

## **AUSTRALASIAN PROMOTIONAL PRODUCTS ASSOCIATION (APPA) CODE OF ETHICAL AND RESPONSIBLE CONDUCT**

This code details the responsibilities and code of conduct for all members of APPA. Any breach of this code as determined by the APPA Board or APPA staff appointed by the Board for this purpose, in its sole discretion, may lead to disciplinary action, fines or expulsion from the Association in accordance with this Code and the APPA Constitution.

### **1. Definitions**

**Arbitrator** means the APPA appointed arbitrator pursuant to the Dispute Resolution Procedure.

**APPA or the Board** means the board of directors of APPA from time to time or any one of them, as the context may permit;

**Code of Conduct** means this code of conduct, including all schedules, annexure and appendices, as amended from time to time in the sole discretion of the Board;

**Constitution** means the Constitution of APPA, as amended from time to time;

**Dispute Resolution Procedure** means the dispute resolution procedure set out in Schedule 1 to this Code of Conduct, as amended by the Board from time to time in its sole discretion;

**Member** means a current, past, associate or applying member of any category of APPA.

**Personnel** means the employees, contractors, agents and staff of a Member.

### **2. General**

Each Member shall be familiar with and is expected to comply with, the Constitution, the Code of Conduct and all charters, policies and codes approved by the Board pursuant to the Constitution.

Each Member shall be responsible for ensuring that Personnel comply with the Constitution, the Code of Conduct and all charters, policies and codes approved by the Board pursuant thereto. A Member shall be held responsible for the actions of its Personnel.

Notwithstanding anything else set out in this Code of Conduct, the Board retains the right to amend this Code of Conduct, any schedule or annexure hereto or any other policy approved by it, in its sole discretion and without the requirement to give reason.

If a Member is in doubt as to whether an activity or situation is in breach of the Constitution or Code of Conduct, after having made their own due enquiries, they may contact APPA at [info@appa.com.au](mailto:info@appa.com.au) for further information.

### **3. Business Dealings**

Members shall conduct their activities with the highest standards of professionalism, ethics and integrity in all their dealings with the Board, clients, Personnel, both past and present, and with their fellow Members and prospective members.

Members will not engage in anti-competitive or corrupt behaviour. APPA supports co-operative, professional dealings between Members and encourages Members to conduct business with each other. APPA also expects the Personnel of its Members to behave in an ethical and responsible way and in accordance with their contracts of engagement.

Examples of the standard of behavior expected of Members and their Personnel include:

- Compliance with the all laws and regulations of the country and state in which they operate, including the states into which the sell goods;
- Members shall at all times conduct themselves with honesty and integrity and shall not engage in any activity or conduct which might reflect detrimentally or compromise the legitimate interests or objectives of APPA;
- Members must respect the confidentiality and observe the privacy of information about APPA, other Members its customers and Personnel. The security and proper use of customer and company information is mandatory;
- Members shall maintain the highest levels of professional conduct in their interactions with each other and in representing themselves as members of APPA to the public;
- Members must not do anything that in any way denigrates or harms APPA's public image; and
- Members must act in accordance with any other policies approved by the Board.

### **4. Complaints**

A Member who has a complaint against another Member should raise the matter with the persons set out below, in the order set out wherever reasonable and provided the Member is comfortable and able to raise the matter within the least formal process available:

1. Object directly to the Member whose behaviour is in issue. This should occur both orally and be confirmed in writing.
2. If the behaviour continues despite the objection, or the Member feels unable to approach the Members whose behaviour (or whose Personnel's behaviour) is in issue, they should follow the informal or formal complaint procedures set out below.

Where a Member wishes to lodge an official complaint against another Member for claims of unethical practices or breaches of the APPA Code of Conduct they shall do so in accordance with the Dispute Resolution Procedure.

A breach by a Member of the rules set out in the Dispute Resolution Procedure, shall be considered a breach of this Code.

**It is a condition of membership that each Member agrees to engage in the Dispute Resolution Process. Whilst the decision of the Arbitrator is not binding as between**

**Members, a decision of the Board to record a finding against a Member, based upon the Arbitrator's recommendations, is.**

**Further, any decision given by APPA in arbitration may form a precedent to establish a standard of 'best practice' and professionalism within APPA.**

## **5. Breach of Code**

The Board may maintain a formal record of breaches of the Code by Members. The Board may make a determination of a breach of the Code following:

- (a) an unresolved complaint;
- (b) a resolved complaint, where in the opinion of the Board (based upon the recommendations of the Arbitrator) the actions or inactions of the Member which resulted in the complaint or the action or inaction of the Member in responding to the complaint, were of a significant nature;
- (c) any significant breach of the code coming to the attention of the Board in any way.

Any Member who is the subject of five recorded breaches of the Code is subject to a fine, to be determined by the Board, of between one year membership fees and \$5,000. A Member who is the subject of six recorded breaches of the Code is liable to be removed as a Member immediately.

The failure to pay a fine by its due date (being fourteen days after the date of issue of the invoice) will result in a Member becoming unfinancial upon the date following the due date.

Notwithstanding, the above, in the event of any serious breach of the Code by a Member, whether for a first time breach or otherwise, the board reserves the right to, without notice, with a seventy five percent majority:

- (a) issue a fine;
- (b) remove a Member.

## **6. Recognition of Fellow Members and Promotion of Business Activities**

Supplier/ Decorator Members:

- (a) will recognise the role of Distributors in the industry, acknowledge the service they provide and support them in the marketing of their products and services to end users;
- (b) are encouraged to clarify their selling and pricing policies with Distributors and uphold those policies ethically;
- (c) are encouraged to stand behind the safety and quality of their products / decoration and assist with the resolution of reasonable issues which may arise;
- (d) are encouraged to have internal procedures in place to ensure proper stock quantities, sizing and colours are provided.

Decorators are encouraged to educate Distributors / Suppliers on their specialised area of decoration and make them aware of limitations of products as they arise.

Distributor members:

- (a) Will recognise the role of Suppliers / Decorators in the industry and acknowledge the service they provide and support them through the marketing of their products and services;
- (b) are encouraged to respect the design, intellectual property, exclusive agent contracts and trading terms/policies of Suppliers / Decorators;
- (c) are encouraged to check stock received from Suppliers before decoration to avoid irreversible damage to stock;
- (d) are encouraged to respect the art work requirements and time lines of both Suppliers and Decorators and make every effort to supply clear instructions for production;
- (e) In placing an order with a Supplier / Decorator, accepts the individual terms and conditions of the Supplier / Decorator. All members of APPA are advised to read all terms and conditions thoroughly. All members are encouraged to gain a good level of knowledge in the areas of decoration and the products they choose to promote.

Service Providers are encouraged to strive to understand the unique aspects of our industry and ensure quality and relevant services are offered with integrity. Service Providers, Decorators and Suppliers will ensure their staff members are adequately trained on any special offers they make available to APPA Members and that current contact details are updated with APPA.

Members will, whenever possible, promote and use fellow Member's products and services.

#### **7. The Internet and Website Activities**

Members will conduct themselves in an ethical and legal manner on the internet. Misrepresentation on the web via URL Registrations, misleading or dishonest statements and Website masking are prohibited and will be considered a breach of the APPA Code of Conduct and are subject to disciplinary action.

#### **8. Product Safety**

Members will comply with all applicable laws and regulations regarding safety of products sold and will meet applicable recognised voluntary industry standards for products and processes.

#### **9. Quality of Product and Services Provided**

Goods and services provided by Members will be of an acceptable standard, taking into consideration the price, the relevant market for the goods, the quantity of the goods and any other factors APPA determines relevant and in compliance with all commercial and consumer laws. Members will conduct the necessary quality control to ensure the products or services are as per advertised specification and pre-production samples provided.

#### **10. Respect of Intellectual Property Rights of other Members**

Members shall respect the Intellectual Property Rights of others (including fellow Members), whether relating to products and services, trademarks, tradenames and business names (whether or not registered) domain names, websites, images, catalogues and confidential client information supplied during the production process.

Members will not attempt to pass themselves off as a third party by any means or attempt to trade upon the goodwill established businesses. This includes (but is not limited to) the use of domain names and websites deceptively similar to those of third parties or others in the industry.

**11. Training and Staff Development**

Members have a responsibility to continue the acquisition of professional skills in the industry (including of all Personnel) and to encourage the development of these skills in those who are desirous of entry into, or continuing in the profession of promotional product marketing.

**12. Promotion and Development of the Industry**

Members shall be committed to the growth and development of the industry and will actively support, promote and enhance APPA policies, membership programmes and the various activities of APPA.

Members shall help to improve the body of knowledge of the profession by exchanging information and experience with fellow Members and by applying their special skill and training for the benefit of others.

**13. Database Theft, Sale or Manipulation**

Members and their Personnel will not steal, sell, copy or manipulate databases from other Members, competitors, employers, clients or APPA.

**14. Stock responsibility**

The ordering, movement, production and sale of stock are all complex processes in our industry. It takes many stages to produce a successful promotion. Suppliers, Decorators and Distributors have stock responsibility throughout this process. Members are encouraged to print and publicise their terms and conditions and work together to resolve issues which may arise during this often rushed process.

**15. Insurance & Liability**

All Members should carry the correct level of insurance for stock and general liability which comes with the production and supply of products relevant to their business circumstances. Additionally it is important for Members to be aware of the level of cover and responsibility throughout the supply chain. The appropriate level of public and product liability insurance (especially important incrementally with the level of direct importing) is expected. All forms of necessary business and indemnity insurance are considered professionally sound and crucially important to sound business activities. Members should remember that safety and government requirements are a shared responsibility throughout the supply chain. Legally, each level of supply shares ultimate responsibility.

**16. Employment Laws and Regulations**

Members will not use any form of forced labour, including indentured, prison, bonded or slave labor and will not use physical or verbal harassment or abuse to discipline employees. Members will not use child labour and will comply with all minimum age provisions of applicable laws and regulations.

Members respect the rights of employees to associate or organize without fear of reprisal or interference. If Personnel are represented by an organization recognized under law, Members will respect the right to bargain collectively. Members will not discriminate in hiring and employment practices on the basis of age, nationality, race, religion, social, sexual or ethnic orientation, gender or disability. Members will comply with all applicable employment laws, equal opportunity laws, occupational health and safety laws, Awards, employment agreements, wage, work hours, hiring, benefits, and overtime laws and regulations.

Members will provide a safe, healthy and secure workplace. Members will abide by all applicable laws and regulations for safety and health. Proper sanitation, lighting, ventilation and fire safety protection will be provided.

#### **17. Environment**

Members will abide by all applicable environmental laws and regulations. Members will manage our environmental footprint including energy, water and waste systems for maximum efficiency to minimize the adverse impact on the environment. Members will not misrepresent products knowingly to their clients and are expected to secure required legal documentation if representing products with specific features, qualities or performance.

#### **18. Subcontractors and Sources**

Members will ensure all businesses that support their business as subcontractors, manufacturers or sources of goods will comply with the Code of Conduct and any other applicable policies approved by the Board. All subcontractors and suppliers are required to comply with all applicable state and national laws.

#### **19. Use of APPA's Logo and Marks**

The use of the APPA's logo must be confined to APPA activities, or the statement of name and business address on a card, letterhead, website and published articles. It may only be used while a Member is a financial member. Any information, statistics, reports, or editorial reproduced from APPA must be credited to the association and permission sought from APPA *before* reproduction occurs. At all times the logo should be reproduced in accordance with guidelines for use specified by the Association, in the information disc supplied to all Members upon joining APPA. ALL Members must remove the APPA logo immediately from all materials in the event that they cease to be a Member, for any reason whatsoever, or immediately that they become unfinancial.

#### **20. Tradeshows & Events**

Members are expected to act with integrity and professionalism during all tradeshows and APPA events. At no time are Members allowed to sign a delegate into an APPA show who is not a Member or who is falsely representing their company (including delegates who are not employed by that company) unless permission has been expressly given by APPA. End users, overseas guests and non-member Suppliers are strictly not allowed and will be removed from APPA events.

Distributors or Suppliers who knowingly falsely sign in external parties into APPA shows are subject to fines or disciplinary sanctions from APPA. Members have a responsibility to alert APPA immediately if rouge delegates are presenting different identifications/business cards

than noted on their lanyard tag or if they verbally indicate they do not work for the company represented on their badge identification.

Non-exhibiting Supplier Members are not encouraged to attend APPA shows, but may (subject to APPA sole discretion) attend if they request. They must wear the Visiting Supplier Badge prominently at all times that they visit the show. They are strictly prohibited from doing business at the APPA events and will be removed if this occurs. These actions include handing out business cards, samples or catalogues, doing business in the isles or café's, taking delegates off exhibitors stands for discussions.

## **21. Resignations and Expulsion**

APPA invoices for membership are automatically issued at the end of the calendar year. If a Member wishes to resign, they must submit their resignation in writing to APPA, within the payment terms of that invoice. Memberships are non-refundable if resignation occurs during the calendar year and prorated if resignations are not received by the payment terms of the invoice.

Members are encouraged to conduct an exit interview to provide valuable feedback to the association on improvements and changes to better the membership experience.

ALL Members agree to remove the APPA logo from all their materials (web, printed or otherwise) within 10 working days of their resignation or ceasing to be a financial Member for any reason other than forced expulsion.

In the case of expulsion from APPA, members who have been expelled immediately lose ALL benefits and rights as provided by the APPA constitution, Code of Conduct and membership benefit programs. The expelled member is required to immediately cease the use, in all forms, of the APPA membership identity. Expelled members have 24 hours to completely cease in the use of the APPA logo and membership status in all forms.

## **22. Unfinancial Members**

A Member is deemed unfinancial if they fail to pay their membership fees or levies by their due date. An unfinancial Member may not vote at a general meeting, make use of the Dispute Resolution Process (although they may be requested by another Member to take part in the Dispute Resolution Process) or the APPA Logos and Marks.

An unfinancial Member is liable to be removed as a Member in accordance with the Constitution.

## **23. Promotion of APPA's name, identity, images or information**

Members will not publicly express, publish, distribute or disseminate adverse information (including pictures and diagrams) about APPA without APPA's prior express written consent.

## **SCHEDULE 1 – DISPUTE RESOLUTION PROCEDURE**

These rules apply to any dispute between Members of APPA or between a customer or client of a Member and the Member. By becoming a Member, the Member agrees to comply with these Rules.

### **1 DEFINITIONS:**

In these Rules unless the context indicates a contrary intention:

**APPA** means the Australasian Promotional Products Association.

**Arbitrator** means the APPA appointed arbitrator pursuant to the Dispute Resolution Procedure.

**Board** means the Board of directors of APPA.

**Code** means the APPA Code of Conduct approved by the Board from time to time.

**Complaint Notice** means a notice to the Board by the Complainant, in a form approved by the Board, setting out the basis of the Complainant's disputes with a Member.

**Complainant** means a Member or a customer or client of a Member who lodges a formal Complaint Notice, in respect of the conduct of a Member.

**Dispute** means the disputed issues as outlined in the Complaint Notice and response.

**DPR (Dispute Resolution Procedure)** means a structured process for dealing with disputes and other problems in which the Parties are assisted by the Arbitrator, to facilitate their discussions and includes identifying the disputed issues, developing opinions, consider alternatives and endeavouring to reach a Settlement Agreement.

**Member** means a member of APPA and shall include its directors, employees, contractors and any other person assisting, with the member's authority, the member with their role as a member of APPA.

**Parties** means the Complainant and Member against whom the Complaint is made.

**Rules** means these dispute resolution rules, as amended by the Board from time to time.

**Settlement Agreement** means any agreement reached between the parties as a result of the DRP.

## **2 ARBITRATORS**

- 2.1 The Board shall appoint at least two arbitrators (**Arbitrators**), for such term and on such conditions as it deems appropriate.
- 2.2 Each Arbitrator may be removed by a resolution passed by no less than 75% of the Board, despite the terms of their appointment, for any reason whatsoever.
- 2.3 Each Arbitrator has a duty of impartiality and independence to the Members, shall not behave in any way which displays favouritism or bias to any Member.
- 2.4 A Member who wishes to make a genuine complaint about an Arbitrator shall do so in writing to the Board.
- 2.5 The Board has the authority to investigate, review and decided upon any complaint made under clause 2.4. The Board's decision shall be final and binding.

## **3 COMPLAINT NOTICE**

- 3.1 A Complaint Notice must be lodged with APPA at its principal place of business within ninety (90) days of a dispute arising between two or more Members or against a Member and must, at a minimum, set out the following:
  - (a) The name and contact details of the person lodging the Complaint;
  - (b) The name and contact details of the Member against whom the Complaint is filed;
  - (c) The nature of the dispute, when it arose and any material facts upon which the Complainant relies.
- 3.2 The Arbitrator has the discretion to extend the time set out in clause 3.1, in its sole discretion.

## **4 CONFIDENTIALITY**

- 4.1 The Arbitrator, the members party to the DRP and any advisers, employees, representatives or other third parties present at the DRP at the bequest of a Party shall:
  - (a) except as provided in clause 4.2, keep all information disclosed during the DRP confidential;

- (b) not use any information disclosed during the DRP for any purpose other than the DRP;
- (c) if requested by the Arbitrator sign a Confidentiality Agreements in the form approved by the Board from time to time, and as set out in Schedule 2 to the Code.

4.2 The obligation of confidentiality under clause 4.1 shall apply except:

- (a) if disclosure is compelled by law, provided the party required to disclose the confidential information notifies the other party in writing as soon as possible of the obligation to disclose and provides the other party with all reasonable assistance necessary to take action to prevent the disclosure by law;
- (b) to the extent necessary to give effect to the Settlement Agreement, or to enforce any agreement to settle or resolve the whole or any part of the Dispute;
- (c) where disclosure is only of the occurrence of the DPR (and not any communication during the DPR), and the occurrence of the DPR is relevant to subsequent arbitral, adjudicative or judicial proceedings relating to the Dispute.

## **5 ARBITRATOR'S RULE AND AUTHORITY**

5.1 The Arbitrator:

- (a) will not and is not permitted to, give legal advice;
- (b) role is to facilitate the decision-making process of the parties;
- (c) may recommend a non binding decisions to the parties.

5.2 The Arbitrator shall assist the parties to negotiate between themselves a mutually acceptable resolution of the Dispute, by:

- (a) helping the parties to identify and define the issues in dispute;
- (b) Implementing a procedure which is aimed at achieving resolution of the Dispute quickly, fairly and cost-effectively;

(c) where appropriate, suggesting particular dispute resolution techniques for individual issues aimed at narrowing the issues in dispute quickly, fairly and cost-effectively;

(d) acting as the facilitator of direct negotiations between the parties.

5.3 During the DRP, the Arbitrator may convene such meetings, whether by teleconference or in person, between the Parties (**Meetings**) as the Arbitrator considers appropriate, at the time and place determined by the Arbitrator, in consultation with the Parties, for the purpose of:

(a) identifying and defining the issues in dispute;

(b) resolving or narrowing the issues in dispute, on terms agreeable to the Parties; or

(c) otherwise progressing the discussion and resolution of the Dispute, as the Arbitrator deems appropriate.

5.4 During the DRP, the Arbitrator may, in his or her unfettered discretion, communicate and discuss the Dispute privately with any of the Parties or their representatives or advisers. The Arbitrator shall preserve absolute secrecy of the content of any such communication, and shall not expressly or impliedly convey the content of such communication (or part thereof) unless specifically authorised to do so.

5.5 The Arbitrator has no authority to impose a solution on the parties.

5.6 The Arbitrator may during and after the DRP speak to and deal with any of the Parties or their representatives privately and separately at the Arbitrator's absolute discretion and without informing the other parties of this.

## **6 PARTY**

6.1 A Party has no entitlement to legal or third party representation or advice during the DRP.

6.2 The Arbitrator may, in their sole discretion, determine that it is appropriate for a Party to have a third party representative present during the DRP. The Arbitrator's decision on any third party representation is final and conclusive.

6.3 The Party shall do all things reasonably necessary for the proper, expeditious and cost-effective conduct of the DRP.

- 6.4 Without limiting the generality of clause 6.3, each Party shall:
- (a) Attend all Meetings in person, or where the Party is a corporation, by a person with full and unfettered authority to resolve the Dispute on behalf of the Party;
  - (b) Unless the Arbitrator agrees otherwise in writing, ensure that all person necessary to resolve the Dispute are present at each Meeting, including parties privy to information integral to the resolution of the Dispute;
  - (c) participate bona fide in the DRP;
  - (d) comply without delay with any direction made on procedural matters.
- 6.5 The Parties agree that neither the Arbitrator or APPA, or any other their officers and employees are liable to any Party for or in respect of any act or omission in the discharge or purported discharge of their respective functions under these Rules.
- 6.6 The parties bear the responsibility for generating possible solutions to the dispute and for making decisions as to the acceptability of any potential solution.

## **7 DISPUTE RESOLUTION PROCESS**

- 7.1 The Arbitrator may, but is not obliged to, convene a preliminary meeting with the parties, in person or by teleconference, to be held as soon as practicable after reference of the Dispute to DRP, to:
- (a) discuss and agree on the issues in dispute, or formulate a process by which those issues can be clarified and agreed;
  - (b) plan and agree on how a negotiated resolution of the Dispute is to proceed including, where appropriate, a timetable for exchange of position papers and other documents and provision of copies to the Arbitrator;
  - (c) make arrangements, if required, for Confidentiality Agreements to be signed by all persons taking part in the DRP;
  - (d) make such other planning and administrative arrangements as may be required for the DRP to proceed.

- 7.2 The Arbitrator may terminate the DRP, by notice to each of the Parties, if the Arbitrator forms the opinion that the further conduct of the process will not be productive in achieving a resolution of the Dispute.
- 7.3 If the DRP results in settlement the Arbitrator and the Parties shall work together to ensure that the terms of the settlement are formalised in writing in a Settlement Agreement.
- 7.4 If the DRP does not result in settlement the Arbitrator may attempt to summarise for the Parties any progress to settlement which has been made and seek the formal agreement of the parties to the resolution of some facts or elements of the Dispute. If agreement is reached to narrow the areas/facts of the Dispute, the Parties agree to confirm the issues/facts upon which agreement has been reached, in writing.

## **8 COSTS:**

- 8.1 Each Member shall bear their own costs associated with the DRP.
- 8.2 Notwithstanding clause 8.1, the Arbitrator may direct a Member to pay the costs of a Party associated with the DRP.

## **9. PLACE OF DISPUTE RESOLUTION**

- 9.1 The interpretation and construction of this Agreement shall be governed and determined in accordance with the law of Victoria and the parties shall submit to the non exclusive jurisdiction of the courts of Victoria.
- 9.2 The DRP shall take place in Melbourne Victoria, unless otherwise determined by the relevant dispute resolution supervisor.

## **SCHEDULE 2 – CONFIDENTIALITY AGREEMENT**