cause of action of a Consultant against Ambit shall not constitute a defense to Ambit's enforcement of any term or provision of the Agreement.

**2.7: COPYRIGHT.** As an Ambit IC and without further consideration or compensation, I consent to the use (full or in part) of my name, voice, image, likeness, and any and all attributes of my personality in any marketing or promotional material created or used in connection with Ambit products and services, or the Ambit Independent Consultant Opportunity, and each such item of marketing or promotional material will be considered a "work" for purposes of this agreement. I irrevocably assign to Ambit any and all claims of copyright I may have in and to such works, and the exclusive and perpetual right throughout the world to use, print, produce, publish, copy, display, perform, exhibit, transmit, broadcast, disseminate, market, advertise, sell, lease, license, transfer, modify, and create derivative works from such works in any media or format, now known or unknown, for any purpose whatsoever. I waive any right to inspect or approve such work. I hereby indemnify and hold harmless Ambit, its legal representatives and assigns, all persons acting under its authority, and those for whom it is acting, from all claims, causes of action and liability of any kind, now known or unknown, in law or in equity, based upon or arising out of such works or this agreement including, without limitation, claims of libel, slander, invasion of privacy, right of publicity, defamation, trademark infringement, and copyright infringement. This agreement will be binding upon my heirs, successors, representatives, and assigns.

**2.8: RIGHTS IN MAGAZINE DATA AND WORKS.** As an Ambit IC, I agree that Ambit is the owner of all right, title, and interest in all materials, all documentation related to such materials, all media upon which any such materials and documentation are located (including tapes, disks, and other stage media) and all related material that are used by, developed for, or on behalf of Ambit, or paid for by Ambit, in connection with the creation, development and publishing of the *Success From Home* magazine. Full and exclusive rights and ownership in *Success From Home* magazine and in any and all related trademarks and copyrights with respect to the *Success From Home* magazine and any other proprietary rights with respect to the *Success From Home* magazine, which consultant possesses or is entitled to, shall vest in and are assigned to Ambit as of the date of this agreement. Except as allowed for the marketing of Ambit's business, Consultant shall retain no right, ownership or title in the data and works comprising *Success From Home* magazine or in any directly related trademarks, copyrights or any other proprietary rights with respect to *Success From Home* magazine. The parties hereto agree that the data and works comprising *Success From Home* magazine and all such rights are being conveyed in their entirety to Ambit for whatever use it desires, and nothing contained herein shall be deemed to constitute a license or franchise in Ambit.

### SECTION 3: BECOMING A CONSULTANT

**3.1: REQUIREMENTS TO BECOME A CONSULTANT.** To become an Ambit Consultant, each applicant must:

**3.1.1:** Be of the age of majority in his or her state of residence;

**3.1.2:** Reside in the United States or U.S. Territories or country that Ambit has officially announced is open for business;

**3.1.3:** Have a valid Social Security or Federal Tax ID number;

**3.1.4:** Submit a properly completed Consultant Application and Agreement to Ambit.

**3.2: NO PRODUCT PURCHASE REQUIRED.** No person is required to purchase Ambit services to become a Consultant.

**3.3: SECOND-PARTY PURCHASE OF THE OPTIONAL AMBIT SUPPORT AND SERVICES PROGRAM.** Ambit strictly prohibits the purchase of the optional Support and Services Program by anyone other than the Consultant receiving that package. Purchase of the optional Support and Services Program for a Consultant by a second party (including his/her sponsor or any other Consultant) may result in termination of either or both party's positions from Ambit's program. No Consultant may lend or advance money to a prospect in order to pay for the optional Support and Services Program to begin the business or to promise reimbursement of any kind to the prospective Consultant. A Consultant who purchases the optional Management Services Program via a Personal Website must pay with his/her own credit card.

**3.4: CONSULTANT BENEFITS.** Once a Consultant Application and Agreement has been accepted by Ambit, the benefits of the Compensation Plan and the Consultant Agreement are available to the new Consultant. These benefits include the right to:

**3.4.1:** Sell Ambit products and services;

**3.4.2:** Participate in the Ambit Compensation Plan (receive bonuses and commissions, if eligible);

**3.4.3:** Sponsor other individual Consultants into the Ambit business and, thereby, build a marketing organization and progress through the Ambit Compensation Plan;

**3.4.4:** Receive periodic Ambit literature and other Ambit communications;

**3.4.5:** Participate in Ambit-sponsored support, service, training, motivational and recognition functions, upon payment of appropriate charges, if applicable; and

**3.4.6:** Participate in promotional and incentive contests and programs sponsored by Ambit for its Consultants.

**3.5: TERM AND RENEWAL OF YOUR AMBIT BUSINESS.** A Consultant's Ambit Agreement will remain in force so long as: (a) the Consultant does not voluntarily cancel his or her Consultant agreement, (b) become involuntarily cancelled, or (c) become cancelled for inactivity.

**3.6 PROCESSING FEE** - Ambit reserves the right to charge a service fee for each paper commission check that an Independent Consultant receives. This fee will not apply to Independent Consultants who sign up for direct deposit or other payment methods made available by Ambit.

#### **SECTION 4: OPERATING AN AMBIT BUSINESS**

**4.1: ADHERENCE TO THE AMBIT COMPENSATION PLAN.** Consultants must adhere to the terms of the Ambit Compensation Plan as set forth in official Ambit literature. Consultants shall not offer the Ambit opportunity through, or in combination with, any other system, program or method of marketing other than that specifically set forth in official Ambit literature. Consultants shall not require or encourage other current or prospective Customers or Consultants to participate in Ambit in any manner that varies from the program as set forth in official Ambit literature. Consultants shall not require or encourage other current or prospective Customers or Consultants to execute any agreement or contract other than official Ambit agreements and contracts in order to become an Ambit Consultant. Similarly, Consultants shall not require or encourage other current or prospective Customers or Consultants to make any purchase from, or payment to, any individual or other entity to participate in the Ambit Compensation Plan other than those purchases or payments identified as recommended or required in official Ambit literature.

#### **4.2: ADVERTISING.**

**4.2.1: GENERAL.** All Consultants shall safeguard and promote the good reputation of Ambit and its products. The marketing and promotion of Ambit, the Ambit Opportunity, the Compensation Plan and Ambit products shall be consistent with the public interest, and must avoid all discourteous, deceptive, misleading, unethical or immoral conduct or practices.

**4.2.2: USE OF COMPANY-PRODUCED ADVERTISING MATERIALS ONLY.** To promote both the products and services, and the opportunity Ambit offers, Consultants must use only the sales tools and support materials approved by Ambit in writing. Accordingly, Consultants must not use any of their own literature, advertisements, sales tools, promotional materials or web pages in promoting Ambit's services or the Ambit business unless they first submit it to Ambit in writing and receive specific written approval for its use.

**4.2.3: CONSULTANT WEBSITES.** All Ambit Consultants are eligible to subscribe to an Ambit Personal Website. The Ambit Personal Website is a personalized online store through which Ambit Consultants may promote and market Ambit's services and recruit other Ambit Consultants over the Internet. Consultant Personal Website Addresses (URLs) and all subdomains of a Personal Website address are wholly owned by Ambit. Ambit reserves the right to limit advertising of its websites. Only approved advertising and online promotional tools may be used.

**4.2.4: INDEPENDENTLY PRODUCED WEBSITES.** Ambit allows its Independent Consultants to place approved advertising on the Internet to promote the Ambit Opportunity, Ambit services and designated Ambit websites only. However, any websites (or URLs designating these websites) on which such advertisements or links are placed may not be obscene, pornographic or otherwise deemed harmful to Ambit's reputation as determined by Ambit at its sole discretion. Additionally, URLs of websites used for advertising the Ambit Opportunity, Ambit products and services and designated Ambit websites may not contain any term that is a trademark, service mark or copyright that violates any other proprietary right held by another, including Ambit Marketing, LLC Approved advertising includes only those advertising tools made available to Ambit Consultants through PowerZone. Ambit prohibits the use of unapproved online advertising to promote the Ambit Opportunity, Ambit products and services or any Ambit website address (URL) or subdomain of an Ambit URL.

Other than through an Ambit-provided Consultant Personal Website, Ambit Consultants are prohibited from using websites to take orders for

the Ambit Opportunity or for Ambit products and services.

**4.2.5: LINKS TO AN AMBIT WEBSITE.** Personal website subscribers are granted a limited, non-exclusive right to create a hypertext link to the subdomain provided by Ambit that designates the Consultant's personal store (example: [www.<uniquename>.joinambit.com/](http://www.<uniquename>.joinambit.com/)), provided such link does not portray Ambit and/or its affiliates or any of their respective products and services in a false, misleading, derogatory or otherwise defamatory manner. Also, a Consultant cannot create an impression that any subdomain is part of his or her own or other non-Ambit-maintained site. This limited right may be revoked at any time. Frames or framing techniques cannot be used to enclose any Ambit trademark, logo or proprietary information, including the images found at this website and the content of any text of the layout/design of any page or form contained on a page without Ambit's express written consent. Except as noted above, Ambit Independent Consultants are not conveyed any patent, trademark, copyright or proprietary right of Ambit Marketing, LLC, any of its affiliated companies or any third party.

**4.2.6: BANNER ADVERTISING.** From time to time, Ambit makes banner ads and other online advertising tools available to Ambit Consultants through PowerZone. These tools may be used by Ambit Consultants to promote Ambit services and the Ambit Opportunity as they are intended and as Consultants are directed to use them in PowerZone. As with any Ambit online promotions, these tools may not be placed on websites or linked to websites or URLs that are obscene, pornographic or otherwise deemed harmful to Ambit's reputation as determined by Ambit at its sole discretion.

**4.2.7: DOMAIN NAMES.** Consultants may not use or attempt to register any of Ambit's trade names, trademarks, service names, service marks, product names, the Company's name, or any derivative thereof, for any Internet domain name. For example, [www.<your name>.ambit.com](http://www.<your name>.ambit.com).

**4.2.8: TRADEMARKS AND COPYRIGHTS.** Ambit will not allow the use of its trade names, trademarks, designs or symbols by any person, including Ambit Consultants, without its prior, written permission. Consultants may not produce for sale or distribution any recorded Company events and speeches without written permission from Ambit, nor may Consultants reproduce for sale or for personal use any recording of Company-produced audio or video tape presentations.

**4.2.9: KEYWORD ADVERTISING.** Consultants may not engage in keyword advertising using the trademarks of Ambit, any competitor of Ambit (such as, for example, TXU, Pennywise, Reliant, ConEdison, National Grid, etc.) or other keywords that are obscene, pornographic or otherwise deemed harmful to Ambit's reputation or business as determined by Ambit at its sole discretion.

**4.2.10: MEDIA AND MEDIA INQUIRIES.** All media relations efforts must be coordinated through the Ambit Public Relations Department at [mediarelations@ambitenergy.com](mailto:mediarelations@ambitenergy.com). Any Consultant who is contacted by the media, or wishes to contact the media, must first contact an Ambit Public Relations representative before taking any action and/or issuing any statement. Any communications with TV, radio and print media should first be approved by Ambit Public Relations.

**4.2.11: UNSOLICITED MAIL OR EMAIL.** Ambit does not permit Consultants to send unsolicited commercial mail or emails, unless such mail or emails strictly comply with applicable laws and regulations including, without limitation, the federal CAN SPAM Act. Any mail or email sent by a Consultant that promotes Ambit, the Ambit opportunity or Ambit products and services must comply with the following:

- There must be a functioning return mail or email address that goes to the sender.

- There must be a notice in the email that advises the recipient that he or she may reply to the email, via the functioning return email address, to request that future email solicitations or correspondence not be sent to him or her (a functioning “opt-out” notice).
- The mail or email must include the Consultant’s physical mailing address.
- The mail or email must clearly and conspicuously disclose that the message is an advertisement or solicitation.
- The use of deceptive headlines, subject lines and/or false header information is prohibited.
- All opt-out requests, whether received by email or regular mail, must be honored. If a Consultant receives an opt-out request from a recipient of an email, the Consultant must forward the opt-out request to the Company.

Ambit may periodically send commercial emails on behalf of Consultants. By entering into the Consultant Agreement, Consultant agrees that the Company may send such e-mails and that the Consultant’s physical and email addresses will be included in such emails as outlined above. Consultants shall honor opt-out requests generated as a result of such emails sent by the Company.

**4.2.12: UNSOLICITED FAXES.** Except as provided in this section, Consultants may not use or transmit unsolicited faxes, or use an automatic telephone dialing system, relative to the operation of their Ambit businesses. The term “automatic telephone dialing system” means equipment which has the capacity to: (a) store or produce telephone numbers to be called using a random or sequential number generator; and (b) to dial such numbers. The term “unsolicited faxes” means the transmission via telephone facsimile of any material or information advertising or promoting Ambit, its products, its compensation plan or any other aspect of the company which is transmitted to any person, except that these terms do not include a fax or e-mail: (a) to any person with that person’s prior express invitation or permission; or (b) to any person with whom the Consultant has an established business or personal relationship. The term “established business or personal relationship” means a prior or existing relationship formed by a voluntary two-way communication between a Consultant and a person, on the basis of: (a) an inquiry, application, purchase or transaction by the person regarding products offered by such Consultant; or (b) a personal or familial relationship, which relationship has not been previously terminated by either party.

**4.2.13: TELEMARKETING TECHNIQUES.** The Federal Trade Commission and the Federal Communications Commission each have laws that restrict telemarketing practices. Both federal agencies (as well as a number of states) have “do not call” regulations as part of their telemarketing laws. Although Ambit does not consider Consultants to be “telemarketers” in the traditional sense of the word, these government regulations broadly define the term “telemarketer” and “telemarketing” so that your inadvertent action of calling or texting someone whose telephone number is listed on the federal “do not call” registry could cause you to violate the law. Moreover, these regulations must not be taken lightly, as they carry significant penalties (up to \$11,000 per violation).

Therefore, Consultants must not engage in telemarketing in the operation of their Ambit businesses. The term “telemarketing” means the placing of one or more telephone calls or texts to an individual or residence to induce the purchase of an Ambit product or service. “Cold calls” or texts made to prospective Customers that promote Ambit’s products or services constitute telemarketing and are prohibited. However, telephone calls or texts placed to a prospective Customer (a “prospect”) are permissible under the following situations:

- If the Consultant has an established business relationship with the prospect. An “established business relationship” is a relationship between a Consultant and a prospect based on the prospect’s purchase, rental or lease of goods or services from the Consultant, or a financial transaction between the prospect and the Consultant, within the 18 months immediately preceding the date of a telephone call to induce the prospect’s purchase of a product or service.
- The prospect’s personal inquiry or application regarding a product or service offered by the Consultant within the three months immediately preceding the date of such a call.
- If the Consultant receives written and signed permission from the prospect authorizing the Consultant to call. The authorization must specify the telephone number(s) that the Consultant is authorized to call.
- You may call family members, personal friends and acquaintances. An “acquaintance” is someone with whom you have, at least, a recent first-hand relationship within the preceding three months. Bear in mind, however, that if you make a habit of “card collecting” with everyone you meet and subsequently calling them, the FTC may consider this a form of telemarketing that is not subject to this exemption. Thus, if you engage in calling “acquaintances,” you must make such calls on an occasional basis only and not make this a routine practice.
- In addition, Consultants shall not use or contract with a third party to use automatic telephone dialing systems (for calls or texts) relative to promoting Ambit’s products or services. The term “automatic telephone dialing system” means equipment which has the capacity to: (a) store or produce telephone numbers to be called using a random or sequential number generator; and (b) to dial such numbers.

**4.2.14: DOOR-TO-DOOR MARKETING.** Consultants shall not engage in door-to-door marketing in relation to their Ambit Independent Consultant business.

**4.3: CONTRACTING WITH THIRD PARTY SUPPLIERS.** Use of third party suppliers to provide services related to advertising and/or marketing of your Ambit business is discouraged. Prior to engaging with a third party supplier relating to advertising and/or marketing services, approval must be obtained from Ambit Marketing. All actions by third party suppliers are the sole responsibility of the Consultant.

**4.4: BONUS BUYING PROHIBITED.** Bonus buying is strictly and absolutely prohibited. “Bonus buying” includes: (a) the enrollment of individuals or entities without the knowledge of and/or execution of an Independent Consultant Application and Agreement by such individuals or entities; (b) the fraudulent enrollment of an individual or entity as a Consultant or Customer; (c) the enrollment or attempted enrollment of non-existent individuals or entities as Consultants or Customers (“phantoms”); (d) Purchasing Ambit products or services on behalf of another Consultant or Customer, or under another Consultant’s or Customer’s I.D. number, to qualify for commissions or bonuses; and/or (e) any other mechanism or artifice to qualify for rank advancement, incentives, prizes, commissions or bonuses that is not driven by bona fide product or service purchases by end user consumers.

#### **4.5: BUSINESS ENTITIES.**

**4.5.1: CORPORATIONS.** To become a new Consultant as a corporation, or to change the status of the corporation, you must provide Ambit with the following:



- A completed Consultant Agreement completed by an authorized officer of the corporation.
- A copy of the corporate Articles of Incorporation which has been file-stamped by the Secretary of State in the state of incorporation.
- Full name, address and Social Security number of: (1) each shareholder of the corporation who owns more than 5% of the outstanding stock of the corporation; (2) each officer of the corporation; and (3) each director of the corporation. A copy of the official notification from the Internal Revenue Service issuing the Federal Employer Identification Number (FEIN) for the corporation.
- A copy of the corporate resolution authorizing the corporation to enter into the Consultant Agreement.
- Letter of designation from the corporation designating one individual, who must be at least 18 years of age, as the responsible party for the corporation's operations and sales.

If an active Consultant desires to change the status from that of an individual Consultant to that of a corporate Consultant, the Consultant must use the Sale/Transfer Form available online through PowerZone. See "Sale/Transfer of Consultant Position" for more details.

It is not permissible for stockholders, officers and directors of the corporation applying as a Consultant corporation to have been Ambit Consultants - (1) as individuals; (2) as members of a Consultant partnership; (3) as a stockholder, officer or director of another Consultant corporation; or (4) as a trustee or a beneficiary of a Consultant trust - within six calendar months preceding the execution of the Consultant Agreement.

**4.5.2: PARTNERSHIPS.** To become a new Consultant as a partnership, or to change the status of the partnership, you must provide Ambit with the following:

- A completed Consultant Agreement;
- A copy of the partnership agreement executed by all partners;
- Full name, address and Social Security number of each partner;
- A copy of the official notification from the Internal Revenue Service issuing the FEIN for the partnership;
- A copy of the consent of the partnership to enter into the Consultant Agreement with Ambit; and
- A letter of designation from the partnership designating one individual, who must be at least 18 years of age, as the responsible party for the partnership's operations.

It is not permissible for any partner applying as a Consultant partnership to have been an Ambit Consultant - (1) as an individual; (2) as a partner of another Consultant partnership; (3) as a stockholder, officer or director of another Consultant corporation; or (4) as a trustee or a beneficiary of a Consultant trust - within six calendar months preceding the execution of the Consultant Agreement.

**4.5.3: TRUSTS.** To become a new Consultant as a trust, or to change the status of the Consultant position to a trust, you must provide Ambit with the following:

- Completed Consultant Agreement signed by all trustees of the trust.
- A complete copy of the trust agreement.

- Full name, address and Social Security number of all trustees and beneficiaries.
- A copy of the official notification from the Internal Revenue Service issuing the FEIN for the trust.
- Letter of designation from the trustees designating one individual, who must be at least 18 years of age, as the responsible party for the trust's operations and sales.

If an active Consultant desires to change status from that of an individual Consultant to that of a trust Consultant, the Consultant must use the Sale/Transfer Form available online through PowerZone. See "Sale/Transfer of Consultant Position" for more details.

It is not permissible for any trustee or beneficiary of a trust applying as an Consultant trust to have been an Ambit Consultant - (1) as an individual; (2) as a partner of a Consultant partnership; (3) as a stockholder, officer or director of a Consultant corporation; or (4) as a trustee or a beneficiary of another Consultant trust - within six calendar months preceding the execution of the trust Consultant agreement.

**4.5.4: BUSINESS ENTITY TRANSFERS MAY NOT RESULT IN SPONSOR CHANGES.**

To prevent the circumvention of Section 4.24 (regarding transfers and assignments of Ambit business), if an additional partner, shareholder, member or other business entity affiliate is added to a business entity, the original applicant must remain as a party to the original Consultant Application and Agreement. If the original Consultant wants to terminate his or her relationship with the Company, he or she must transfer or assign his or her business in accordance with Section 4.24. If this process is not followed, the business shall be cancelled upon the withdrawal of the original Consultant. All bonus and commission checks will be sent to the address of record of the original Consultant.

Please note that the modifications permitted within the scope of this paragraph do not include a change of sponsorship. Changes of sponsorship are addressed in Section 4.6, below.

**4.6: CHANGE OF SPONSOR.** To protect the integrity of all marketing organizations and safeguard the hard work of all Consultants, Ambit prohibits changes in sponsorship. Maintaining the integrity of sponsorship is critical for the success of every Consultant and marketing organization. Accordingly, the transfer of an Ambit business or Customer account from one sponsor to another is not permitted, unless the Consultant or Customer voluntarily cancels his or her Ambit business or service and/or remains inactive (i.e., no purchases of Ambit services, no sales of Ambit services, no sponsoring, no attendance at any Ambit functions, participation in any other form of Consultant activity, no commissions earned or operation of any other Ambit business) for six full calendar months. Following the six-month period of inactivity, the former Consultant or Customer may reapply under a new sponsor. In cases in which an improper sponsor change has occurred, Ambit reserves the sole and exclusive right to determine the final disposition of the downline organization. Resolving conflicts over the proper placement of a downline that has developed under an organization that has improperly switched sponsors is often extremely difficult. Therefore, CONSULTANTS WAIVE ANY AND ALL CLAIMS AGAINST AMBIT THAT RELATE TO, OR ARISE FROM, AMBIT'S DECISION REGARDING THE DISPOSITION OF ANY DOWNLINE ORGANIZATION THAT DEVELOPS BELOW AN ORGANIZATION THAT HAS IMPROPERLY CHANGED LINES OF SPONSORSHIP.

**4.7: UNAUTHORIZED CLAIMS**

**4.7.1: INDEMNIFICATION.** A Consultant is fully responsible for all of his or her verbal and written statements made regarding Ambit products, services and the Compensation Plan that are not expressly contained in official Ambit materials. Consultants agree to indemnify Ambit, its affiliates or subsidiaries and Ambit's directors, officers, employees and agents, and hold them harmless from any and all liability including

judgments, civil penalties, refunds, attorney fees, court costs or lost business incurred by Ambit as a result of the Consultant's unauthorized representations or actions. This provision shall survive the termination of the Consultant Agreement.

**4.7.2: INCOME CLAIMS.** In their enthusiasm to enroll prospective Consultants, some Consultants are occasionally tempted to make income claims or earnings representations to demonstrate the inherent power of network marketing. This is counter-productive because new Consultants may become disappointed very quickly if their results are not as extensive or as rapid as the results others have achieved. At Ambit, we firmly believe that the Ambit income potential is great enough to be highly attractive, without reporting the earnings of others.

Moreover, the Federal Trade Commission and several states have laws or regulations that regulate or even prohibit certain types of income claims and testimonials made by persons engaged in network marketing. While Consultants may believe it beneficial to provide copies of checks, or to disclose the earnings of themselves or others, such approaches have legal consequences that can negatively impact Ambit as well as the Consultant making the claim unless appropriate disclosures required by law are also made contemporaneously with the income claim or earnings representation. Because Ambit Consultants do not have the data necessary to comply with the legal requirements for making income claims, a Consultant, when presenting or discussing the Ambit opportunity or Compensation Plan to a prospective Consultant, shall not make income projections, income claims or disclose his or her Ambit income (including the showing of checks, copies of checks, bank statements or tax records).

**4.7.3: PRODUCT CLAIMS.** Consultants are prohibited from making any claim regarding Ambit Energy products that deviates from the product's terms, pricing and conditions.

**4.7.4: CLAIMING TO BE THE CUSTOMER.** Consultants are strictly prohibited from holding themselves out as the Customer. Consultants shall neither perform third-party verification ("TPV") for the Customer nor interfere with TPV by guiding Customer's answers or remaining on the line during the recorded TPV call. Consultants shall not complete enrollment for the Customer, sign documents for the Customer or act on behalf of the Customer.

**4.7.5: SECONDARY CONTACT.** Consultants are strictly prohibited from being added as a secondary contact to a residential or commercial Customer account that a Consultant enrolls, unless the Consultant has the same residential address as the Customer. In addition, for all commercial accounts, Consultant must provide proof of ownership or other supporting documentation that shows the Consultant as the person authorized to make changes for the property or business to receive service, before a Consultant is allowed to become a secondary contact on the account.

**4.8: TRADE SHOWS, EXPOSITIONS AND OTHER SALES FORUMS.** Consultants may display and/or sell Ambit services at trade shows and professional expositions. Before submitting a deposit to the event promoter, Consultants must contact Ambit Marketing at [MarketingTeam@ambitenergy.com](mailto:MarketingTeam@ambitenergy.com) in writing for conditional approval.

**4.9: CONFLICTS OF INTEREST/RESTRICTIONS ON ACTIVITIES.**

Ambit is engaged in a highly competitive business and has expended considerable time and resources to develop its confidential and proprietary information and its goodwill with Consultants, customers, vendors, and others. The success of a Consultant's Ambit-related business depends in part on access to such confidential and proprietary

information and the goodwill that Ambit has created. In light of Ambit's legitimate business interests in protecting its confidential and proprietary information and preventing dilution of its goodwill, Consultants are prohibited from engaging in certain activities described in this Section 4.9.

Because the multilevel, network marketing, or direct sales business is conducted through networks of independent contractors broadly dispersed across the entire United States and internationally, and business is commonly conducted via the Internet and telephone, an effort to narrowly limit the geographic scope of the restrictions set out in Section 4.9 would be wholly ineffective. Therefore, these restrictions apply to the Consultant's activities conducted in or directed at the United States. For additional information concerning these restrictions, please see the Ambit Consultant Agreement.

**4.9.1: ACTIVITIES DURING THE TERM OF THE AMBIT CONSULTANT AGREEMENT.** During the term of the Ambit Consultant Agreement, Consultants shall not, directly or indirectly (including through or on behalf of any other person or entity), (a) sell or solicit the sale of energy services or other products or services offered by Ambit through any person or entity other than that specifically designated or approved in writing by Ambit; (b) participate in any other multilevel, network marketing, or direct sales business or venture that competes with the energy services or with the other products or services offered by Ambit; or (c) recruit any Ambit Consultant or customer to enroll or participate in, or purchase products or services from, any other multilevel, network marketing, or direct sales business or venture. "Recruit" for this purpose means to sponsor, solicit, enroll, encourage, or influence in any other way, or to attempt to do any of the foregoing by any means or in any manner. Consultants otherwise are free to participate in non-competing multilevel, network marketing, or direct sales business or venture while an Ambit Consultant if their activities otherwise are in compliance with this Agreement.

**4.9.2: ACTIVITIES AFTER THE TERM OF THE AMBIT CONSULTANT AGREEMENT.** For a period of one (1) year after the cancellation or termination of the Ambit Consultant Agreement for any reason, a Consultant shall not, directly or indirectly (including through or on behalf of any other person or entity), (a) recruit any Ambit Consultant to enroll or participate in, or purchase products or services from, any other multilevel, network marketing, or direct sales business or venture, provided that this restriction does not apply to Consultants that the former Consultant personally sponsored as an Ambit Consultant; or (b) recruit any Ambit customers that the former Consultant personally enrolled with Ambit, that were enrolled by Ambit Consultants in the former Consultant's downline organization, or that the former Consultant otherwise knows to be Ambit customers, to enroll or participate in, or purchase products or services from, any other multilevel, network marketing, or direct sales business or venture that competes with the energy services or with the other products or services offered by Ambit. "Recruit" for this purpose means to sponsor, solicit, enroll, encourage, or influence in any other way, or to attempt to do any of the foregoing by any means or in any manner.

**4.9.3: CONSULTANT PARTICIPATION IN OTHER PROGRAMS.** If a Consultant is permissibly engaged in a non-Ambit multilevel, network marketing, or direct sales business or venture, it is the responsibility of the Consultant to ensure that his or her Ambit business is operated entirely separate and apart from any other business or venture. To this end, the following must be adhered to:

- Consultants shall not display Ambit promotional material, sales aids, products or services with or in the same location as any non-Ambit promotional material or sales aids, products or services.
- Consultants shall not offer the Ambit Opportunity, products or services to prospective or existing Customers or

Consultants in conjunction with any non-Ambit program, opportunity, product or service.

- Consultants shall not offer any non-Ambit opportunity, products or services at any Ambit-related meeting, seminar or convention, or within two hours and a five-mile radius of the Ambit event. If the Ambit meeting is held telephonically or on the Internet, any non-Ambit meeting must be at least two hours before or after the Ambit meeting, and on a different conference telephone number or Internet address from the Ambit meeting.

**4.9.4: DOWNLINE ACTIVITY (GENEALOGY) REPORTS.** Consultants' access to their Downline Activity Reports is password protected. All Downline Activity Reports, and the information contained therein, are confidential and constitute proprietary information and business trade secrets belonging to Ambit. Downline Activity Reports are provided to Consultants in strictest confidence and are made available to Consultants for the sole purpose of assisting Consultants in working with their respective Downline Organizations in the development of their Ambit business. Consultants should use their Downline Activity Reports to assist, motivate, and train their downline Consultants. The Consultant and Ambit agree that, but for this agreement of confidentiality and nondisclosure, Ambit would not provide Downline Activity Reports to the Consultant.

A Consultant shall not, on his or her own behalf, or on behalf of any other person, partnership, association, corporation or other entity:

- 4.9.4.1:** Directly or indirectly disclose any information contained in any Downline Activity Report to any third party;
- 4.9.4.2:** Directly or indirectly disclose the password or other access code to his or her Downline Activity Report;
- 4.9.4.3:** Use the information to compete with Ambit, or for any purpose, other than promoting his or her Ambit business;
- 4.9.4.4:** Recruit or solicit any Consultant or Customer of Ambit listed on any report, or in any manner attempt to influence or induce any Consultant or preferred Customer of Ambit, to alter their business relationship with Ambit; or
- 4.9.4.5:** Use or disclose to any person, partnership, association, corporation or other entity any information contained in any Downline Activity Report.

Upon demand by the Company, any current or former Consultant will return the original and all copies of Downline Activity Reports to the Company.

**4.9.5: VIOLATIONS/REMEDIES.** This Section 4.9 may be enforced by Ambit or any other Ambit-related entity (collectively, the "Ambit Companies"). In the event that a Consultant breaches any provision of this Section 4.9, the Ambit Companies shall be entitled to equitable relief, including by way of injunction or specific performance preventing future breaches, in addition to any other remedies available at law. Also in addition to any remedies at law or in equity that the Ambit Companies may have, any violation of this Section 4.9 will result in forfeiture of any of Consultant's rights as a Consultant, including to receive commissions, bonuses, and payments of any kind. Further, any violation of this Section 4.9 will cause irreparable harm to the Ambit Companies and one such violation by Consultant will entitle the Ambit Companies to an injunction against future violations without evidence or proof of the likelihood of future violations.

**4.10: TARGETING OTHER DIRECT SELLERS.** Ambit does not condone Consultants specifically or consciously targeting the sales force of another multilevel, network marketing, or direct sales business or venture to sell Ambit products or to become Consultants for Ambit, nor

does Ambit condone Consultants' solicitation or enticement of members of the sales force of another multilevel, network marketing, or direct sales business or venture to violate the terms of their contract with such other company. Should Consultants engage in such activity, they bear the risk of being sued by the other multilevel, network marketing, or direct sales business or venture. If any lawsuit, arbitration or mediation is brought against a Consultant alleging that he or she engaged in inappropriate recruiting activity of its sales force or customers, Ambit will not pay any of Consultant's defense costs or legal fees, nor will Ambit indemnify the Consultant for any judgment, award or settlement.

**4.11: CROSS-SPONSORING.** Actual or attempted cross-sponsoring is strictly prohibited. "Cross-sponsoring" is defined as the enrollment of an individual who, or entity that, already has a current Customer or Consultant Agreement on file with Ambit, or who has had such an agreement within the preceding six calendar months, within a different line of sponsorship. The use of a spouse's or relative's name, trade names, DBAs, assumed names, corporations, partnerships, trusts, federal ID numbers or fictitious ID numbers to circumvent this policy is prohibited. Consultants shall not demean, discredit or defame other Ambit Consultants in an attempt to entice another Consultant to become part of the first Consultant's marketing organization. This policy shall not prohibit the transfer of an Ambit business in accordance with Section 4.5.

If cross-sponsoring is discovered, it must be brought to the Company's attention immediately. Ambit may take disciplinary action against the Consultant that changed organizations and/or those Consultants who encouraged or participated in the cross-sponsoring. Ambit may also move all or part of the offending Consultant's downline to his or her original downline organization if the Company deems it equitable and feasible to do so. However, Ambit is under no obligation to move the cross-sponsored Consultant's downline organization, and the ultimate disposition of the organization remains within the sole discretion of Ambit. Consultants waive all claims and causes of action against Ambit arising from or relating to the disposition of the cross-sponsored Consultant's downline organization.

**4.12: SLAMMING.** Consultants must never switch, or attempt to switch, any individual or entity to Ambit Energy's services unless the person has authorized the transfer by signing a Letter of Authorization consenting to change their service to Ambit's service.

**4.13: CONTACTING SUPPLIERS.** Under no circumstances may a Consultant contact any Ambit supplier of energy service, or other Ambit supplier of services, without prior written authorization from an authorized officer of Ambit Energy. Further, under no circumstances may a Consultant directly contact a competitive energy provider on behalf of Ambit or in connection with any Ambit business without receiving prior written authorization from an authorized officer of Ambit.

**4.13.1: CONTACTING REGULATORY AGENCIES.** Under no circumstances may a Consultant contact any Regulatory agency on behalf of a Customer or to request information related to their business. All such inquiries should be made to Consultant Care.

**4.14: ERRORS OR QUESTIONS.** If a Consultant has questions about or believes any errors have been made regarding commissions, bonuses, downline activity reports or charges, the Consultant must notify Ambit in writing within 30 days of the date of the purported error or incident in question. Ambit will not be responsible for any errors, omissions or problems not reported to the Company within 30 days.

**4.15: GOVERNMENTAL APPROVAL OR ENDORSEMENT.** Neither federal nor state regulatory agencies nor officials approve or endorse any direct selling or network marketing companies or programs. Therefore, Consultants shall not represent or imply that Ambit or its Compensation Plan have been "approved," "endorsed" or otherwise sanctioned by any government agency.

**4.16: IDENTIFICATION.** Every Ambit Independent Consultant will be assigned a unique identification number “code” which will become their identification number and will be used in all correspondence. Every Ambit identification number must have a corresponding tax ID number provided by the Consultant during the application process. Only Social Security numbers or FEINs issued by the Social Security Administration or Internal Revenue Service, for use by the individual or organization filling out the Consultant Agreement, will be accepted. Providing false or invalid Social Security numbers or FEINs to Ambit will subject a Consultant to termination. All identification numbers will be kept strictly confidential, except where properly and legally required.

**4.17: NAMING YOUR INDEPENDENT CONSULTANT BUSINESS.** The name of a Consultant position is determined by the name identified on the Consultant Agreement. No other name may be used in conjunction with a Consultant business. To alter the Consultant name (including the addition or deletion of a spouse, a change in last name, creating a D.B.A., “Doing Business As,” or any other name change), the Sale/Transfer Packet must be used. In these cases, the \$45 administrative fee will be waived. Using a name other than the one appearing on the Consultant account is strictly prohibited.

**4.18: INCOME TAXES.** Each Consultant is responsible for paying local, state and federal taxes on any income generated as an Independent Consultant. If a Consultant is tax exempt, the appropriate documentation, including the Federal Tax Identification Number, must be provided to Ambit. Every year, Ambit will provide an IRS Form 1099-misc (Non-employee Compensation) to each U.S. resident who, in the previous year: (1) Had earnings of over \$600; (2) Made purchases during the previous calendar year in excess of \$5,000; or (3) was subject to backup withholding.

**4.19: INDEPENDENT CONTRACTOR STATUS.** Consultants are independent contractors, and are not purchasers of a franchise or a business opportunity. The agreement between Ambit Marketing, LLC, and its Consultants does not create an employer/employee relationship, agency, partnership or joint venture between the Company and the Consultant. A Consultant shall not be treated as an employee for his or her services or for Federal or State tax purposes. All Consultants are responsible for paying local, state and federal taxes due from all compensation earned as a Consultant of the Company. The Consultant has no authority (expressed or implied), to bind the Company to any obligation. Consultants shall not hold themselves out as an employee or affiliate of Ambit Marketing, LLC, or any affiliates or subsidiaries. Each Consultant shall establish his or her own goals, hours and methods of sale, so long as he or she complies with the terms of the Consultant Agreement, these Policies and Procedures and applicable laws.

The names of Ambit Energy, Ambit and other names as may be adopted by Ambit, are proprietary trade names, trademarks and service marks of Ambit. As such, these marks are of great value to Ambit and are supplied to Consultants for their use only in an expressly authorized manner. Use of the Ambit name on any item not produced by the Company is prohibited, except as follows: • Consultant’s Name • Independent Ambit Consultant. All Consultants may list themselves as an “Independent Ambit Consultant” in a telephone directory under their own name using only a personal email address, personal website and personal contact information. Consultants are prohibited from listing any and all Ambit Energy or Ambit Marketing contact information in any directory. No Consultant may place telephone directory display ads using Ambit’s name or logo. Consultants may not answer the telephone by saying “Ambit,” “Ambit Incorporated” or in any other manner that would lead the caller to believe that he or she has reached the corporate offices of Ambit.

**4.20: INSURANCE.** You may wish to arrange insurance coverage for your business. Your homeowner’s insurance policy does not cover business-

related injuries or the theft of or damage to inventory or business equipment. Contact your insurance agent to make certain that your business property is protected. This can often be accomplished with a simple “Business Pursuit” endorsement attached to your present homeowner’s policy.

**4.21: ADHERENCE TO LAWS AND ORDINANCES.** Consultants shall comply with all federal, state and local laws and regulations in the conduct of their businesses. Many cities and counties have laws regulating certain home-based businesses. In most cases these ordinances are not applicable to Consultants because of the nature of their business. However, Consultants must obey those laws that do apply to them. If a city or county official tells a Consultant that an ordinance applies to him or her, the Consultant shall be polite and cooperative, and immediately send a copy of the ordinance to the Compliance Department of Ambit. In most cases there are exceptions to the ordinance that may apply to Ambit Consultants.

**4.22: MINORS.** A person who is under the age of 18 may not be an Ambit Consultant. Consultants shall not enroll or recruit minors into the Ambit program.

**4.23: FAMILY BUSINESSES.**

**4.23.1: ONE AMBIT BUSINESS PER COUPLE.** Ambit permits a husband and wife, regardless of where each lives, to operate only one position in Ambit, unless each individual is sponsored by the same Consultant, or unless each individual had a separate Consultant position prior to marriage. A husband and wife, by operating as a single Consultant, represent to Ambit that each of them: (1) is bound by the terms of the Consultant Agreement and these Policies and Procedures; (2) is responsible for any and all conduct by his or her spouse, even though only one spouse is designated as a Consultant; and (3) understands that if the spouse of any Consultant acts in a manner that would be a violation of the Consultant Agreement and/or these Policies and Procedures, such violation will be attributed to the Consultant position, and thus to both the husband and wife.

**4.23.2: FAMILY MEMBERS WITHIN THE SAME HOUSEHOLD.** All Consultants and their children, siblings, parents and in-laws residing in the same household may, at the time one or more of them is being sponsored, have the same sponsor or may have one Ambit business. By way of example, a parent and adult child living in the same home may operate one Consultant position or may sign up under the same sponsor. Similarly, if spouses do not elect to operate as a single Consultant, each spouse must sign up under the same sponsor.

**4.23.3: ACTIONS OF HOUSEHOLD MEMBERS OR AFFILIATED INDIVIDUALS.** If any member of a Consultant’s immediate household engages in any activity which, if performed by the Consultant, would violate any provision of the Agreement, such activity will be deemed a violation by the Consultant and Ambit may take disciplinary action pursuant to the Statement of Policies against the Consultant. Similarly, if any individual associated in any way with a corporation, partnership, trust or other entity (collectively “affiliated individual”) violates the Agreement, such action(s) will be deemed a violation by the entity, and Ambit may take disciplinary action against the entity.

**4.24: CUSTOMER WITHOUT A DESIGNATED CONSULTANT.** Only the sponsoring Consultant may claim an orphan Customer. A Consultant may claim a Customer who lacks a designated Consultant when all three of the following criteria are met: (i) the Consultant can provide the name and Ambit account number of the Customer; (ii) the Customer’s enrollment date is no more than seven (7) days prior to the Consultant’s start date; and (iii) the Customer is in Pre-verification, Pending or Active status. Ambit management may authorize, at its discretion, a Consultant to claim a Customer without meeting all of the above criteria if there is a data entry mistake, system error, or similar event that impedes or prohibits the Consultant from meeting the criteria. If a Customer’s



enrollment date is between seven (7) days and one (1) year prior to the Consultant's start date, then Consultant must submit the Residential Customer Transfer Form and approval by Ambit management. If Customer's enrollment date is more than one (1) year prior to the Consultant's start date, then Consultant cannot claim the Customer. If a Consultant claims a Customer more than 7 days after the Customer enrolls, then the Consultant will be ineligible for commission.

**4.25: SALE, TRANSFER OR ASSIGNMENT OF AMBIT BUSINESS.** Subject to Ambit's prior review and approval, which Ambit may grant at its sole option and discretion, a Consultant may sell or transfer his/her Consultant position to an individual, partnership, trust or corporation. The review and approval process will not begin until Ambit has received all of the documentation required in accordance with the requirements set forth in the Position Sale/Transfer Packet, including a check for the applicable processing fees from the Consultant who is selling or transferring the position. Processing fees for Sales are determined by the level of promotion the Consultant position has achieved at the time of the sale.

A Transfer will be defined as a change in name and/or identification number in which the Consultant still retains any financial interest in the Consultant position upon completion of the transfer. Some examples of transfers are: transfer from one spouse to the other spouse; transfer from an individual to a corporation, trust or partnership or vice versa, in which the transferor or any individuals having an interest therein still retains a financial interest; and transfer from Social Security number to FEIN or vice versa. In all cases, the transferor retains a financial interest/ownership interest after the transfer. There is a \$45 transfer request processing fee that must be paid.

A Sale will be defined as a change in which the individual(s) selling the Consultant position no longer maintain(s) a financial interest in the Consultant position upon completion of the sale.

Sale processing fee by position title due from both seller and buyer:

- Marketing Consultant - \$45
- Regional Consultant - \$125
- Senior Consultant - \$350
- Executive Consultant - \$750
- National Consultant - \$2000

Ambit reserves the right, at its sole option and discretion, to determine a sale versus a transfer. A Sale/Transfer Form can be obtained online by downloading it from PowerZone. Ambit will not approve any sale or transfer of a Consultant position for which Ambit receives a Notice of Levy from the Internal Revenue Service or a court-ordered garnishment (e.g., child support) against the transferring position. Ambit will also revoke any sale or transfer of a Consultant position that occurs within a 60-day period in which Ambit receives a Notice of Levy from the Internal Revenue Service or a court-ordered garnishment. Ambit also will not approve any sale or transfer of a Consultant position that involves a Consultant currently under investigation. Any position purchased begins vesting requirements from the date of the purchase. Once the sale or transfer of a position has been completed, the transferring Consultant may not operate or have a financial interest in another Consultant position for six months from the date of the sale or transfer. Affiliate Consultants are ineligible to sell or transfer their Consultant position.

**4.26: SEPARATION OF AN AMBIT BUSINESS.**

**4.26.1: DIVORCE.** Should a married couple operating a single Consultant position divorce, they must provide Ambit with: (1) a certified copy of the final decree of divorce that sets forth ownership of the Consultant position; (2) a completed Sale/Transfer Form dated no later than ten

(10) business days after the date of the final decree of divorce; and (3) a \$45 nonrefundable check for processing fees. Until Ambit receives proper documentation, the Consultant position will retain its pre-divorce ownership and no changes to the Consultant position will be implemented.

**4.26.2: BUSINESS ENTITY DISSOLUTION.** Upon the dissolution of a business entity (trust, partnership, corporation, etc.), the owners of the business entity shall provide Ambit with written instruction on who shall be the proper party(s) to continue to operate the business, and a \$45 processing fee shall apply. The written instruction shall be signed by all owners, shareholders, partners or trustees, and all signatures shall be notarized.

**4.26.3: NO COMMISSION OR DOWNLINE DIVISION.** Under no circumstances will the Downline Organization of divorcing spouses or a dissolving business entity be divided. Similarly, under no circumstances will Ambit split commission and bonus checks between divorcing spouses or members of dissolving entities. Ambit will recognize only one Downline Organization and will issue only one commission check per Ambit business per commission cycle. Commission checks shall always be issued to the same individual or entity. In the event that parties to a divorce or dissolution proceeding are unable to resolve a dispute over the disposition of commissions and ownership of the business in a timely fashion, as determined by the Company, the Consultant Agreement shall be involuntarily cancelled.

If a former spouse has completely relinquished all rights in the original Ambit business pursuant to a divorce, he or she is thereafter free to enroll under any sponsor of his or her choosing without waiting six calendar months. In the case of business entity dissolutions, the former partner, shareholder, member or other entity affiliate who retains no interest in the business must wait six calendar months from the date of the final dissolution before re-enrolling as a Consultant. In either case, however, the former spouse or business affiliate shall have no rights to any Consultants in their former organization or to any former retail Customer. They must develop the new business in the same manner as would any other new Consultant.

**4.27: SPONSORING.** All active Consultants in good standing have the right to sponsor and enroll others into Ambit. Each prospective Customer or Consultant has the ultimate right to choose his or her own Sponsor. If two Consultants claim to be the Sponsor of the same new Consultant or Customer, the Company shall regard the first application received by the Company as controlling.

**4.28: SUCCESSION.** Upon the death or incapacitation of a Consultant, his or her business may be passed to his or her heirs. Appropriate legal documentation must be submitted to the Company to ensure the transfer is proper. Accordingly, a Consultant should consult an attorney to assist him or her in the preparation of a will or other testamentary instrument. Whenever an Ambit business is transferred by a will or other testamentary process, the beneficiary acquires the right to collect all bonuses and commissions of the deceased Consultant's marketing organization provided the following qualifications are met. The successor(s) must: (1) execute a Consultant Agreement; (2) comply with terms and provisions of the Agreement, and (3) meet all of the qualifications for the deceased or incapacitated Consultant's status.

Bonus and commission checks of an Ambit business transferred pursuant to this section will be paid in a single check jointly to the devisees. The devisees must provide Ambit with an "address of record" to which all bonus and commission checks will be sent.

If the business is bequeathed to joint devisees, they must form a business entity and acquire a federal taxpayer identification number. Ambit will issue all bonus and commission checks, and one 1099, to the business entity.

**4.28.1: TRANSFER UPON DEATH OF A CONSULTANT.** In addition to complying with the above provisions of Section 4.27, to effect a testamentary

transfer of an Ambit business, the successor must provide the following to Ambit: (1) an original death certificate; (2) a notarized copy of the will or other instrument establishing the successor's right to the Ambit business; and (3) a completed and executed Consultant Agreement.

**4.28.2: TRANSFER UPON INCAPACITATION OF A CONSULTANT.** In addition to complying with the above provisions of Section 4.27, to effectuate a transfer of an Ambit business because of incapacity, the successor must provide the following to Ambit: (1) a notarized copy of an appointment as trustee; (2) a notarized copy of the trust document or other documentation establishing the trustee's right to administer the Ambit business; and (3) a completed Consultant Agreement executed by the trustee.

**4.29: PROSPECTIVE CONSULTANT AND CUSTOMER INFORMATION.** Buying or selling, or inducing others to buy or sell, Customer or Consultant or prospective Customer or Consultant information is strictly prohibited at all times. Consultants shall not provide any type of incentive for action(s) or proposed action(s) to induce a Consultant or third party to sell any information pertaining to an Ambit Energy Customer or Consultant or prospective Customer or Consultant.

## **SECTION 5: RESPONSIBILITIES OF CONSULTANT**

**5.1: CHANGE OF ADDRESS, TELEPHONE AND E-MAIL ADDRESSES.** Consultants must report any change of address, email address or telephone number by calling Consultant Support or by sending written notice to Ambit at the following address:

Ambit Marketing, LLC, Attention: Consultant Support, 1801 North Lamar Street Suite 200, Dallas, Texas 75202.

Written notification of an address change must be signed by all parties when a position is owned by more than one individual (e.g., husband and wife). When mail is returned to Ambit because Ambit has not been informed of an address change, the Consultant is placed on inactive status.

### **5.2: CONTINUING DEVELOPMENT OBLIGATIONS.**

**5.2.1: ONGOING TRAINING.** Any Consultant who sponsors another Consultant into Ambit must perform a bona fide assistance and training function to ensure that his or her downline is properly operating his or her Ambit business. Consultants must have ongoing contact and communication with the Consultants in their Downline Organizations. Examples of such contact and communication may include, but are not limited to, newsletters, written correspondence, personal meetings, telephone contact, voice mail and electronic mail, as well as the accompaniment of downline Consultants to Ambit meetings, training sessions and other functions. Upline Consultants are also responsible to motivate and train new Consultants in Ambit product knowledge, effective sales techniques, the Ambit Compensation Plan and compliance with Company Policies and Procedures. Communication with and the training of downline Consultants must not, however, violate Section 4.2 (regarding the development of Consultant-produced sales aids and advertising materials).

Consultants must monitor the Consultants in their Downline Organizations to ensure that downline Consultants do not make improper product or business claims, or engage in any illegal or inappropriate conduct. Upon request, every Consultant should be able to provide documented evidence to Ambit of his or her ongoing fulfillment of the responsibilities of a Sponsor.

**5.2.2: INCREASED TRAINING RESPONSIBILITIES.** As Consultants progress through the various levels of leadership, they will become more experienced in sales techniques, product knowledge and understanding of the Ambit program. They will be called upon to share this knowledge

with lesser experienced Consultants within their organization.

**5.2.3: ONGOING SALES RESPONSIBILITIES.** Regardless of their level of achievement, Consultants have an ongoing obligation to continue to personally promote sales through the generation of new Customers and through servicing their existing Customers.

**5.3: NONDISPARAGEMENT.** Ambit wants to provide its Independent Consultants with the best products, compensation plan and service in the industry. Accordingly, we value your constructive criticism and comments. All such comments should be submitted in writing to Ambit's Consultant Support Department. While Ambit welcomes constructive input, negative comments and remarks made in the field by Consultants about the Company, its directors, officers, employees, its products or the compensation plan serve no purpose other than to sour the enthusiasm of other, and prospective, Ambit Consultants. For this reason, and to set the proper example for their downline, Consultants must not disparage, demean or make negative remarks about Ambit, other Ambit Consultants, Ambit's products, the Marketing and Compensation plan or Ambit's directors, officers or employees.

**5.4: PROVIDING DOCUMENTATION TO APPLICANTS.** Consultants must provide the most current version of the Policies and Procedures and the Compensation Plan to individuals whom they are sponsoring to become Consultants before the applicant signs a Consultant Agreement. Additional copies of Policies and Procedures can be downloaded from Ambit's website.

**5.5: REPORTING POLICY VIOLATIONS.** Consultants observing a Policy violation by another Consultant should submit a written report of the violation directly to the attention of the Ambit Field Compliance Department. Details of the incidents such as dates, number of occurrences, persons involved and any supporting documentation should be included in the report. All submissions will be fully investigated. Any submissions deemed to be submitted with malicious intent will result in disciplinary actions as outlined in section 9.1.

For questions regarding compliance with Ambit's Policies and Procedures, or to report known or suspected Consultant misconduct, you are encouraged to contact Ambit Energy's Field Compliance Department by: (1) email at [fieldcompliance@ambitenergy.com](mailto:fieldcompliance@ambitenergy.com); (2) fax at 877-431-0689; or (3) mail to Ambit Energy, Attention: Field Compliance, 1801 North Lamar Street Suite 200, Dallas, Texas 75202.

If you are contacted by either Ambit Energy or a government authority regarding policy violations that you either have knowledge of, or that you are alleged to have committed, you agree to fully assist with such investigation.

## **SECTION 6: SALES REQUIREMENTS**

**6.1: PRODUCT SALES.** The Ambit Compensation Plan is based on the sale of Ambit products and services to end consumers. Consultants must fulfill personal and Downline Organization retail sales requirements (as well as meet other responsibilities set forth in the Agreement) to be eligible for bonuses, commissions and advancement to higher levels of achievement.

**6.2: FULL COST DISCLOSURE.** When enrolling Customers, you must provide to them all of the costs involved with the service. This includes all of the following, if applicable: cost per kilowatt-hour or therm, monthly service fees, one-time fees, taxes and surcharges, time-of-day or other usage limitations, and other costs. All of this information is available for download in PowerZone.

**6.3: NO TERRITORY RESTRICTIONS.** There are no exclusive territories granted to anyone. No franchise fees are required.

**6.4: SALES RECEIPTS.** All Consultants must provide their retail Customers with two copies of an official Ambit sales receipt at the time of the sale. These receipts set forth the Customer Satisfaction Guarantee, as well as any consumer protection rights afforded by federal or state law. Consultants must maintain all retail sales receipts for a period of two years, and furnish them to Ambit at the Company's request. Remember that Customers must receive two copies of the sales receipt. In addition, Consultants must orally inform the buyer of his or her cancellation rights.

#### **SECTION 7: BONUSES AND COMMISSIONS**

**7.1: RIGHT OF OFFSET.** A Consultant is not required to subscribe to any Ambit service in order to become an Ambit Independent Consultant. However, if the Consultant selects Ambit as the Consultant's retail energy provider, billing must be paid when due. If a Consultant becomes 60 days past due in paying any Ambit bill, Ambit may, at Ambit's sole option, deduct the amounts owed by the offending Consultant from his or her commission check and may terminate the Consultant. In addition, Ambit may offset any amount owed to Ambit by a Consultant against commissions or other amounts owed to such Consultant by Ambit.

**7.2: REPORTS.** All information provided by Ambit in online or telephonic downline activity reports, including, but not limited to, personal and group sales volume (or any part thereof) and downline sponsoring activity, is believed to be accurate and reliable. Nevertheless, due to various factors including, but not limited to: the inherent possibility of human and mechanical error; the accuracy, completeness and timeliness of orders; denial of credit card and electronic check payments; returned products; and credit card and electronic check chargebacks, the information is not guaranteed by Ambit or any persons creating or transmitting the information.

ALL PERSONAL AND GROUP SALES VOLUME INFORMATION IS PROVIDED "AS IS" WITHOUT WARRANTIES, EXPRESSED OR IMPLIED, OR REPRESENTATIONS OF ANY KIND WHATSOEVER. IN PARTICULAR, BUT WITHOUT LIMITATION, THERE SHALL BE NO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR NON-INFRINGEMENT.

TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, AMBIT AND/OR OTHER PERSONS CREATING OR TRANSMITTING THE INFORMATION WILL, IN NO EVENT, BE LIABLE TO ANY CONSULTANT OR ANYONE ELSE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES THAT ARISE OUT OF THE USE OF, OR ACCESS TO, PERSONAL AND GROUP SALES VOLUME INFORMATION (INCLUDING, BUT NOT LIMITED TO: LOST PROFITS, BONUSES OR COMMISSIONS; LOSS OF OPPORTUNITY; AND DAMAGES THAT MAY RESULT FROM INACCURACY, INCOMPLETENESS, INCONVENIENCE, DELAY OR LOSS OF THE USE OF THE INFORMATION), EVEN IF AMBIT OR OTHER PERSONS CREATING OR TRANSMITTING THE INFORMATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, AMBIT OR OTHER PERSONS CREATING OR TRANSMITTING THE INFORMATION SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO YOU OR ANYONE ELSE UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHER THEORY WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO.

Access to and use of Ambit's online reporting services, and your reliance upon such information, is at your own risk. All such information is provided to you "as is." If you are dissatisfied with the accuracy or quality of the information, your sole and exclusive remedy is to discontinue use of and access to Ambit's online and telephone reporting services and your reliance upon the information.

#### **SECTION 8: ORDER CANCELLATION AND SALES TOOL INVENTORY RE-PURCHASE**

**8.1: RETURN OF INVENTORY AND SALES AIDS BY CONSULTANTS UPON CANCELLATION.** Upon cancellation of a Consultant's Agreement, the Consultant may return any products and sales aids held in his or her inventory for a refund. Consultants may only return sales aids that he or she personally purchased from Ambit (purchases from other Consultants or third parties are not subject to refund), and which are in resalable condition. Upon receipt of a resalable sales aid, the Consultant will be reimbursed 90% of the net cost of the original purchase price(s). Shipping charges incurred by a Consultant when the sales aids were purchased will not be refunded. If the purchases were made through a credit card, the refund will be credited back to the same account.

**8.1.1: MONTANA RESIDENTS.** A Montana resident may cancel his or her Consultant Agreement within 15 days from the date of enrollment, and may return his or her starter kit for a full refund within such time period.

**8.1.2: MASSACHUSETTS RESIDENTS.** A Consultant may cancel a Consultant Agreement at any time upon providing notice to Ambit in accordance with Section 10.4. Upon cancellation, all unencumbered products in a resalable condition then in Consultant's possession can be returned for repurchase by Ambit at a price of not less than 90% of the original net cost, taking into account any sales made prior to Consultant's notification of cancellation.

#### **SECTION 9: DISCIPLINARY SANCTIONS AND DISPUTE RESOLUTION PROCEEDINGS**

**9.1: DISCIPLINARY SANCTIONS.** Violation of the Agreement, these Policies and Procedures, violation of any common law duty, including but not limited to any applicable duty of loyalty, any illegal, fraudulent, deceptive or unethical business conduct, or any act or omission by a Consultant that, in the sole discretion of the Company, may damage the Company's reputation or goodwill (such damaging act or omission need not be related to the Consultant's Ambit business), may result, at Ambit's discretion, in one or more of the following corrective measures:

- Issuance of a written warning or admonition requiring the Consultant to take immediate corrective measures;
- Imposition of a fine, which may be withheld from bonus and commission checks;
- Loss of rights to one or more bonus and commission checks;
- Withholding from a Consultant of all or part of the Consultant's bonuses and commissions during the period that Ambit is investigating any conduct allegedly in violation of the Agreement (if a Consultant's business is cancelled for disciplinary reasons, the Consultant will not be entitled to recover any commissions withheld during the investigation period);
- Suspension of the individual's Consultant Agreement for one or more pay periods;
- Involuntary termination of the offender's Consultant Agreement;
- Termination and/or suspension of the offending Consultant's Ambit Marketing website or website access;

- Any other measure expressly allowed within any provision of the Agreement, or which Ambit deems practicable, to implement and appropriate to equitably resolve injuries caused partially or exclusively by the Consultant's policy violation or contractual breach;
- If the situation is deemed appropriate by Ambit, the Company may institute legal proceedings for monetary and/or equitable relief.

## **9.2: DISPUTE RESOLUTION.**

**9.2.1: MEDIATION.** Prior to entering into arbitration, Ambit (on behalf of the Ambit Companies) and the Consultant shall meet in good faith and attempt to resolve any dispute arising from, or relating to, the Agreement through non-binding mediation. One individual who is mutually acceptable to Ambit (on behalf of the Ambit Companies) and the Consultant shall be appointed as mediator.

The mediator's fees and costs, as well as the costs of holding and conducting the mediation, shall be divided equally between Ambit (on behalf of the Ambit Companies) and the Consultant. Each party shall pay its portion of the anticipated shared fees and costs at least ten days in advance of the mediation. Each party shall pay its own attorneys' fees, costs and individual expenses associated with conducting and attending the mediation. Mediation shall be held in Dallas, Texas, and shall last no more than two business days.

**9.2.2: ARBITRATION.** If mediation is unsuccessful, Ambit (on behalf of the Ambit Companies) and the Consultant shall resolve any controversy or claim arising out of, or relating to, the Agreement, or the breach thereof by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The Ambit Companies and Consultants agree that the arbitrator will have the primary power to decide any question about the arbitrability of any claim, dispute, or other difference between them. The Ambit Companies and Consultants waive all rights to trial by jury. All arbitration proceedings shall be held in Dallas, Texas. All parties shall be entitled to all discovery rights pursuant to the Federal Rules of Civil Procedure. There shall be one arbitrator, an attorney at law, who shall have expertise in business law transactions, with a strong preference toward an attorney knowledgeable in the direct-selling industry, selected from the panel which the American Arbitration Panel provides. Each party to the arbitration shall be responsible for its own costs and expenses of arbitration, including legal and filing fees. The decision of the arbitrator shall be final and binding on the parties, subject to the right to file an action in court to confirm, vacate, modify, or otherwise enter judgment on the award. Any motion to confirm, vacate, modify, or otherwise enter judgment on the award is subject to Section 9.3. This agreement to arbitrate shall survive any termination or expiration of the Agreement.

Notwithstanding the foregoing and without waiving any right or remedy under the Agreement, the Ambit Companies or the Consultant may apply to a court for interim or provisional relief necessary to protect the rights or property of the Ambit Companies or the Consultant prior to, during, or following arbitral proceedings or to enforce an interim or final arbitral award, or seek such interim or provisional relief in the arbitral proceedings pursuant to the Commercial Arbitration Rules. Any such court proceeding is subject to Section 9.3.

**9.3: GOVERNING LAW, JURISDICTION AND VENUE.** Jurisdiction and venue of any matter not subject to arbitration, including court actions provided for in Section 9.2.2, shall reside exclusively in Dallas County, Texas, except that any action to enforce a judgment may be brought in any

court of competent jurisdiction. The Federal Arbitration Act shall govern all matters relating to arbitration. The law of the State of Texas shall govern all other matters relating to, or arising from, the Agreement. Notwithstanding the foregoing, and the dispute resolutions provisions in Section 9.2, residents of the State of Louisiana shall be entitled to bring an action against Ambit in their home forum and pursuant to Louisiana law.

## **SECTION 10: INACTIVITY AND CANCELLATION**

**10.1: EFFECT OF CANCELLATION.** So long as a Consultant remains active and complies with the terms of the Consultant Agreement and these Policies and Procedures, Ambit shall pay commissions to such Consultant in accordance with the Compensation Plan. A Consultant's bonuses and commissions constitute the entire consideration for the Consultant's efforts in generating sales and all activities related to generating sales (including building a downline organization). Following a Consultant's voluntary or involuntary cancellation of his or her Consultant Agreement (all of these methods are collectively referred to as "cancellation"), the former Consultant shall have no right, title, claim or interest to the marketing organization which he or she operated, or any commission or bonus from the sales generated by the organization. A Consultant whose business is cancelled will lose all rights as a Consultant. This includes the right to sell Ambit products and services, and the right to receive future commissions, bonuses or other income resulting from the sales and other activities of the Consultant's former downline sales organization. In the event of cancellation, Consultants agree to waive all rights they may have, including, but not limited to, property rights to their former downline organization and to any bonuses, commissions or other remuneration derived from the sales and other activities of his or her former downline organization.

Following a Consultant's cancellation of his or her Consultant Agreement, the former Consultant shall not hold himself or herself out as an Ambit Consultant, and shall not have the right to sell Ambit products or services. A Consultant whose Consultant Agreement is cancelled shall receive commissions and bonuses only for the last full pay period he or she was active prior to cancellation (less any amounts withheld during an investigation preceding an involuntary cancellation).

**10.2: INACTIVE STATUS.** To remain "active," a Consultant must sponsor a new Consultant or enroll a new energy Customer within the preceding four months, or maintain a minimum of 20 pending or energized Customer points. If a Consultant does not sponsor a new Consultant or enroll a new energy Customer in the preceding four months, or maintain a minimum of 20 pending or energized Customer points, the Consultant's Ambit business will be placed into inactive status and no commission will trigger until the position is reactivated by sponsoring a new Customer or Consultant. This rule does not apply in the Consultant's first year.

**10.3: INVOLUNTARY CANCELLATION.** A Consultant's violation of any of the terms of the Agreement, including any amendments that may be made by Ambit at its sole discretion, may result in any of the sanctions listed in Section 9.1, including the involuntary cancellation of his or her Consultant Agreement. Cancellation shall be effective on the date on which written notice is mailed, faxed or delivered by an express courier to the Consultant's last known address (or fax number), or to his/her attorney or when the Consultant receives actual notice of cancellation, whichever occurs first.

**10.4: VOLUNTARY CANCELLATION.** A participant in this network marketing plan has a right to cancel at any time, regardless of reason. Cancellation must be submitted in writing to the Company at its principal business address, which is:

Ambit Marketing, LLC, Attention: Consultant Cancellation, 1801 North Lamar Street Suite 200, Dallas, Texas 75202



The written notice must include the Consultant's signature, printed name, address and Consultant I.D. number. If a Consultant is also a Customer of Ambit Energy, Ambit will continue to provide energy services to the Customer and invoice the Customer for such services, unless he or she also specifically requests that his or her energy services also be cancelled.

**SECTION 11: DEFINITIONS**

**ACTIVE CONSULTANT:** A Consultant who has sponsored a new Consultant or enrolled a new energy Customer in the preceding four months.

**ACTIVE RANK:** This term refers to the current rank of a Consultant, as determined by the Ambit Compensation Plan, for any month. To be considered "active" relative to a particular rank, a Consultant must meet the criteria set forth in the Ambit Compensation Plan for his or her respective rank.

**AGREEMENT:** The contract between the Company and each Consultant includes the Consultant Application and Agreement, the Ambit Policies and Procedures, and the Ambit Compensation Plan, all in their current form and as amended by Ambit at its sole discretion. These documents are collectively referred to as the "Agreement."

**CANCEL:** The termination of a Consultant's business. Cancellation may be either voluntary, involuntary, through non-renewal or inactivity.

**CUSTOMER:** The term "Customer" means current, past and prospective Ambit Energy Customers.

**GENEALOGY REPORT:** A monthly report generated by Ambit that provides critical data relating to the identities of Consultants, sales information and enrollment activity of each Consultant's Marketing Organization. This report contains confidential and trade secret information which is proprietary to Ambit.

**OFFICIAL AMBIT MATERIAL:** Literature, audio or video tapes or disks, and other materials developed, printed, published and distributed by Ambit to Consultants.

**RESALABLE:** Sales aids shall be deemed "resalable" if each of the following elements is satisfied: (1) they are unopened and unused; (2) packaging and labeling has not been altered or damaged; (3) they are in a condition such that it is a commercially reasonable practice within the trade to sell the merchandise at full price; (4) it is returned to Ambit within one year from the date of purchase (time limitation is inapplicable to Massachusetts residents); (5) the product contains current Ambit labeling. Any sales aids that are clearly identified at the time of sale as nonreturnable, discontinued or a seasonal item shall not be resalable.

**RETAIL CUSTOMER:** An individual who purchases Ambit services from a Consultant, but who is not a participant in the Ambit compensation plan.

**UPLINE:** This term refers to the Consultant or Consultants above a particular Consultant in a sponsorship line up to the Company. Conversely stated, it is the line of sponsors that links any particular Consultant to the Company.



DIRECT SELLING ASSOCIATION

# Code of Ethics

# Code of Ethics

*Explanatory provisions in italics.*

## Preamble

The Direct Selling Association (“DSA”), recognizing that companies engaged in direct selling assume certain responsibilities toward consumers arising out of the personal-contact method of distribution of their products and services, hereby sets forth the basic fair and ethical principles and practices to which member companies will continue to adhere to in the conduct of their business.

## A. Code of Conduct

### 1. Deceptive or Unlawful Consumer or Recruiting Practices

- a. No member company or independent salesperson for a member company shall engage in any deceptive, false, unethical or unlawful consumer or recruiting practice. Member companies shall ensure that no statements, promises or testimonials are made that are likely to mislead consumers or prospective independent salespeople.
- b. Member companies and their independent salespeople must comply with all requirements of law. While this Code does not restate all legal obligations, compliance with all pertinent laws by member companies and their independent salespeople is a condition of acceptance by and continuing membership in DSA.
- c. Member companies shall conduct their activities toward other member companies in compliance with this Code and all pertinent laws.
- d. Information provided by member companies and their independent salespeople to prospective or current independent salespeople concerning the opportunity and related rights and obligations shall be accurate and complete. Member companies and their independent salespeople shall not make any factual representation to prospective independent salespeople that cannot be verified or make any promise that cannot be fulfilled. Member companies and their independent salespeople shall not present any selling opportunity to any prospective independent salesperson in a false, deceptive or misleading manner.

- e. Member companies and their independent salespeople shall not induce a person to purchase products or services based upon the representation that a consumer can recover all or part of the purchase price by referring other consumers, if such reductions or recovery are violative of applicable referral sales laws.
- f. Member companies shall provide to their independent salespeople either a written agreement to be signed by both the member company and the independent salesperson, or a written statement containing the essential details of the relationship between the independent salesperson and the member company. Member companies shall inform their independent salespeople of their legal obligations, including their responsibility to handle any applicable licenses, registrations and taxes.
- g. Member companies shall provide their independent salespeople with periodic accounts including, as applicable, sales, purchases, details of earnings, commissions, bonuses, discounts, deliveries, cancellations and other relevant data, in accordance with the member company's arrangement with the independent salesperson. All monies due shall be paid and any withholdings made in a commercially reasonable manner.
- h. Independent salespeople shall respect any lack of commercial experience of consumers. Independent salespeople shall not abuse the trust of individual consumers, or exploit a consumer's age, illness, handicap, lack of understanding or unfamiliarity with a language.

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*1. This section does not bring "proselytizing" or "salesforce raiding" disputes under the Code's jurisdiction, unless such disputes involve allegations of deceptive, unethical or unlawful recruiting practices or behaviors aimed at potential salespeople. In those cases, the section applies. As used in this section, "unethical" means violative of the U.S. DSA Code of Ethics.*

*The DSA Code Administrator appointed pursuant to Section C.1 ("Administrator") has the authority to make a determination of what is a deceptive, unlawful or unethical consumer or recruiting practice*



*under the Code using prevailing legal standards as a guide. Compliance with any particular law, regulation or DSA Code of Ethics provision is not a defense to a determination by the Administrator that a practice is deceptive, unlawful or unethical. For example, in a sale to a consumer, compliance with the Federal Trade Commission Cooling-Off Rule does not prevent the Administrator from making a determination that a particular sales practice is deceptive, unlawful or unethical and that a refund or compensation is required.*

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## **2. Products, Services and Promotional Materials**

- a. The offer of products or services for sale by member companies and their independent salespeople shall be accurate and truthful as to price, grade, quality, make, value, performance, quantity, currency of model and availability. All product claims made by member companies and their independent salespeople must be substantiated by competent and reliable evidence and must not be misleading. A consumer's order for products and services shall be fulfilled in a timely manner.
- b. Neither member companies nor their independent salespeople shall make misleading comparisons of another company's direct selling opportunity, products or services. Any comparison must be based on facts that can be objectively and adequately substantiated by competent and reliable evidence. Neither member companies nor their independent salespeople shall denigrate any other member company, business, product or service – directly or by implication – in a false or misleading manner and shall not take unfair advantage of the goodwill attached to the trade name and symbol of any company, business, product or service.
- c. Promotional literature, advertisements and mailings shall not contain product descriptions, claims, photos or illustrations that are false, deceptive or misleading. (Promotional literature shall contain the name and address or telephone number of the member company and may include the telephone number of the individual independent salesperson).
- d. Independent salespeople shall offer consumers accurate information regarding: price, credit terms; terms of payment; a cooling-off

period, including return policies; terms of guarantee; after-sales service; and delivery dates. Independent salespeople shall give understandable and accurate answers to questions from consumers. To the extent claims are made with respect to products, independent salespeople shall make only those product claims authorized by the member company.

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*1. and 2. These sections cover communications about your own company or another company. For example, this section covers misleading statements made by an independent salesperson for company A about company B and/or its products to consumers or prospective independent salespeople.*

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### 3. Terms of Sale

- a. A written order or receipt shall be delivered to the consumer at or prior to the time of the initial sale. In the case of a sale made through the mail, telephone, Internet, or other non-face-to-face means, a copy of the order form shall have been previously provided, be included in the initial order, or be provided in printable or downloadable form through the Internet. The order form must set forth clearly, legibly and unambiguously:
  1. Terms and conditions of sale, including the total amount the consumer will be required to pay, including all interest, service charges and fees, and other costs and expenses as required by federal and state law;
  2. Identity of the member company and the independent salesperson, and contain the full name, permanent address and telephone number of the member company or the independent salesperson, and all material terms of the sale; and
  3. Terms of a guarantee or a warranty, details and any limitations of after-sales service, the name and address of the guarantor, the length of the guarantee, and the remedial action available to the consumer. Alternatively, this information may be provided with other accompanying literature provided with the product or service.

- b. Member companies and their salespeople shall offer a written, clearly stated cooling off period permitting the consumer to withdraw from a purchase order within a minimum of three business days from the date of the purchase transaction and receive a full refund of the purchase price.
- c. Member companies and their independent salespeople offering a right of return, whether or not conditioned upon certain events, shall provide it in writing.

#### **4. Warranties and Guarantees**

The terms of any warranty or guarantee offered by the seller in connection with the sale shall be furnished to the buyer in a manner that fully conforms to federal and state warranty and guarantee laws and regulations. The manufacturer, distributor and/or seller shall fully and promptly perform in accordance with the terms of all warranties and guarantees offered to consumers.

#### **5. Identification and Privacy**

- a. At the beginning of sales presentations independent salespeople shall truthfully and clearly identify themselves, their company, the nature of their company's products or services, and the reason for the solicitation. Contact with the consumer shall be made in a polite manner and during reasonable hours. A demonstration or sales presentation shall stop upon the consumer's request.
- b. Member companies and independent salespeople shall take appropriate steps to safeguard the protection of all private information provided by a consumer, independent salesperson or prospective independent salesperson.

#### **6. Pyramid Schemes**

For the purpose of this Code, pyramid or endless chain schemes shall be considered actionable under this Code. The DSA Code Administrator (appointed pursuant to Section C.1) shall determine whether such pyramid or endless chain schemes constitute a violation of this Code in accordance with applicable federal, state and/or local law or regulation.

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6. *The definition of an “illegal pyramid” is based upon existing standards of law as reflected in In the matter of Amway, 93 FTC 618 (1979) and the anti-pyramid statutes of various states. In accordance with these laws, member companies shall remunerate independent salespeople primarily on the basis of sales of products, including services, purchased by any person for actual use or consumption. Such remuneration may include compensation based on purchases that are not simply incidental to the purchase of the right to participate in the program. See Section 9 for further clarification.*
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## **7. Inventory Purchases**

- a. Any member company with a marketing plan that involves selling products directly or indirectly to independent salespeople shall adopt and communicate a policy, in its recruiting literature, sales manual, or contract with an independent salesperson, that the company will repurchase on reasonable commercial terms currently marketable inventory, in the possession of that salesperson and purchased by that salesperson for resale prior to the date of termination of the independent salesperson’s business relationship with the company. For purposes of this Code, “reasonable commercial terms” shall include the repurchase of marketable inventory within twelve (12) months from the salesperson’s date of purchase at not less than 90 percent of the salesperson’s original net cost less appropriate set offs and legal claims, if any. For purposes of this Code, products shall not be considered “currently marketable” if returned for repurchase after the products’ commercially reasonable usable or shelf life period has passed; nor shall products be considered “currently marketable” if the company clearly discloses to salespeople prior to purchase that the products are seasonal, discontinued, or special promotion products and are not subject to the repurchase obligation.



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7a. *The purpose of the buyback is to eliminate the potential harm of “inventory loading;” i.e., the practice of loading up salespeople with inventory they are unable or unlikely to be able to sell or use within a reasonable time period. Inventory loading has historically been accomplished by giving sellers financial incentives for sales without regard to ultimate sales to or use by actual consumers. The repurchase provisions of the Code are meant to deter inventory loading and to protect distributors from financial harm that might result from inventory loading.*

*“Inventory” is considered to include both tangible and intangible product; i.e., both goods and services. “Current marketability” of inventory shall be determined on the basis of the specific condition of the product. Factors to be considered by the DSA Code Administrator (appointed pursuant to Section C.1) when determining “current marketability” are condition of the goods and whether or not the products have been used or opened.*

*Changes in marketplace demand, product formulation, or labeling are not sufficient grounds for a claim by the company that a product is no longer “marketable.” Nor does the ingestible nature of certain products limit the current marketability of those products. Government regulation that may arguably restrict or limit the ultimate resalability of a product does not limit its “current marketability” for purposes of the Code.*

*State statutes mandate that certain buyback provisions required by law must be described in an independent salesperson’s contract. While acknowledging that the contract is probably the most effective place for such information, the DSA Code allows for placement of the provision in either “its recruiting literature, sales manual or contract.” Regardless, the disclosure must be in writing and be clearly stated. Wherever disclosed, the buyback requirement shall be construed as a contractual obligation of the company.*

*A member company shall not place any unreasonable or procedural impediments in the way of salespeople seeking to sell back products to the member company.*

*The buyback process should be as efficient as possible and designed to facilitate buyback of products. The buyback provisions apply to all terminating independent salespeople who otherwise qualify for such repurchase, including independent salespeople who are not new to a particular company, or those who have left a company to sell for another company.*

*The buyback policy should be published in multiple locations and formats, and stated in a manner understood easily by a typical independent salesperson. It should be the goal of each member company to ensure that the typical independent salesperson is aware of the company's buyback policy. Therefore, each member company should undertake its best efforts to ensure the effective communication of the policy.*

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- b. Any member company with a marketing plan that requires independent salespeople to purchase company-produced promotional materials, sales aids or kits shall adopt and communicate a policy in its recruiting literature, sales manual or contract with the independent salespeople that the member company will repurchase these items on reasonable commercial terms.

Any member company with a marketing plan that provides its independent salespeople with any financial benefit related to the sales of company-produced promotional materials, sales aids or kits shall prominently state and communicate in its recruiting literature, sales manual or contract with the independent salespeople that the member company will repurchase, on reasonable commercial terms, currently marketable company-produced promotional materials, sales aids or kits.

A member company shall clearly state in its recruiting literature, sales manual or contract with the independent salespeople if any items not otherwise covered by this Section are ineligible for repurchase by the member company.

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*7b. Sales aids, kits and promotional materials, while not inventory or necessarily intended for resale, are subject to the repurchase requirement if a member company requires their purchase or if there is a financial incentive associated with their sale because “loading” of these items can cause the same harm to plan participants as loading of “inventory.”*

*With respect to the final paragraph of Section 7b., disclosure of an item’s eligibility or ineligibility for the buyback is key. Provided that repurchase is not required by this Code provision, for those items a member company chooses not to repurchase, the member company should clearly and conspicuously disclose to the independent salesperson or prospective independent salesperson that the items are not subject to the repurchase requirement. Under such disclosure, a refusal to take an item back will not constitute a violation providing the member is acting in good faith and not attempting to evade the repurchase requirement.*

*This Code provision is not intended to endorse marketing plans that provide financial benefits to independent salespeople for the sale of company-produced promotional materials, sales aids or kits (“tools”). While these materials can be important to individual sellers, the Code requires that member companies remunerate independent salespeople primarily on the basis of sales of products, including services, purchased by any person for actual use and consumption (See Code Section 6 and accompanying explanatory provision) and not on the sale of tools. In instances when some financial benefit is provided to an individual independent salesperson based on the sale of company-produced promotional materials, sales aids or kits, and is not otherwise in violation of the Code, this Section requires that the tools be repurchased under commercially reasonable terms.*

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7c. The DSA Code Administrator appointed pursuant to Section C.1, upon finding a member company has engaged in false, misleading or deceptive recruiting practices, may employ any appropriate remedy to ensure any complainant shall not incur significant financial loss as a result of such prohibited behavior, including but not limited to requiring such member company to repurchase any and all inventory, promotional materials, sales aids and/or kits which a complainant has purchased.

## 8. Earnings Representations

- a. The following shall be considered “earnings representations” under this Code:
- (1) Any oral, written or visual claim that conveys, expressly or by implication:
    - (a) A specific level or range of actual or potential sales; or
    - (b) Gross or net income or profits, including but not limited to representations that either explicitly or implicitly suggest that lifestyle purchases - including homes, vehicles, vacations and the like - are related to income earned.
  - (2) Any statement, representation or hypothetical scenario from which a prospective independent salesperson could reasonably infer that he/she will earn a minimum level of income;
  - (3) Any chart, table or mathematical calculation demonstrating possible income, actual or potential sales, or gross or net profits based upon a combination of variables;
  - (4) Marketing materials or advertising explicitly describing or promising potential income amounts, or material-based lifestyles of independent salespeople;
  - (5) Any award or announcement of compensation describing the earnings of any current or past salesperson. A company’s sales incentive awards, trips or meetings, and/or commissions, overrides, bonuses or other compensation, shall not be considered earnings representations unless they are accompanied by express indication of their value.

- b. Member companies must comply with, and obligate their independent salespeople to also comply with, the following standards:
- (1) Earnings representations and sales figures must be truthful, accurate, and presented in a manner that is not false, deceptive or misleading.
  - (2) Current and prospective independent salespeople must be provided with sufficient information to understand that:
    - a. Actual earnings can vary significantly depending upon time committed, skill level and other factors;
    - b. Not everyone will achieve the represented level of income; and
    - c. Such amounts are before expenses, if any.
  - (3) Current and prospective independent salespeople must be provided with sufficient information to enable a reasonable evaluation of the opportunity to earn income.
  - (4) If a specific independent salesperson's commission or bonus payments are included in an earnings representation, any distributions made for those payments to others in the sales organization must be disclosed or deducted from the figure(s) used.
  - (5) Any sales and earnings representations must be documented and substantiated. Member companies and their independent salespeople must maintain such documentation and substantiation, making it available to the Administrator upon written request.
  - (6) Industry-wide - including DSA-produced - financial, earnings or performance information cannot be used as the primary source in documenting or substantiating a member company's or independent salesperson's representations. Such information can, however, be used in a general manner.
- c. In assessing whether an earnings representation violates this section of the Code, the Administrator shall consider all relevant facts and information, including but not limited to the factors outlined in this section.

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8. *There is ample legal precedent in the form of FTC decisions to afford guidance on the subject of earnings representations. While not controlling, these precedents should be used by the Administrator in making determinations as to the substantiation of a member company's earnings claims.*

*The Code's simple prohibition of misrepresentations was intended, in part, to avoid unduly encumbering start-up member companies that have little or no actual earnings history with their compensation plan or established member companies that are testing or launching new compensation plans. The prohibition approach is meant to require that member companies in these circumstances need only ensure that their promotional literature and public statements clearly indicate that the compensation plan is new and that any charts, illustrations and stated examples of income under the plan are potential in nature and not based upon the actual performance of any individual(s).*

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## 9. Inventory Loading

A member company shall not require or encourage an independent salesperson to purchase inventory in an amount which unreasonably exceeds that which can be expected to be resold and/or consumed by the independent salesperson within a reasonable period of time.

Member companies shall take clear and reasonable steps to ensure that independent salespeople are consuming, using or reselling the products and services purchased.

It shall be considered an unfair and deceptive recruiting practice for a member company or independent salesperson to require or encourage an independent salesperson to purchase unreasonable amounts of inventory or sales aids. The Administrator may employ any appropriate remedy to ensure any individual salesperson shall not incur significant financial loss as a result of such prohibited behavior.



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9. See, Code Explanatory Section 7a. regarding inventory loading.

*This provision should be construed in light of the regulatory admonition that commissions be generated by purchases that are not simply incidental to the purchase of the right to participate in the program (see Federal Trade Commission 2004 Advisory Opinion Letter to DSA.) Member companies that implement procedures demonstrating that salespeople are purchasing the product for resale, for their own use/ consumption (i.e., “self-consumption,” “personal consumption” or internal consumption”) or for other legitimate purposes will be better able to meet the requirements of Section 9. The Code recognizes this as a long-standing and accepted practice in direct selling and does not prohibit compensation based on the purchases of salespeople for personal use.*

*Further, the Code does not set forth specific standards or requirements that a minimum level of sales take place outside of the salesforce.*

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## 10. Payment of Fees

Neither member companies nor their independent salespeople shall ask individuals to assume unreasonably high entrance fees, training fees, franchise fees, fees for promotional materials or other fees related solely to the right to participate in the member company’s business. Any fees charged to become an independent salesperson shall relate directly to the value of materials, products or services provided in return.

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*10. High entrance fees can be an element of pyramid schemes, in which individuals are encouraged to expend large upfront costs, without receiving product of like value. These fees then become the mechanism driving the pyramid and placing participants at risk of financial harm. Some state laws have requirements that fees be returned similar to the repurchase provisions delineated in Code Section 7a. The Code eliminates the harm of large fees by prohibiting unreasonably high*

*fees. The Administrator is empowered to determine when a fee is “unreasonably high.” For example, if a refund is offered for only a portion of an entrance fee, to cover what could be described as inventory, and there is nothing else given or received for the balance of the entrance fee, such as a training program, that portion of the entrance fee may be deemed to be unreasonably high by the Administrator. This Code section reinforces the provisions in Section B. Responsibilities and Duties requiring member companies to address the Code violations of their independent salespeople.*

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## **11. Training and Materials**

- a. Member companies shall provide adequate training to enable independent salespeople to operate ethically.
- b. Member companies shall prohibit their independent salespeople from marketing or requiring the purchase by others of any materials that are inconsistent with the member company’s policies and procedures.
- c. Independent salespeople selling member company-approved promotional or training materials, whether in hard copy or electronic form, shall:
  1. Use only materials that comply with the same standards used by the member company,
  2. Not make the purchase of such materials a requirement of other independent salespeople,
  3. Provide such materials at not more than the price at which similar material is available generally in the marketplace, and
  4. Offer a written return policy that is the same as the return policy of the member company the independent salesperson represents.
- d. Member companies shall take diligent, reasonable steps to ensure that promotional or training materials produced by their independent salespeople comply with the provisions of this Code and are not false, misleading or deceptive.

## **B. Responsibilities and Duties**

### **1. Prompt Investigation and No Independent Contractor Defense**

- a. Member companies shall establish, publicize and implement complaint handling procedures to ensure prompt resolution of all complaints.
- b. In the event any consumer shall complain that the independent salesperson offering for sale the products or services of a member company has engaged in any improper course of conduct pertaining to the sales presentation of its goods or services, the member company shall promptly investigate the complaint and shall take such steps as it may find appropriate and necessary under the circumstances to cause the redress of any wrongs that its investigation discloses to have been committed.
- c. Member companies will be considered responsible for Code violations by their independent salespeople where the Administrator finds, after considering all the facts, that a violation of the Code has occurred. For the purposes of this Code, in the interest of fostering consumer protection, member companies shall voluntarily not raise the independent contractor status of salespersons distributing their products or services under its trademark or trade name as a defense against Code violation allegations, provided, however, that such action shall not be construed to be a waiver of the member companies' right to raise such defense under any other circumstance.
- d. Member companies should be diligent in creating awareness among their employees and/or the independent salespeople marketing the member company's products or services about the member company's obligations under the Code. No member company shall in any way attempt to persuade, induce or coerce another company to breach this Code, and an attempt to induce a breach of this Code is considered a violation of the Code.
- e. Independent salespeople are not bound directly by this Code, but as a condition of participation in a member company's distribution system, shall be required by the member company with whom they are affiliated to adhere to rules of conduct meeting the standards of this Code.

- f. This Code is not law but its obligations require a level of ethical behavior from member companies and independent salespeople that is consistent with applicable legal requirements. Failure to comply with this Code does not create any civil law responsibility or liability. When a company leaves the DSA membership, a company is no longer bound by this Code. However, the provisions of this Code remain applicable to events or transactions that occurred during the time a company was a member of DSA.

## 2. Required Code Communication

- a. All member companies are required to publicize the DSA Code of Ethics and the process for filing a Code complaint to their independent salespeople and consumers. At a minimum, member companies must have one of the following:
1. an inclusion on the member company's web site of the DSA Code of Ethics with a step-by-step explanation as to how to file a complaint; or
  2. a prominent link from the member company's web site to the DSA Code of Ethics web page, with a separate mention of, or separate link to, the Code complaint filing process; or
  3. an inclusion of the member company's Code of Ethics and its complaint process on its website with an explanation of how a complainant may appeal to the Administrator in the event the complainant is not satisfied with the resolution under the member company's Code of Ethics or complaint process, with a reference to the DSA Code of Ethics web page.

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a. *The links should be clear and conspicuous. The location of the link on the member company's website should be prominent so as to be accessible and visible to sales people and the consumer; member companies should place the link on a web page that is commonly accessed by salespeople and consumers. Inclusion of statements, such as, "We are proud members of the DSA. To view the Code of Ethics by which we abide please click here," and "To file a complaint, please contact us at [company email and/or phone number]. If you are unsatisfied with the resolution, you may escalate your complaint to the DSA by clicking here," are also ideal. Member companies should specifically link to either [www.dsa.org/consumerprotection/Code](http://www.dsa.org/consumerprotection/Code) and [www.dsa.org/consumerprotection/filing-a-code-complaint](http://www.dsa.org/consumerprotection/filing-a-code-complaint).*

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b. All member companies, after submission of their program, are required to state annually, along with paying their dues, that the program remains effective or indicate any change.

### **3. Code Responsibility Officer**

Each member company and pending member company is required to designate a DSA Code Responsibility Officer. The Code Responsibility Officer is responsible for facilitating compliance with the Code by his or her company and responding to inquiries by the DSA Code Administrator appointed pursuant to Section C.1. He or she will also serve as the primary contact at the member company for communicating the principles of the DSA Code of Ethics to the member company's independent salespeople, employees, consumers and the general public.

## 4. Extraterritorial Effect

Each member company shall comply with the World Federation of Direct Selling Associations' Code of Conduct with regard to direct selling activities outside of the United States to the extent that the WFDSA Code is not inconsistent with U.S. law, unless those activities fall under the jurisdiction of the code of conduct of another country's DSA to which the member company also belongs.

## C. Administration

### 1. Interpretation and Execution

The Board of Directors of the DSA shall appoint a Code Administrator ("Administrator") to serve for a fixed term to be set by the Board prior to appointment. The Board shall have the authority to discharge the Administrator for cause only. The Board shall provide sufficient authority to enable the Administrator to properly discharge the responsibilities entrusted to the Administrator under this Code. The Administrator will be responsible directly and solely to the Board.

### 2. Code Administrator

- a. The Administrator shall be a person of recognized integrity, knowledgeable about the industry, and of a stature that will command respect by the industry and from the public. He or she shall appoint a staff adequate and competent to assist in the discharge of the Administrator's duties. During the term of office, neither the Administrator nor any member of the staff shall be an officer, director, employee, or substantial stockholder in any member of the DSA. The Administrator shall disclose all holdings of stock in any member company prior to appointment and shall also disclose any subsequent purchases of such stock to the Board of Directors. The Administrator shall have the same rights of indemnification as the Directors and Officers have under the bylaws of the DSA.
- b. The Administrator shall establish, publish and implement transparent complaint handling procedures to ensure prompt resolution of all complaints.



- c. The Administrator shall review and determine all charges against member companies, affording those companies an opportunity to be heard fully. The Administrator shall have the power to originate any proceedings and shall at all times have the full cooperation of all member companies.

### **3. Procedure**

- a. The Administrator shall have the sole authority to determine whether a violation of the Code has occurred. The Administrator shall answer as promptly as possible all queries relating to the Code and its application, and, when appropriate, may suggest, for consideration by the Board of Directors, Code amendments, or other implementation procedures to make the Code more effective.
- b. If, in the judgment of the Administrator, a complaint is beyond the Administrator's scope of expertise or resources, the Administrator may decline to exercise jurisdiction over the complaint and may recommend to the complainant another forum in which the complaint can be addressed.
- c. The Administrator shall undertake to maintain and improve all relations with better business bureaus and other organizations, both private and public, with a view toward improving the industry's relations with the public and receiving information from such organizations relating to the industry's sales activities.

## **D. DSA Code of Ethics Enforcement Procedures**

### **1. Receipt of Complaint**

Upon receipt of a bona fide complaint from a bona fide consumer, the Administrator shall forward a copy of the complaint, to the accused member company together with a letter notifying the company that a preliminary investigation of a specified possible violation is being conducted and requesting the member company's cooperation in supplying necessary information and documentation. If the Administrator has reason to believe that a member company has

violated the Code, even if a written complaint has not been received, then the Administrator shall provide written notice to the member company stating the basis for the Administrator's belief that a violation has occurred. The Administrator shall honor request by complainants for confidential treatment of their identity. The subject matter of a complaint will not be kept confidential.

## **2. Cooperation with the Code Administrator**

In the event a member company refuses to cooperate with the Administrator and/or refuses to supply necessary information and documentation, the Administrator shall serve upon the member company, by certified mail, a notice affording the member company an opportunity to request Appeals Review Panel to evaluate whether its membership in the DSA should not be terminated. In the event the member company fails to request a review by an Appeals Review Panel pursuant to Section D.5. below, the DSA Board of Directors may vote to suspend or terminate the membership of the member company.

## **3. Investigation and Disposition Procedure**

- a. The Administrator shall conduct a preliminary investigation, making such investigative contacts as are necessary to reach an informed decision as to the alleged Code violation. If the Administrator determines, after the informal investigation, that there is no need for further action or that the Code violation allegation lacks merit, the investigation and administrative action shall terminate and the complaining party shall be so notified.
- b. The Administrator may, at his discretion, remedy an alleged Code violation through informal, oral and written communication with the accused member company.
- c. If the Administrator determines that there are violations of such a nature, scope or frequency that the best interests of consumers, the DSA, and/or the direct selling industry require remedial action, the member company shall be notified. The reasoning and facts that resulted in the decision as well as the nature of the remedy under

Section E.1. shall be included in the Administrator's notice. The notice shall also offer the member company an opportunity to consent to the suggested without the necessity of a Section D.4. appeal. If the member company desires to dispose of the matter in this manner, it will within 20 calendar days advise the Administrator, in writing. The letter to the Administrator may state that the member company's willingness to consent does not constitute an admission or belief that the Code has been violated.

#### **4. Appeals Review Panel**

If a member company has submitted a request for review pursuant to Section D.2. or an appeal of the Administrator's remedial action pursuant to Section D.3., an Appeals Review Panel consisting of three representatives from active member companies shall be selected by the Executive Committee of DSA's Board of Directors within 20 calendar days. The three member companies shall be selected in a manner that represents a cross-section of the industry. When possible, none of the three shall sell a product that specifically competes with the member company that is seeking the Appeals Review Panel (hereinafter "the Appellant"), and every effort shall be made to avoid conflicts in selecting the Panel. If for any reason, a member of the Panel cannot fulfill his or her duties, the Chairman of the Board of DSA can replace that person with a new appointment. The representatives serving on the Appeals Review Panel shall during their time on the Panel have the same rights of indemnification the Directors and Officers have under the bylaws of the DSA.

#### **5. Appeals Review Procedure**

A member company must make a request to convene an Appeals Review Panel in writing to the Administrator within 20 calendar days of the Administrator's notice of the member company's failure to comply or the Administrator's recommended remedial action. Within 10 calendar days of receiving such a request, the Administrator shall notify the Chairman of the Board of DSA. The Executive Committee then shall select the three-person Panel as set forth in Section D.4.

- b. As soon as the Panel has been selected, the Administrator shall inform the Appellant of the names of the panelists. Within 14 calendar days of that notification, the Administrator shall send a copy of the Complaint and all relevant documents, including an explanation of the basis of the decision to impose remedial action, to the panelists with copies to the Appellant. Upon receipt of such information, the Appellant shall have 14 calendar days to file with the Panel its reasons for arguing that remedial action should not be imposed along with any additional documents that are relevant. Copies of that information shall be provided to the Administrator, who can provide additional information as the Administrator decides is necessary or useful to the Panel and the Appellant.
- c. Once the information has been received by the panelists from both the Administrator and the Appellant, the Panel will complete its review within 30 calendar days or as soon thereafter as practicable. If the review pertains to whether the Appellant's membership in the DSA should be terminated, the Panel shall decide whether the member company's failure to work with the Administrator justifies suspending or terminating the Appellant's membership in the DSA. If the review pertains to the Administrator's suggested remedial action, the Panel shall decide whether the Administrator's decision to impose remedial action was reasonable under all of the facts and circumstances involved and shall either confirm the Administrator's decision, overrule it, or impose a lesser sanction under Section E. The Panel shall be free to contact the Administrator, the Appellant, and any other persons who may be relevant, in writing as deemed appropriate. A decision by the Panel shall be final and shall be promptly communicated both to the Administrator and the Appellant. The costs involved in the appeal such as costs of photocopying, telephone, fax, and mailing, shall be borne by the Appellant.

## E. Powers of the Administrator

### 1. Remedies

If pursuant to the investigation provided for in Section D.3., the Administrator determines that the accused member company has committed a Code violation or violations, the Administrator is hereby empowered to recommend any appropriate remedies, either individually or concurrently, including but not limited to the following:

- a. Complete restitution to the complainant of monies paid for the accused member company's products, promotional materials, sales aids and/or kits that were the subject of the Code complaint;
- b. Replacement or repair of any of the accused member company's product that was the source of the Code complaint;
- c. Payment of a voluntary contribution to a special assessment fund that shall be used for purposes of publicizing and disseminating the Code and related information. The contribution may range up to \$1,000 per violation of the Code;
- d. Submission to the Administrator of a written commitment to abide by the Code in future transactions and to exercise due diligence to assure there will be no recurrence of the practice leading to the subject Code complaint; and/or
- e. Cancellation of orders, return of products purchased, cancellation or termination of the contractual relationship with the independent salesperson or other remedies.

### 2. Case Closed

Once the Administrator determines that there has been compliance with all imposed remedies in a particular case, the complaint shall be considered closed.

### **3. Refusal to Comply**

If a member company refuses to comply voluntarily with any remedy imposed by the Administrator and has not requested a review by an Appeals Review Panel, the DSA Board of Directors, or designated part thereof, may conclude that the member company should be suspended or terminated from membership in the DSA.

### **4. Appeal for Reinstatement after Suspension or Termination**

If the DSA Board of Directors, or designated part thereof, suspends or terminates a member company pursuant to the provisions of this Code, the DSA shall notify the member company of such a decision by certified mail. A suspended member company, after at least 90 calendar days following that notice, and a terminated member company, after at least one year following that notice, may request the opportunity to have its suspension or termination reviewed by an Appeals Review Panel, which may in its discretion recommend that the Board of Directors reinstate membership.

### **5. Referral to State or Federal Agency**

In the event a member company is suspended or terminated by the DSA Board of Directors, or designated part thereof, pursuant to the provisions of this Code, the DSA shall inform the Federal Trade Commission ("FTC") of such suspension or termination and shall, if requested by the FTC, submit any relevant data concerning the basis for suspension or termination.

## **F. Restrictions**

### **1. Conferring with Others**

At no time during an investigation or the hearing of charges against a member company shall the Administrator or member of an Appeals Review Panel confer with anyone concerning the alleged violation(s) of the Code, except as provided herein and as may be necessary to conduct the investigation and hold a hearing. At no time during the investigation or the Appeals Review Panel process shall the Administrator or a member of the Appeals Review Panel confer with a competitor of the member company alleged to be in violation of the Code, except when it may be necessary to call a competitor concerning the facts, in which case the competitor shall be contacted only for the purpose of discussing the facts. At no time shall a competitor participate in the Administrator's or in an Appeals Review Panel's disposition of a matter.

### **2. Documents**

Upon request by the Administrator to any member company, all documents directly relating to an alleged violation shall be delivered to the Administrator. Any information that is identified as proprietary by the producing party shall be held in confidence. Whenever the Administrator, either by his own determination or pursuant to a decision by an Appeals Review Panel, closes an investigation, all documents shall either be destroyed or returned, as may be deemed appropriate by the Administrator, except to the extent necessary for defending a legal challenge to the Administrator's or Appeals Review Panel's handling of a matter, or for submitting relevant data concerning a complaint to a local, state or federal agency. At no time during proceedings under this Code shall the Administrator or a member of an Appeals Review Panel either unilaterally or through the DSA issue a press release concerning allegations or findings of a violation of the Code unless specifically authorized to do so by the Executive Committee of DSA's Board of Directors.



### **3. Pending Members of DSA**

Nothing in Section F shall prevent the Administrator from notifying, at his discretion, DSA staff members of any alleged violations of the Code that have come to his attention and which may have a bearing on a pending member company's qualifications for active membership.

### **4. Public Reporting of Code of Ethics Complaints and Compliance Efforts**

The Administrator may issue periodic reports on Code of Ethics compliance including disclosure of numbers and types of complaints as well as company-compliance efforts. The issuance of these reports will not identify individual complaints.

## **G. Resignation**

Resignation from DSA by an accused member company prior to completion of any proceedings constituted under this Code shall not be grounds for termination of said proceedings, and a determination as to the Code violation shall be rendered by the Administrator at his or her discretion, irrespective of the accused member company's continued membership in DSA or participation in the complaint resolution proceedings.

## **H. Amendments**

This Code may be amended by vote of two thirds of the Board of Directors.

As Adopted  
June 15, 1970

As Amended  
by Board of Directors through  
December 8, 2015