

US CM POLICIES AND PROCEDURES

POLICIES AND PROCEDURES

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POLICIES AND PROCEDURES

SECTION ONE. BECOMING AN ADVISOR

- 1.1 **Becoming an Advisor.** An applicant becomes an Advisor (“Advisor”) of the Company by following the steps on the CM Website, which include agreeing to be bound by the provisions in the Advisor Agreement and completing the process to sign up and pay the Annual Fee. Payment of this Annual Fee of \$49.00 when signing up is the only mandatory amount payable to join as an Advisor. This fee covers the cost to the Company of providing the Sales Tools for the first year of the Advisor’s participation. The Company reserves the right to decline any Agreement for any reason.
- 1.2 **No Payment Required.** Except as set forth above, no payment is required to become an Advisor.
- 1.3 **Legal Age.** Advisors must be of legal age in the state of their residence.
- 1.4 **Advisor Identification Number.** Each Advisor is required by federal law to obtain a Social Security number or Federal I.D. number.
- 1.5 **Corporations, Partnerships, and Trusts.** Corporations, partnerships, limited liability companies or other forms of business organizations and/or trusts (“Business Entities”) may be Advisors. The Company may request that the Agreement is accompanied by copies of:
 - a) The formation and other governing documents of the Business Entity;
 - b) A complete list of all shareholders, directors, officers, partners, members, managers or trustee(s) and beneficiaries of a trust, as applicable, of the Business Entity (collectively, the “Principals”);
 - c) The tax identification number; and
 - d) Such other information reasonably requested by the Company from time to time.

The Business Entity must provide the Company updated information concerning any change in any Principal. Each Principal of a Business Entity must agree to be and the Company will hold each personally liable to the Company and bound by the Agreement and these Policies and Procedures.
- 1.6 **Fictitious and/or Assumed Names.** A person or entity may not apply as an Advisor using a fictitious or assumed name.

SECTION TWO. ADVISOR STATUS

- 2.1 **Advisor Obligations and Rights.** Advisors are authorized to sell the Company's products and services and to participate in the Company's Compensation Policies. Advisors may recruit new Advisors to sign up as part of their Group.
- 2.2 **Independent Contractor Status.** Advisors are self-employed, nonexclusive, independent contractors. They are not employees or agents of the Company, and may not imply or state otherwise. Advisors will not be treated as employees with respect to any federal, state, or local statute, ordinance, rule, or regulation. Advisors have no authority to bind the Company to any obligation. The Company is not responsible for payment or co-payment of any employee benefits. Advisors are responsible for all liability, health, disability, workers' compensation and other insurance. Advisors set their own hours, pay their own expenses and determine how to conduct their Company business and are responsible for their own management decisions subject to the Agreement and the Policies and Procedures.
- 2.3 **Taxation.** As independent contractors, Advisors will not be treated as employees of the Company for federal or state tax purposes including, with respect to the Internal Revenue Code, Social Security Act, federal unemployment act or state unemployment acts. Advisors are responsible for payment of all estimated income and self-employment taxes. At the end of each calendar year, the Company will issue to each Advisor an IRS Form 1099, or other applicable documentation required by law, for non-employee compensation of an independent contractor.
- 2.4 **Legal Compliance.** Advisors must comply with all federal, state, provincial and local laws, statutes, regulations and ordinances applicable to the operation of their business.
- 2.5 **No Exclusive Territories.** No exclusive territories are granted for sales or recruiting purposes. No geographical limitations exist on Advisors sponsoring or selling within the United States, Puerto Rico, Guam, the US Virgin Islands as well as the Canadian provinces of Ontario and British Columbia (the "North American Market").
- 2.6 **Ethical Conduct.** Each Advisor must conduct his or her business with the highest standards of honesty and integrity and in a professional manner at all times. The Company prohibits an Advisor from participating in any activity that is unethical, as determined by the Company, in its sole discretion. Advisors shall not make negative, disparaging, untrue or misleading comments about the Company, its owners, directors, officers, employees, other Advisors of the Company or any other company or such company's products. An Advisor may not engage in any activities that may cause harm to the Company or any other Advisor of the Company.
- 2.7 **Sale of Other Products.** Advisors are not restricted from selling other companies' products or services.

- 2.8 **Solicitation Restrictions.** During the term of the Agreement and for one year thereafter, Advisors may not, directly or indirectly, on behalf of themselves or any other individual or company, solicit or induce Advisors, customers or employees of the Company or its affiliates (i) to participate in any network marketing or direct sales program offered by any other company, or (ii) to terminate or alter his or her business or contractual relationship with the Company.
- 2.9 **Restricted to North American Market.** Unless otherwise notified in writing by the Company, Advisors are authorized to sell the Company's products and recruit Advisors only in the North American Market.

SECTION THREE. TERM AND RENEWAL

- 3.1 **Term and Renewal.** Unless sooner terminated pursuant to Section 6, the Agreement is effective from the date of Advisor sign up (and Annual Fee payment) as set forth in Section 1.1 and continues for a period of one year. **The Agreement shall automatically renew for successive terms of one year unless either party provides written notice to the other of its intent to terminate the Agreement not less than 30 days before the anniversary of the date of the Agreement. The Annual Fee due upon renewal shall be automatically charged to the credit card the Advisor has on file with the Company.**
- 3.2 **Failure to Renew.** If an Advisor chooses not to renew his or her Agreement with the Company, he or she will lose all sponsorship rights and all rights to Retail Profits and Commissions.

SECTION FOUR. RECRUITING

- 4.1 **Recruiting.** Advisors may recruit other Advisors in the North American Market by having them sign up on the Company's website through the upline Advisor's URL. The enrollment of individuals or Entities without their knowledge of and/or execution of an Agreement; or the enrollment or attempted enrollment of non-existent individuals or Business Entities as Advisors or retail customers (phantoms) or other fraudulent enrollments are prohibited. The Company prohibits the use of monetary or other incentives, promotions, prizes or bonuses in connection with sponsoring or influencing potential Advisors or customers. An Advisor may not purchase or sell Advisor positions.
- 4.2 **Training Requirement.** An upline Advisor must maintain an ongoing professional leadership association with Advisors in his or her Group.
- 4.3 **Income Claims.** Advisors must truthfully and fairly describe the Compensation Policies. No past, potential or actual income claims may be made to prospective Advisors, nor may Advisors use their own incomes as indications of the success assured to others. Income claims include statements of average or non-average earnings, statements of earning ranges, income testimonials, lifestyle claims and hypothetical claims. Commission checks may not be used as marketing materials.

Advisors may not guarantee commissions or estimate expenses to prospects. Any earnings information or statements regarding income in the Compensation Policies are solely to explain the Compensation Policies and are not representations or guarantees of any earnings or income. The Company does not guarantee or imply any specific earnings or income. Individual income results may vary significantly and are based on many factors, including an Advisor's individual efforts, business experience and skills. The Company makes no warranty or representation as to the level of success, if any, Advisors may achieve by selling any product or in soliciting Advisors or retail customers.

- 4.4 **Transfer.** Any transfer of an Advisor to another upline Advisor requires the prior written approval of the Company (which may be withheld in its sole discretion) and may be made only at the time of annual renewal of the transferring Advisor's Agreement.
- 4.5 **Waiver of Claims.** ADVISORS WAIVE ANY AND ALL CLAIMS AGAINST THE COMPANY THAT RELATE TO OR ARISE FROM THE COMPANY'S DECISION REGARDING THE TRANSFER OF AN ADVISOR.
- 4.6 **Sales Forces of Other Companies.** Advisors may not target the sales force of another direct sales company to become Advisors or to sell the products of the Company. Advisors may not encourage members of the sales force of another direct sales company to violate the terms of their contract with such company. Advisors bear the sole risk and sole liability for such activities, which activities are not endorsed or supported by the Company.

SECTION FIVE. PROPRIETARY INFORMATION

- 5.1 **Confidentiality Agreement.** During the term of the Agreement, the Company may supply to Advisors confidential information (the "Confidential Information"), including, but not limited to genealogical and downline reports, customer lists and information, Advisor lists, and information, trade secrets, manufacturer and supplier information, business reports, commission or sales reports and such other financial and business information which the Company deems as confidential. All such Confidential Information (whether oral or in written or electronic form) is proprietary and confidential to the Company and is transmitted to Advisors in strictest confidence for use solely in Advisors' business with the Company. Advisors must use their best efforts to keep such information confidential and may not disclose any such information to any third party, directly, or indirectly except in strict accordance with the Agreement and these Policies and Procedures. Advisors may not use Confidential Information to sell products or services other than the Company's products and services or in connection with any other business during the term of and after termination of the Agreement. Upon nonrenewal or termination of the Agreement, Advisors must immediately discontinue all use of the Confidential Information and if requested by the Company promptly return all

materials in their possession to the Company within five business days of request at their own expense.

- 5.2 **Genealogy Reports.** All genealogy and downline reports provided to an Advisor are proprietary to and owned by the Company. Each Advisor acknowledges that the reports may contain information concerning the Advisor, including, but not limited, to the Advisor's name, address, phone number, products purchased and sold and earnings. The Advisor, by executing the Agreement, consents to the use and dissemination by the Company of the reports and information therein and any other information concerning an Advisor collected by the Company in connection with the Company's business, including to enforce the terms of and its rights under the Agreement and to comply with applicable laws. An Advisor may not use the reports in any manner or for any purpose except in connection with Advisor's business.
- 5.3 **Vendor Confidentiality.** The Company's business relationships with its vendors, manufacturers and suppliers are confidential. Advisors must not contact, directly or indirectly, contact or speak to or communicate with any supplier or manufacturer of the Company except at a Company-sponsored event at which the supplier or manufacturer is present at the request of the Company.
- 5.4 **Copyright Restrictions.** With respect to purchases from the Company, Advisors must abide by all copyright restrictions and protections.
- 5.5 **Authorization to Use Name and Likeness.** By executing the Agreement, each Advisor grants to the Company and its affiliates and agents the absolute, perpetual and worldwide right and license to use, to record, photograph, publish, reproduce, advertise, display, edit, and sell in any manner for all purposes, his or her name, photograph, likeness, voice testimony, biographical information, image and other information related to Advisor's business with the Company (collectively the "Likeness") in marketing, promotional, advertising and training materials, whether in print, radio or television broadcasts (including cable and satellite transmissions) audio and videotapes on the Internet or in other media ("Publicity Materials") for an unlimited number of times, without compensation, in perpetuity. Each Advisor waives any right to inspect or approve any Publicity Materials including or accompanying his or her Likeness. Each Advisor further releases the Company from any liability or obligation that may arise as a result of the use of his or her Likeness, including without limitation, claims for invasion of privacy, infringement of right of publicity and defamation (including libel and slander). An Advisor may withdraw his or her authorization of any use of his or her Likeness that has not already been publicized by providing written notice to the Company. Advisors agree that any information given by Advisor, including his or her testimonial, is true and accurate.

SECTION SIX. TERMINATION

6.1 Termination without Cause.

- a) Either party may terminate this Agreement on 30 days prior written notice for any reason. If the Company terminates this Agreement, it shall refund the portion of the Annual Fee prorated over the unexpired portion of the then current one year term. If the Advisor terminates the Agreement, the Company will not be obligated to refund any portion of the Annual Fee.
- b) Except as set forth below, Advisors who do not renew, or who terminate their Agreement, can sign up again at any time, in which event they will start with a zero Account Balance and no Advisors in their Group. Acceptance of any reapplication of an Advisor terminated by the Company may be denied in the sole discretion of the Company. A newly re-signed Advisor can begin recruiting other Advisors to his or her Group immediately after re-signing.

6.2 Termination with Cause. The Company may terminate upon written notice if an Advisor violates this Agreement. When the decision is made to terminate an Advisor, the Company will inform the Advisor in writing by e-mail at the e-mail address in the Advisor's file that the termination has occurred effective immediately.

6.3 Reconsideration. If an Advisor wishes to have his or her termination reconsidered, the Company must receive the request for reconsideration in writing within seven days from the date of notice of termination. If an Advisor files a timely notice of request for reconsideration, the Company will review the request for reconsideration and notify the Advisor of its decision within seven days after receipt of the request for reconsideration. The decision of the Company will be final and subject to no further review. In the event the termination is not rescinded, the termination will remain effective as of the date of the original termination notice.

6.4 Effect of Expiration, Nonrenewal and Termination. Immediately upon expiration, nonrenewal or termination of the Agreement, the affected Advisor:

- a) Must remove and permanently discontinue the use of the Proprietary Marks, copyrighted materials and any signs, labels, stationery or advertising referring to or relating to any Company products, services or program;
- b) Must cease representing himself or herself as an Advisor of the Company;
- c) Loses all rights to his or her position in the genealogy and Compensation Policies and to all future commissions and earnings resulting therefrom; and
- d) Must take all action reasonably required by the Company relating to the protection of its Confidential Information and intellectual property.

The Company has the right to offset any amounts owed by an Advisor to the Company including, without limitation, any indemnity obligation incurred pursuant to Section 12.1, from commissions or other compensation due to the Advisor.

- 6.5 **Reapplication.** The acceptance of any reapplication of a terminated Advisor or the application of any family member of a family household of a terminated Advisor shall be made in the sole discretion of the Company and may be denied.
- 6.6 **State Laws.** Where state laws on termination are inconsistent with this termination policy, the applicable state law shall apply.

SECTION SEVEN. TRANSFERABILITY An Advisor may not sell, assign, merge or transfer (each a “transfer” for purposes of these Policies and Procedures) his or her Agreement and related Advisor position (or any rights thereto).

SECTION EIGHT. TRADEMARKS, LITERATURE, AND ADVERTISING

- 8.1 **Trademarks.** The Company’s name, trademarks and service marks and copyrighted materials (the “Proprietary Marks”) are owned by the Company and/or its affiliates. The use of the Proprietary Marks and copyrighted materials by Advisors must be approved in writing by the Company prior to use and must be in strict compliance with these Policies and Procedures. Any right to use the Company’s Proprietary Marks and copyrighted materials by an Advisor is non-exclusive, and that the Company has the right and sole discretion to grant others the right to use such Proprietary Marks and copyrighted materials. Any and all goodwill associated with the Proprietary Marks and copyrighted materials (including goodwill arising from an Advisor’s use) inures directly and exclusively to the benefit of the Company and is the property of the Company. On expiration or termination of this Agreement, no monetary amount shall be attributable to any goodwill associated with any Advisor’s use of the Proprietary Marks or copyrighted materials.
- 8.2 **Advertising and Promotional Materials.** Only promotional, advertising and training materials produced by the Company or approved in advance in writing by the Company may be used to advertise or promote the Company’s business or to sell products and services of the Company, whether written, recorded or online. The Company owns all copyrights in all promotional and advertising materials produced by the Company. The Company’s literature and materials may not be duplicated or reprinted without the prior written permission of the Company. The Company prohibits Advisors from translating any Company materials from English into other languages. Advisors may not advertise under the "help wanted" section of any newspaper or other directory, nor may any advertisement state or imply that the Advisor is seeking to employ or hire an individual or that the Advisor is an agent or recruiter for the Company. Advisors may not sell promotional, training or marketing materials produced by them or third parties to any other Advisor, even if they do not contain the Company’s Proprietary Marks.

- 8.3 **Electronic Advertising.** The Company shall have the right to review prior to use Advisors' use of the Company's Proprietary Marks, copyrighted materials, name or any variation thereof in domain names as well as the Proprietary Marks and copyrighted materials on all electronic communication, including but not limited to social networking sites and email, and may require the owner to change or remove content. In the event of a violating domain name, the Advisor must transfer the domain name to the Company immediately at no cost to the Company, in addition to the Company's other rights and remedies. Each Advisor agrees to immediately reassign to the Company any registration of the Company's name and other Proprietary Marks in violation of this section.
- 8.4 **Social Media Sites.** The Company encourages Advisors to join social networking sites, online forums, discussion groups, blogs, and other forms of internet communication to leverage the power of the Company brand and to communicate the benefits of the Company's products. Social networks include such sites as Facebook, LinkedIn, Twitter, etc. Advisors must clearly identify the Advisor as an independent Advisor in any profiles an Advisor generates. When an Advisor participates in those communities, the Advisor must avoid inappropriate conversations, comments, images, video, audio, applications or any other adult, profane, discriminatory or vulgar content. The determination of what is inappropriate is made at the Company's sole discretion. Advisors who use social networking sites must also comply with the rules associated with that particular website or network and all applicable laws and regulations. Advisors shall not: (i) make any specific income claim or commitment to any amount of income that others may realize as Advisor; (ii) make any guarantee of success; or (iii) suggest that a specific amount of inventory must be purchased at the time of enrollment. Advisors are personally responsible for their postings and all other online activity that relates to the Company. If Advisors use the trademarks, trade names, service marks, copyrights or intellectual property of any third party in any posting, it is solely their responsibility to ensure that they have received the proper authority and consent to use such intellectual property.
- 8.5 **Electronic Communication Guidelines.** Advisors shall apply and follow the provisions in the Company's Privacy Policy with respect to the personal information of any customer. Without limitation, the Advisor may not sell, trade or use retail customers or site user information, without the express written permission of that customer and, then, only in connection with the Company's products or the Company's income opportunity. Advisors sharing personal information collected on-line shall provide customers with an opportunity to prohibit the dissemination of such information, and if any customer requests that his or her personal information not be shared, Advisors shall refrain from sharing such information. Advisors shall provide customers the option to terminate any further communication between the Advisor and the retail customers. If any customer requests that an Advisor cease communication, the Advisor shall immediately stop communicating upon such request. Advisors may not distribute content by use of distribution lists or to any person who has not given specific

permission to receive such content. Spamming or distribution of unsolicited e-mails to persons with whom they have no prior or existing personal or business relationship is prohibited. Advisors must comply with all laws, rules and regulations regarding electronic communications including, without limitation, the federal CAN SPAM Act. Advisors may not post, publish or distribute content that is unlawful, harassing, libelous, defamatory, slanderous, abusive, threatening, harmful, vulgar or obscene, as determined by the Company in its sole discretion, or which could give rise to civil liability or otherwise violates any applicable local, state, national or international law or regulation. All communications shall respect the rights, opinions and sensitivities of others. Advisors may not use third parties' trademarks, trade names, or product names (or any variations thereon) in domain names (URLs), the titles for any pages within websites (including, but not limited to home pages), email addresses or Meta tags, unless they have obtained prior written consent from the owner. Advisors may not use any misleading or deceptive tactics (as determined by the Company, in its sole and absolute judgment) in order to improve their index preference with search engines.

- 8.6 **Use of the Company's Name.** Advisors may use the name of the Company only in the following format:

**Mary Jones
Creative Memories Independent Advisor**

- 8.7 **Telephone, Yellow and White Page Listing.** Advisors are not permitted to use the Company's Proprietary Marks in advertising their telephone and telecopy numbers in the white or yellow page sections of telephone books or on the Internet. If approval is granted for an "800" listing, it must be stated in the following manner:

**Mary Jones
Creative Memories Independent Advisor**

- 8.8 **Telephone Answering.** An Advisor may not answer the telephone by saying "Creative Memories" or "Ahni & Zoe," or in any other manner that would lead the caller to believe that he or she has reached the corporate offices of the Company.
- 8.9 **Imprinted Checks.** Advisors are not permitted to use the Company trade name or any of its Proprietary Marks on their business or personal checking accounts. However, Advisors may imprint their business checks as being a "Creative Memories Independent Advisor."
- 8.10 **Media Interviews.** Advisors are prohibited from granting radio, television, newspaper, tabloid, internet, or magazine interviews, or using public appearances, public speaking engagements, or making any type of statement to the public media to publicize the Company, its products or their businesses, without the express prior written approval of the Company. All media inquiries should be referred to the Company's corporate office.

- 8.11 **Endorsements.** No endorsements by a Company officer or any third party may be asserted, except as expressly communicated in Company literature and communications. Federal and state regulatory agencies do not approve or endorse direct selling programs and Advisors may not represent or imply, directly or indirectly, that the Company's programs, products or services have been approved or endorsed by any governmental agency.
- 8.12 **Recordings.** Advisors may not produce or reproduce for sale or personal use products sold by the Company or any company-produced literature, audio or video material, presentations, events or speeches, including conference calls. Video and/or audio taping of Company meetings and conference calls strictly is prohibited. Still photography is allowable at the discretion of the meeting host.
- 8.13 **Re-packaging Prohibited.** Advisors may not re-package products or materials of the Company.
- 8.14 **Independent Communications.** Advisors, as independent contractors, are encouraged to distribute information and direction to their respective downlines. However, Advisors must identify and distinguish between personal communications and the official communications of the Company.

SECTION NINE. PAYMENT OF RETAIL PROFITS AND COMMISSIONS

- 9.1 **Basis for Retail Profits and Commissions.** Retail Profits and Commissions and other compensation cannot be paid until a completed Agreement has been received and accepted by the Company and the Annual Fee paid for the Sales Tools. Retail Profits and Commissions are paid only on the sale of the Company's services and products. No Retail Profits or Commissions are paid or Credits issued on the Annual Fee to purchase the Sales Tools or for recruiting Advisors. In order to receive Retail Profits and Commissions or Credits issued on products and services sold, the Company must have received and accepted an Agreement and the Annual Fee paid prior to the end of the month in which the sale is made.
- 9.2 **Retail Profits and Commission Payments.** Retail Profits and Commissions are paid and Credits issued to Advisors as set forth in the Compensation Policies. Advisors should consult the Compensation Policies for a detailed explanation of the benefits, compensation structure and requirements of the Compensation Policies. At its sole discretion, the Company may elect to pay Retail Profits, Commissions and any other forms of compensation into an account for the benefit of Advisors.
- 9.3 **Fees.** From time to time, the Company or its third-party administrator may charge fees for various services it provides, including fees for processing and issuing Retail Profits, Commissions and Credits. Please check the Company's website and other Company materials for specific information concerning such fees. These fees may be deducted from Retail Profit and Commission Payments.

- 9.4 **Errors or Questions.** If an Advisor has questions about or believes any errors have been made regarding Retail Profits, Commissions, Credits or charges, the Advisor must notify the Company in writing within 30 days of the date of the purported error or incident in question. The Company will not be responsible for any errors, omissions or problems not reported to the Company within 30 days.
- 9.5 **Offset of Retail Profits and Commissions.** Any Retail Profits, Commissions or Credits earned and paid on products or services refunded are the obligation of and must be repaid to the Company by Advisors earning such earnings. The Company has the right to offset such amounts against future earnings or refund paid or owed to such Advisors who received earnings.
- 9.6 **Calendar Period.** A business month refers to the time period opening on the first day of the month and extending up until order entry closes on the last business day of the month. The Company's offices are open Monday through Friday with the exception of Christmas, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and the day after Thanksgiving (should these holidays fall Monday to Friday).

SECTION TEN. PURCHASE AND SALE OF PRODUCTS

- 10.1 **Sales Presentations.** Advisors shall truthfully identify themselves, their products, and the purpose of their business to prospective customers. Advisors may not use any misleading, deceptive, or unfair sales practices. Explanation and demonstration of products offered shall be accurate and complete including, but not limited to, with regard to price, terms of payment, refund rights, guarantees, and after-sales services and delivery. Personal or telephone contacts shall be made in a reasonable manner and during reasonable hours to avoid intrusiveness and in accordance with applicable laws. Advisors must immediately discontinue a demonstration or sales presentation upon the request of the retail customer. Advisors shall not directly or by implication, denigrate any other company or product. Advisors shall refrain from using comparisons which are likely to mislead and which are incompatible to the principles of fair competition. Points of comparison shall not be unfairly selected and shall be based on facts which can be substantiated. Advisors shall not abuse the trust of retail customers, shall respect the lack of commercial experience of retail customers and shall not exploit a retail customer's age, illness, lack of understanding or lack of language expertise.
- 10.2 **Privacy.** Advisors must comply with the Company's Privacy Policy and all applicable privacy and data security laws, including security breach notification laws. Advisors must take appropriate steps to safeguard and protect all private information, including, without limitation, credit card and social security numbers, provided by a retail customer, prospective retail customer or other Advisors. Advisors must hold such information in strict confidence. Advisors are responsible for the secure handling and storage of all documents that may contain such private information. Advisors must adopt, implement, and maintain appropriate

administrative, technical, and physical safeguards to protect against anticipated threats or hazards to the security of confidential information and customer data. Appropriate safeguards may include, but are not limited to: (i) encrypting data before electronically transmitting it; (ii) storing records in a secure location; (iii) password-protecting computer files, or (iv) shredding paper files containing confidential information or customer data. Advisors should retain documents containing such information for only as long as necessary to complete the transaction. Advisors should dispose of any paper or electronic record containing customer data and other confidential information after use by taking all reasonable steps to destroy the information by: (A) shredding; (B) permanently erasing and deleting; or (C) otherwise modifying the customer data and other confidential information in those records to make it unreadable, unreconstructible, and indecipherable through any means.

- 10.3 **Product Claims/Representations.** Advisors must be truthful in the representation of the Company's products. Advisors may make no claim, representation or warranty concerning any product or service of the Company, except those expressly approved in writing by the Company or contained in Company materials. Advisors may make no diagnostic therapeutic, curative or exaggerated claims. Advisors may make no representations that the products diagnose, cure, treat, heal or prevent any disease or illness. No personal testimonials regarding the beneficial properties of any product offered by the Company may be made except those found in official Company materials.
- 10.4 **Product/Service Warranty Disclaimer.** EXCEPT AS EXPRESSLY MADE BY THE COMPANY IN WRITING, THE COMPANY MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANSHIP, NON-INFRINGEMENT OR ANY OTHER WARRANTY ARISING BY LAW, STATUTE, USAGE OF TRADE OR COURSE OF DEALING CONCERNING ANY PRODUCT OR SERVICE PURCHASED FROM OR THROUGH THE COMPANY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL PRODUCTS AND SERVICES OF THE COMPANY ARE PROVIDED "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE." THE COMPANY DOES NOT WARRANT THAT ITS PRODUCTS OR SERVICES WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE SYSTEMS OR THAT ON-LINE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. THE COMPANY DOES NOT WARRANT THAT ANY WEBSITE OPERATED, SPONSORED OR HOSTED BY THE COMPANY OR ANY OF ITS AFFILIATES WILL BE UNINTERRUPTED OR FREE FROM ERROR. THE COMPANY IS NOT RESPONSIBLE FOR INTERRUPTED, INACCESSIBLE OR UNAVAILABLE NETWORKS, SERVER, SATELLITES AND/OR SERVICE PROVIDERS; OR FOR MISCOMMUNICATIONS, FAILED, JUMBLED, SCRAMBLED, DELAYED OR MISDIRECTED COMPUTER, TELEPHONE OR CABLE

TRANSMISSIONS; OR FOR ANY TECHNICAL MALFUNCTIONS, FAILURES OR DIFFICULTIES.

- 10.5 **Inventory Loading/Bonus Buying Prohibited.** There are no minimum or mandatory inventory purchase requirements. The success of the Advisor and the Company depends on retail sales to the ultimate consumer, therefore, all forms of stockpiling of products are discouraged. The Company recognizes that Advisors may wish to purchase certain products for their own use and/or for retail sale. However, the Company strictly prohibits the purchase of products in unreasonable amounts and prohibits the purchase of products or services only or primarily to qualify for or earn compensation. The Company retains the right to limit the amount of purchases an Advisor may make if it believes, in its sole discretion, that those purchases are made solely for compensation or qualification purposes instead of for resale or business building.
- 10.6 **Purchase for Others.** An Advisor shall not use another person's credit card when placing orders or place an order for a retail customer using the Advisor's credit card. The purchase of products on behalf of another Advisor or retail customer or through another Advisor's or retail customer's link is prohibited. No Advisor may advance money or promise reimbursement to a prospect in order to solicit them to purchase products. An Advisor may not purchase or sell a retail customer from or to any other Advisor for any reason.
- 10.7 **Retail Pricing.** Although the Company provides a suggested retail price as a guideline, Advisors may sell products at whatever retail price they and their retail customers agree upon.
- 10.8 **Price and Promotions.** Advisors may not advertise any of the Company's products at a price less than the highest Company-published price of the Company's products plus shipping and applicable taxes. No special enticing advertising is allowed, including, but not limited to, offers of free Advisor enrollment, free shipping, or other such offers that grant advantages beyond those available through the Company.
- 10.9 **Price Changes.** Prices for the Company's products, services and literature are subject to change without prior notice.
- 10.10 **Receipts.** Advisors must provide all retail purchasers of the Company's products with written receipts, copies of contracts or copies of orders in compliance with applicable law.
- 10.11 **Place of Sale.** Advisors may sell online, using social media, person-to-person, one-on-one, and in-home presentation methods of sale. Except as expressly permitted herein, Advisors may not promote or sell products or services to or through, directly or indirectly, any retail store or other fixed retail location. An Advisor may sell products through retail establishments that require membership or appointment and

the products are demonstrated in person by a third party. Advisors may participate at exhibits, tradeshows or other public events/conferences.

- 10.12 **Telemarketing/Faxes.** The use of automatic dialing machines or boiler room telemarketing operations or unsolicited telephone calls or facsimiles or broadcast fax services in connection with the sale of products and/or services of the Company is not permitted. Advisors must comply with all federal, state and local laws governing telephone solicitation and/or transmittal of faxes.
- 10.13 **Sales Tax.** To ensure compliance with the sales and use tax requirement of each state and province, unless required otherwise by state or provincial law, the Company will collect and remit all applicable sales and use taxes on products, promotional materials, sales aids and services sold to Advisors. The applicable rate of tax due shall be based on the address to which the product and/or material is shipped.
- 10.14 **Payment Options.** Purchases may be paid by credit card only. Advisors should not copy or retain any credit or banking information of a retail customer or another Advisor.
- 10.15 **Product Delivery.** Upon receipt of payment, the products, services, and/or promotional materials ordered will be shipped, subject to availability.
- 10.16 **Back Order Policy.** The Company will expeditiously ship all products, and materials currently in stock. Any out-of-stock items (unless discontinued) will be placed on back order and be distributed upon the Company's receiving additional inventory. An Advisor will be charged and granted Retail Profits or Commissions on back order items once they are shipped . Back orders may be cancelled prior to shipment upon an Advisor's request.
- 10.17 **Damaged Goods.** The shipping company is responsible for any damage that occurs after it takes physical custody of the products. An Advisor or a retail customer who receives damaged goods shipped directly from the Company should follow this procedure:
- a) Accept delivery;
 - b) Before the driver leaves, document on the delivery receipt the number of boxes which seem to be damaged and have the driver acknowledge the damage in writing;
 - c) Save the damaged products or boxes for inspection by the shipping agent;
 - d) Make an appointment with the shipping company to have the damaged goods inspected; and
 - e) File a claim with the shipping company.

- 10.18 **Shipping Loss.** In the event an Advisor or a retail customer does not receive a product order on a timely basis from the Company, the individual should contact the Company. If the Advisor or the retail customer knows the identity of the shipper of the product, he or she may contact the shipper directly and inquire about the delivery date. The Company is not responsible for any product after it is transferred to the shipper.
- 10.19 **Inaccurate Delivery.** At times a product may be shipped in error by the Company. Unordered merchandise shipped because of the Company's error may be returned at the Company's expense provided the following steps are taken:
- a) The Advisor or retail customer notifies the Company within five days of receipt of the order;
 - b) A copy of the shipping or packing slip must be enclosed with the proper forms required by the Company completed and executed by the Advisor or retail customer; and
 - c) Products must be returned in original containers and must be packed properly to prevent damage in return shipment.
- 10.20 **Refused Shipments.** Should an Advisor refuse delivery on any order he or she has placed with the Company and such product is subsequently returned to the Company, the Company shall have the right to terminate the Advisor. Neither an Advisor nor a retail customer shall refuse any shipment from the Company unless prior approval of the Company has been obtained. If the Company determines that a valid reason exists for refusing shipment, it will instruct the Advisor or retail customer on the proper procedure for a return.
- 10.21 **Third Party Services.** The Company, from time to time, may provide Advisors information regarding services available to Advisors provided by unaffiliated third parties with respect to commission processing, debit and credit cards, banking and merchant accounts and other transactions. In no event shall the Company be liable for the failure of an Advisor to obtain or qualify for such services, the use or misuse of information provided by Advisor to such third party or the suspension or termination of such services or the withholding of funds by such third party.

SECTION ELEVEN. REFUND AND RETURN POLICIES

11.1 Retail Customer Warranty Returns.

- a) When subjected to normal use, the Company warrants that all tools and accessories purchased after November 1, 2014 from the Company shall be free from defects in materials and craftsmanship for a period of 90 days from the date of purchase.

- b) When subjected to normal use, the Company warrants that all albums purchased after November 1, 2014 from the Company shall be free from defects in materials and craftsmanship for a lifetime from the date of purchase.
- c) If any component in the product has a manufacturing defect within the warranty period noted above, the Company will replace it with the same product, or if the same is not available, an equivalent product, or the Company will issue a credit for the product. For questions or to initiate a warranty claim, please email customerservice@creativememories.com.
- d) The warranties do not cover items such as damaged photographs, memorabilia or other items used in the album.

- 11.2 **Retail Customer Refund Procedure.** In order to properly process a warranty claim all warranty requests and, if applicable, product returns must be sent to the Company and should be accompanied by (i) a signed statement from the retail customer identifying the reason for the warranty claim (ii) a copy of the original retail sales receipt; (iii) the name, address and telephone number of the retail customer. The Company will pre-pay the cost of shipping the replacement product(s).
- 11.3 **Right to Cancel.** A purchaser has the right to cancel a purchase within a minimum of three days (10 days in Canada) from the date of the sale and receive a full refund. Two copies of the Company's order form must be given to the purchaser with every in-person sale. In addition, Advisors must orally inform the purchaser of the three-day (10 day in Canada) right to cancel at the time the buyer purchases the products.
- 11.4 **Refunds Upon Termination.** An Advisor who terminates his or her business relationship with the Company has the right to return for repurchase on commercially reasonable terms currently marketable inventory, including product, Company-produced promotional materials, sales aids and kits in possession of the Advisor purchased by the Advisor for resale within 12 months of the date of termination. For purposes hereof, "reasonable commercial terms" shall mean the repurchase of currently marketable inventory within 12 months from the Advisor's date of purchase at not less than 90% of the Advisor's original net cost less appropriate set-offs and legal claims, if any. In addition, for purposes of this section, products shall not be considered "currently marketable" if returned for repurchase after the product's or sales aids' commercially reasonable usable or shelf life period has passed; nor shall products or sales aids be considered "currently marketable" if the Company clearly discloses to the Advisor prior to purchase that the products or sales aids are seasonal, discontinued, or special promotions and are not subject to the repurchase obligation.
- 11.5 **Returns for Residents of Certain States.** Where any state may require a different buy back policy than the Company's, that state's buyback policy will apply. The

following only applies to Advisors who are residents of the states listed below and are in addition to the refund policy set forth in Section 11.4:

- a) **In Georgia:** The Company will repurchase all unencumbered products, sales aids, literature, and promotional items which are in a reasonably resalable or reusable condition and which were acquired by the Advisor from the Company. The repurchase shall be at a price not less than 90% of the original net cost to the Advisor of the goods being returned. For purposes of this paragraph, “original net cost” means the amount actually paid by the Advisor for the goods, less any consideration received by the Advisor for purchase of the goods that is attributable to the specific goods being returned. Goods shall be deemed “resalable or reusable” if the goods are in an unused, commercially resalable condition at the time the goods are returned to the Company. Goods which are no longer marketed by the Company shall be deemed “resalable or reusable” if the goods are in an unused, commercially resalable condition and are returned to the Company within one year from the date the Company discontinued marketing the goods; provided, however, that goods which are no longer marketed shall be deemed not “resalable or reusable” if the goods are sold to Advisor as non-returnable, discontinued, or seasonal items and the non-returnable, discontinued, or seasonal nature of the goods was clearly disclosed to the Advisor seeking to return the goods prior to the purchase of the goods by the Advisor.
- b) **In Maryland:** The Company will repurchase products that are in resalable condition at the price actually paid by the Advisor for the products being returned within three months of purchase.
- c) **In Massachusetts and Wyoming:** The Company will (i) repurchase all unencumbered products in a resalable condition then in the possession of the Advisor at a price of not less than 90% of the original net cost to the Advisor returning such goods taking into account any sales made by or through such Advisor prior to notification to the Company of the election to cancel, (ii) repay 90% of the original net cost of any services provided to Advisor, and (iii) refund 90% of any other consideration Advisor paid to the Company in order to participate in the marketing program.
- d) **In Puerto Rico:** The Company will (i) repurchase all unencumbered products in a resalable condition then in the possession of the Advisor at a price of not less than 90% of the original net cost to the Advisor returning such goods, (ii) repay 90% of the original net cost of any services provided to Advisor, and (iii) refund 90% of any other consideration Advisor paid to the Company in order to participate in the marketing program.
- e) **In Louisiana:** The Company will repurchase all or part of any product that is in a resalable condition (i) at 90% of the original net cost to the Advisor, and (ii) repay 90% of the original net cost of any services provided to Advisor, and

(iii) refund 90% of any other consideration Advisor paid to the Company in order to participate in the marketing program.

- f) **In Montana:** Advisors who are residents of Montana who cancel their participation in the Company within 15 days are entitled to a 100% refund of any consideration given to participate in the Company. Upon the request of a Montana Advisor who decides to terminate participation in the Company, the Company will repurchase, at not less than 90% of the amount paid by the Advisor, any currently marketable goods or services sold to the resident within 12 months of the request that have not been resold or consumed by the resident. If disclosed to the Montana Advisor at the time of purchase, goods or services are not considered currently marketable if the goods have been consumed or the services rendered or if the goods or services are seasonal, discontinued, or special promotional items. Sales plan or operation promotional materials, sales aids, and sales kits are subject to this refund provision if they are a required purchase for the Montana Advisor or if the Advisor has received or may receive a financial benefit from their purchase.

SECTION TWELVE. GENERAL PROVISIONS

- 12.1 **Indemnity Agreement.** By accepting the Agreement, each Advisor agrees to indemnify and hold harmless the Company, its partners, members, managers, shareholders, officers, directors, employees, agents and successors in interest from and against any claim, demand, liability, loss, cost or expense including, but not limited to, court costs and attorneys' fees, asserted against or suffered or incurred by any of them, directly or indirectly, arising out of or in any way related to or connected with allegedly or otherwise, the Advisor's (i) activities as an Advisor; (ii) breach of the terms of the Agreement; and/or (iii) violation of or failure to comply with any applicable federal, state or local law or regulation.
- 12.2 **No Liability.** The Company is not responsible for interrupted, inaccessible or unavailable networks, servers, satellites, Internet service providers, websites, or other connections; or for miscommunications, failed, jumbled, scrambled, delayed, or misdirected computer, telephone or cable transmissions; or for any technician malfunctions, failures or difficulties. To the extent permitted by law, the Company shall not be liable for and each Advisor releases the Company from, and waives all claims for any loss of profits, indirect, direct, special or consequential damages or any other loss incurred or suffered by an Advisor as a result of (i) the breach by an Advisor of the Agreement and/or the terms and conditions of the Policies and Procedures; (ii) the operation of the Advisor's business; or (iii) the failure to provide any information or data necessary for the Company to operate its business, including, without limitation, the enrollment and acceptance of an Advisor into the Compensation Policies or the payment of Retail Profits or Commissions.
- 12.3 **Recordkeeping.** The Company encourages all its Advisors to keep complete and accurate records of all their business dealings.

- 12.4 **Force Majeure.** The Company shall not be responsible for delays or failure in performance caused by circumstances beyond a party's control, such as acts of terrorism, natural disasters, strikes, labor difficulties, fire, war, acts or omissions of third parties, disruptions in communication systems, government decrees or orders or curtailment of a party's usual source of supply. THE COMPANY IS NOT RESPONSIBLE OR LIABLE FOR MAINTAINING ANY ADVISOR OR CUSTOMER DATA OR FOR THE DELETION, CORRUPTION, DESTRUCTION, DAMAGE, LOSS OR FAILURE OF ANY ADVISOR OR CUSTOMER DATA OR FOR ANY THIRD PARTY ACCESS TO ANY ADVISOR OR CUSTOMER DATA.
- 12.5 **Violations.** It is the obligation of every Advisor to abide by and maintain the integrity of the Agreement. If an Advisor observes another Advisor committing a violation, he or she should discuss the violation directly with the violating Advisor. If the Advisor wishes to report such violation to the Company, he or she must follow the Company's reporting procedures.
- 12.6 **Amendments.** The Company reserves the right to amend the Agreement, its retail prices, product and service availability and type at any time as it deems appropriate. Amendments will be communicated to Advisors through official Company publications, including posting on the website or by e-mail. Amendments are effective and binding on all Advisors on the date of publication. An Advisor's continued purchasing of products or accepting of commissions shall be deemed acceptance of the amendments. In the event of any conflict between the original documents or policies and any such amendment, the amendment will control.
- 12.7 **Non-Waiver Provision.** No failure of the Company to exercise any power under the Agreement or to insist upon strict compliance by an Advisor with any obligation or provision herein, and no custom or practice of the parties at variance with these Policies and Procedures, shall constitute a waiver of the Company's right to demand exact compliance with the Agreement. The Company's waiver of any particular default by an Advisor shall not affect or impair the Company's rights with respect to any subsequent default, nor shall it affect in any way the rights or obligations of any other Advisor. No delay or omissions by the Company to exercise any right arising from a default affect or impair the Company's rights as to that or any subsequent default. Waiver by the Company can occur only in writing by an authorized officer of the Company.
- 12.8 **Governing Law.** The Agreement and these Policies and Procedures shall be governed by the laws of the State of Minnesota.
- 12.9 **Arbitration.**
- a) Except as expressly set forth herein, all disputes, claims and controversies relating to or arising out of the Agreement shall be settled totally and finally by arbitration in St. Cloud, Minnesota (Louisiana residents may arbitrate in New

Orleans, Louisiana) and administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. Except as expressly set forth herein, arbitration shall be the exclusive method available for resolution of such claims and disputes.

- b) There shall be one arbitrator who shall be an attorney who shall have expertise in business law transactions, and preferably an attorney knowledgeable in the direct selling industry. The Company shall select the arbitrator at its sole discretion from the panel which the American Arbitration Association provides. The non-prevailing party to the arbitration shall be responsible for prevailing party's costs and expenses of arbitration, including legal and filing fees. If an Advisor files a claim or counterclaim against the Company, an Advisor shall do so on an individual basis and not with any other Advisor or as part of a class action. The arbitrator shall have the right in his or her discretion to authorize the obtaining of discovery, including the taking of depositions of witnesses for the purpose of discovery. The presentations of parties in the arbitration proceeding shall be commenced and completed within 60 days after the selection of the arbitrator and the arbitrator shall render his or her decision in writing within 30 days after the completion of such presentations. The decision of the arbitrator shall be final and binding on the parties and may, if need be, be reduced to a judgment in any court of competent jurisdiction. At the request of any party, the arbitrator shall make and provide to the parties written findings of fact and conclusions of law. This agreement to arbitrate shall survive any termination or expiration of the Agreement.
- c) Notwithstanding the foregoing, the arbitrator shall have no jurisdiction over disputes relating to the ownership, validity, use or registration of any Proprietary Mark, copyright, or other intellectual property or Confidential Information of the Company without the Company's prior written consent. The Company may seek any applicable remedy in any applicable forum with respect to these disputes. In addition to monetary damages, the Company may obtain injunctive relief against an Advisor for any violation of the Agreement or misuse of the Company's trademarks, copyrights or confidential information.
- d) Nothing in this provision shall prevent a party from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction and/or other injunctive or emergency relief available to safeguard and protect the party's interests prior to the filing of or during or following any arbitration or other proceeding or pending the handing down of a decision or award in connection with any arbitration or other proceeding.
- e) Nothing contained herein shall be deemed to give the arbitrator any authority, power or right to alter, change, amend, modify, add to, or to subtract from any of the provisions of the Policies and Procedures, Compensation Policies or the Agreement. The arbitrator shall not have the power to rule upon or grant any extension, renewal or continuance of the Agreement. The arbitrator shall not

have the power to award special, incidental, indirect, punitive or exemplary, or consequential damages of any kind or nature, however caused.

- f) Any modification of this arbitration provision shall not apply retroactively to any dispute which arose or which the Company had notice of before the date of modification.
- g) All communications, whether oral, written or electronic, in any negotiation, mediation or arbitration pursuant to this section shall be treated as confidential and those made in the course of negotiation or mediation, including any offer, promise or other statement, whether made by any of the parties, their agents, employees, experts, or attorneys, or by the mediator shall also be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and shall be inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in negotiation or mediation.

12.10 **No Class Action.** In consideration of the right to become an Advisor, each Advisor expressly waives and disclaims any right to bring any claim or action in any and all forums as a class action. No Advisor may serve as the class representative or as a member of a class in litigation or in any other proceeding adverse to the Company or any of its affiliates or any other Advisor.

12.11 **Entire Agreement.** The Policies and Procedures, as amended from time to time, are incorporated into the Agreement (which also includes the Compensation Policies, the Advisor Agreement, the Legal Notice and the Privacy Policy) which constitute the entire agreement of the parties regarding their business relationship.

12.12 **Severability.** If under any applicable law or rule of any applicable jurisdiction, any provision of the Agreement is held to be invalid or unenforceable, the remainder of the Agreement will be interpreted as best to effect the intent of the parties hereto. The remaining provisions of the Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from the Agreement.

12.13 **Limitation of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE COMPANY AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND OTHER REPRESENTATIVES SHALL NOT BE LIABLE FOR, AND ADVISORS HEREBY RELEASE THE FOREGOING FROM, AND WAIVE ANY CLAIM FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS OR LITIGATION) WHICH MAY ARISE OUT OF ANY CLAIM WHATSOEVER RELATING TO (I) THE COMPANY'S PERFORMANCE, NON-PERFORMANCE, ACT OR OMISSION WITH RESPECT TO THE BUSINESS

RELATIONSHIP, (II) USE OR MISUSE OF ITS PRODUCTS OR SERVICES, (III) THE BREACH BY AN ADVISOR OF THE AGREEMENT OR ANY APPLICABLE LAW OR THE OPERATION OF THE ADVISOR'S BUSINESS, (IV) ANY INCORRECT OR WRONG DATA OR INFORMATION PROVIDED BY THE ADVISOR OR ANY LOST OR INCORRECT DATA BY THE COMPANY, OR (V) OTHER MATTERS BETWEEN ANY ADVISOR AND THE COMPANY, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE) OR STRICT LIABILITY, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Furthermore, it is agreed that any damages to an Advisor shall not exceed, and is hereby expressly limited to, the amount of unsold programs, services and/or products of the Company owned by the Advisor and any commissions owed to the Advisor.

- 12.14 **Notice.** Any communication, notice or demand of any kind whatsoever, which either the Advisor or the Company may be required or may desire to give or to serve upon the other shall be in writing and delivered either (i) by email at the email address on file with the Company, (ii) personally or by same day local courier services or overnight express delivery services; or (iii) by registered or certified mail, postage pre-paid, return receipt requested. Notices delivered personally, by overnight express delivery service or by local courier service shall be deemed given as of actual receipt. Emailed notices shall be deemed given when sent. Mailed notices shall be deemed given three Business Days after mailing. "Business Day" means any Monday through Friday other than any such day which, in the State of Minnesota, is a legal holiday or a day on which banking institutions are authorized or required by law or regulation to close. Any such communication, notice or demand shall be deemed to have been given or served on the date personally received by personal service or overnight courier service, on the date of confirmed dispatch if by electronic communication, or on the date shown on the return receipt or the other evidence if delivery is by mail. Any party may change its address for notice by giving written notice to the other in the manner provided in this section.
- 12.15 **Survival.** Any provision of the Agreement, which, by its terms, is intended to survive termination or expiration of the Agreement shall so survive, including, without limitation, the arbitration, non-solicitation, trade secrets and confidential information covenants contained in the Policies and Procedures.
- 12.16 **Offset.** The Company shall have the right to offset any amounts owed by an Advisor to the Company (including, without limitation, fees charged in connection with the payment of Retail Profit or Commissions and amounts owed as a result of product refunds) against the amount of any Retail Profit, Commissions or Credits owed to the Advisor.
- 12.17 **Defined Terms.**

- (a) **Account Balance** means a running total for the Rolling 12 Months Account Balance of all retail sales through the Advisor's account and it includes purchases by an Advisor and his or her customers.
- (b) **Agreement** includes these Policies and Procedures, the CM Compensation Policies, the CM Advisor Agreement the CM Legal Notice, and the CM Privacy Policy ("Privacy Policy")
- (c) **Annual Fee** means the fee which Advisors must pay annually to cover the ongoing cost of maintaining the Sales Tools.
- (d) **Commission Rate** means the percentage an upline Advisor earns on his or her Group's retail sales. The Commission Rate is determined by the upline Advisor's Account Balance.
- (e) **Commissions** mean the payment calculated and paid weekly to upline Advisors at their Commission Rate, on the previous week's Group retail sales.
- (f) **Company** means CM Group Holdings, Inc.
- (g) **Compensation Policies** means the compensation plan of the Company pursuant to which Commissions and Retail Profits are paid and Credits are earned.
- (h) **Credits** means each \$100 credit earned for every \$2000 of retail sales in a calendar month through the Advisor's account or each \$100 credit earned for every \$2000 of a new Group sales in a calendar month by an Advisor's Group.
- (i) **Group** means all Advisors signed up directly under one Advisor.
- (j) **Retail Profit** means that portion of retail sales paid out to Advisors weekly calculated using the Retail Profit Rate.
- (k) **Retail Profit Rate** means the percentage used to calculate an Advisor's Retail Profit at time of a product order based on the Advisor's Account Balance.
- (l) **Rolling 12 Months Account Balance** means, once an Advisor has been active for more than 12 months, the Account Balance will be calculated based on the retail sales activity in the immediately preceding 12 month period.
- (m) **Sales Tools.** Include the following things received for the Annual Fee:
 - 1. Personal link (URL).
 - 2. Electronic sales tools and promotional banners/product offers to post on social media, a blog or website or to send to customers via email.

3. Access to the Advisor back office, which includes, but is not limited to, marketing tools, product flyers, promotional flyers, a “flippable” electronic catalog and order forms.
4. Telephone and email support from the Company’s home office.
5. A weekly newsletter and regular webinars to share and promote best practices.