



Independent Business Owner Agreement

AUSTRALIA - TERMS AND CONDITIONS (EFFECTIVE AUGUST 1, 2020)

PLEASE PRINT CLEARLY IN CAPITAL LETTERS

NOT TO BE USED FOR THE SIGN UP OF NEW IBOs.

Note: Prospects wishing to join ACN should complete the IBO Agreement via: acnpacific.com or an IBOs Personal Website

Mail to: **ACN Pacific Pty Ltd**
G2 19-23 Hollywood Ave
Bondi Junction NSW 2022

Applicant

☐ **Individual/Sole Traders**

☐ **Company**
(Proprietary company only)
Must supply Business Paperwork incl.
certificate of incorporation

☐ **Trust**
Must supply Business Paperwork
incl. trust deed

☐ **Partnership**
Must provide Business Paperwork

See section 1.4 of ACN Policies & Procedures for Business Paperwork requirements

Company/Trust/Partnership Name: _____

ABN _____

Required by all applicants

Is the Applicant GST registered? ☐ Yes ☐ No

☐ Mr. ☐ Mrs. ☐ Miss. Date of Birth: ____ / ____ / ____
DD MM YYYY

First Name: _____ Last Name: _____

Non-individual applicants must specify the authorised contact person in this section.

Email: _____

I herewith express my consent that my email address be subscribed to ACN's email news service.

I further consent to receiving communications from ACN in electronic form, including email and SMS.

Address1: _____

Address2: _____

City/Suburb: _____ Postcode: _____ State: _____

Telephone: (____) _____ Mobile: _____

Sponsor

ACN Business ID: _____ Name: _____

Bank Details for all payments by ACN

I request that all payments made to me by ACN Pacific Pty Ltd be deposited directly to the Applicant's bank account listed below.

Account Name: _____
Account name must be the same as or include Applicant's name.

Bank Name: _____

Bank BSB Code: _____ Account Number: _____

Signature

I, the undersigned Applicant, affirm both personally and, if applicable, as a non-individual entity Applicant, that: I am at least 18 years of age; I am a permanent resident of Australia or New Zealand; I am not bankrupt, insolvent or in prison or subject to any other similar restriction set out in clause 1 over page; I am not someone who has been previously terminated by an ACN Company as an Independent Business Owner (IBO); and I have a valid Australian Business Number, an Australian mailing address and bank account maintained in Australia.

I hereby apply to become an IBO of ACN Pacific Pty Ltd (ACN) with a home country of Australia. I have fully and carefully read and agree to abide by all Terms and Conditions of this Agreement, the Compensation Plan and the Policies and Procedures, which are incorporated by reference herein. I understand and acknowledge that: success as an ACN IBO is not guaranteed but depends on my specific efforts and other circumstances that may be beyond my control; no prospect of employment has been presented to me by ACN; my potential income is solely based on commissions and bonuses for obtaining customers; as an IBO, I am not guaranteed any income nor am I assured any profits or success, and I certify that no claims of guaranteed profits or representations of expected earnings that might result from my efforts as an IBO have been made by ACN or any person who introduced me to the opportunity to become an IBO. I hereby authorize ACN to (i) charge the Sign-Up Fee and initial monthly Business Support Fee to my credit/debit card ("Payment Method") and (ii) automatically charge the Payment Method for each Business Support Fee and Annual Renewal Fee payment due and payable under this Agreement. I understand that this Agreement is not binding until received and accepted by ACN (which may accept my application, accept it subject to conditions, or reject it).

Individual or Partner 1 or Trustee 1

Director/Sole Director:

Partner 2 or Trustee 2

Director/Company Secretary:

Partner 3 or Trustee 3

Director/Company Secretary:

Date: ____ / ____ / ____
DD MM YYYY

Your Business ID Number is:

10 Day Cooling Off Period Applies
(see clause 6 over leaf)

PLEASE SEE REVERSE SIDE FOR ADDITIONAL TERM

I understand and acknowledge that: (a) there is no requirement beyond filing of this application and no purchase of sales or marketing materials or of products or services as a customer of any ACN Company or any of ACN's service partners is required to become an Independent Business Owner (IBO) other than payment of the Sign-Up Fee and the initial monthly Business Support Fee; (b) in order to maintain my IBO position, I must each month pay a Business Support Fee and each year pay an Annual Renewal Fee (the current Business Support Fee and Annual Renewal Fee are stated in clause 1.7.A. of the Policies and Procedures) and comply with the terms and conditions of this Agreement; (c) my advancement to higher levels in the ACN Compensation Plan is based solely upon the acquisition of customers and their usage of the products and services offered by ACN Companies and ACN's service partners; (d) any purchase of sales aids and marketing materials is strictly voluntary; (e) if I choose to organise for others to solicit the sale of the products and services ACN Companies and ACN's service partners by sponsoring them to become IBOs of ACN, I will not receive any compensation whatsoever for the act of sponsoring them; (f) the only compensation to which I am entitled under this Agreement is based upon the sales solicited by me and other IBOs to end customers and (g) my payment of the Sign-Up Fee, the Business Support Fee(s), and the Annual Renewal Fee(s) (if applicable) covers the costs associated with establishing and servicing my ACN business and enables me to conduct and maintain my business status with ACN and are in consideration for a variety of services provided by ACN at no additional cost to me.

For purposes of these Terms, ACN Pacific Pty Ltd ABN 85 108 535 708, shall be referred to as **"ACN"**. ACN's ultimate parent company, LKN Communications, Inc. shall be referred to as **"ACN Inc"**. ACN, ACN Inc and any subsidiary or holding company of either of them shall be considered an "ACN Company". For the avoidance of doubt, this Agreement, and all documents incorporated herein by reference, is made between me (the IBO) and ACN. **"Compensation Plan"** means the ACN Compensation Plan notified to you from time to time and, where applicable in accordance with clause 26, the Compensation Plan of any ACN Company, in whose jurisdiction you have personal customers or downline IBOs. **"Policies and Procedures"** means the ACN Policies and Procedures notified to you from time to time and, where applicable in accordance with clause 26, the Policies and Procedures of any ACN Company in whose jurisdiction you have personal customers or downline IBOs. Any dispute or claim arising out of or relating to this Agreement will be referred to the Australian Disputes Centre Limited ("ADC") for arbitration. The laws of Australia will apply to the resolution of the dispute, unless otherwise agreed in writing. Any arbitration organised through the ADC shall be held in Sydney, Australia or any other place that the parties agree. The parties will arbitrate in good faith and agree to be bound by any solution to the dispute arbitrated by ADC. The costs of the arbitrator and the arbitration hearing shall be borne by the parties equally. The arbitrator may award preliminary and permanent injunctive relief and compensatory damages and shall award reasonable legal fees and costs to the prevailing party. The arbitration award may be enforced in any court of competent jurisdiction. This provision shall not restrict ACN from seeking preliminary or permanent injunctive relief in any court of competent jurisdiction. Nothing in this clause shall prevent ACN from terminating this Agreement for non-payment of amounts owed to ACN or to bring an action in a court of competent jurisdiction in order to collect any unpaid amounts.

1. I, the undersigned Applicant, affirm both personally and, if applicable, as a non-individual entity Applicant, and warrant each day this Agreement continues that: (a) I am at least 18 years of age; (b) I am a resident of Australia or New Zealand; (c) I am not a bankrupt nor has any action been taken to re-organise or dissolve me nor have I taken any step to enter into any arrangement with creditors nor have steps been taken towards appointing a receiver or liquidator or analogous person over all or any of my assets nor has a security interest holder exercised rights over all or any of my assets nor am I insolvent; (d) I am not currently suspended or disbarred from practising my usual trade or profession; (e) I am not in prison or confined to any other corrective institution; (f) I am not someone who has been previously terminated by an ACN Company as an IBO; (g) neither I, nor my spouse or partner (unless they are my sponsor), have had any other interest or benefit in any other ACN IBO position within the 12 months prior to the date of this Agreement; and (h) I have, and have provided details to ACN of my valid Australian Business Number (ABN), Australian mailing address and bank account (in my name) maintained in Australia.
2. I understand and acknowledge that: (a) success as an ACN IBO is not guaranteed but depends on my specific efforts and other circumstances that may be beyond my control; (b) I am an independent contractor and no prospect of employment has been presented to me by ACN; (c) my potential income is solely based on commissions and bonuses for obtaining customers; and (d) as an IBO, I am not guaranteed any income nor am I assured any profits or success, and I certify that no claims of guaranteed profits or representations of expected earnings that might result from my efforts as an IBO have been made by ACN or any person who introduced me to the opportunity to become an IBO. Accordingly, I shall not represent directly or indirectly that any person may, can or will earn any stated gross or net amount nor that sponsorship of other IBOs is easy to secure or retain, or that substantially all or any IBOs will succeed.
3. I agree to pay for any products, materials, services or other items that I purchase from ACN on or before the due date specified by ACN from time to time. In the event that I am late with respect to such payments, I acknowledge that ACN may offset such debt from any monies owing to me under the Compensation Plan and this Agreement.
4. I agree that: (a) I am responsible for my own business and am not an employee of ACN, any related party of any ACN Company or any supplier to ACN by virtue of this Agreement; (b) I will not be treated as an employee for purposes of any national, state or local statute, regulation, determination or other law; (c) I will only be representing ACN to the limited extent expressly provided in this Agreement; and (d) I am not empowered to bind ACN in any way.
5. I may terminate this Agreement for any reason, at any time, by giving ACN at least 14 days prior written notice at its Australian address (below).
6. I may cancel this Agreement, without penalty or obligation, for full refund of the Sign-Up Fee and the initial monthly Business Support Fee, within ten (10) business days from the date of this Agreement, exclusive of the date of signing or if processed electronically the date this Agreement is submitted to ACN for processing. I understand that if I cancel after the ten (10) business day period, I am not entitled to a refund.
7. I acknowledge that ACN is not affiliated with any supplier of products or services with whom it transacts business and that the IBO relationship is with ACN and not with any other supplier.
8. I agree that, as an IBO, this Agreement grants me the limited authority (but no obligation) to promote and solicit the sale of the products and services offered by ACN Companies and ACN's service partners, subject to the terms and conditions established by ACN from time to time. I understand and agree that during the term of my IBO Agreement with ACN, I may not be employed by or become a representative, agent or distributor of any supplier of products and services to an ACN Company.
9. In the process of soliciting the sale of, or otherwise promoting, the products or services offered by ACN Companies and ACN's service partners, I will:
 - (a) operate in a lawful, ethical manner and comply with the terms of the Code of Practice of the Direct Selling Association of Australia; (b) make no false or misleading statements regarding the products or services offered by ACN Companies and ACN's service partners or the relationship between myself and the ACN Companies and ACN's service partners; (c) not engage in the slamming of a customer (i.e. any practice that causes a customer's service provider to be changed without the customer's knowledge or consent); (d) keep accurate records of my business; (e) not engage in or perform any misleading, deceptive or unethical practices; (f) abide by all national, state and local laws, industry codes and standards or other regulations governing the marketing to, or solicitation of customers for the products and services offered by ACN Companies and ACN's service partners, including but not limited to the Australian Consumer Law (ACL); and (g) undertake and complete any IBO training and accreditation requirements established by ACN or by any regulatory agency, or as required by any ACN service partner.
10. To the extent permitted by law, no ACN Company shall be liable under any circumstances for any damage or loss of any kind, including indirect, special, punitive, compensatory, or consequential damages, losses or profits which may result from any cause, including but not limited to, breach of warranty, delay, act, error or omission of any ACN Company or any of its service partners or suppliers or in the event of discontinuation, modification, interruption or suspension of a product or service, whether caused by any ACN Company or its service partners or suppliers or by some event outside their control. I understand that the obligations of ACN and service partners and suppliers are limited to the performance of best efforts to process customer orders for acceptance and approval of requested services. Certain legislation may imply warranties or conditions or impose obligations on an ACN Company that cannot be excluded, restricted or modified except to a limited extent. This Agreement is subject to these statutory provisions. In particular, if the statutory provisions apply, the ACN Company's liability is not limited, in the case of any legislation that prevents any limitation of the ACN Company's liability or, if the legislation does permit a limitation of liability, the ACN Company's liability is limited to the maximum extent permitted under the legislation.
- 11.1 I acknowledge that: (a) ACN expressly reserves all proprietary rights to the ACN name, logo, trademarks, service marks ("Proprietary Marks"), ACN Companies' copyright materials and all other intellectual property used by ACN Companies in association with ACN Companies' products or services or contained in or relating to ACN Companies' documentation, business operations, processes or systems (together the "Intellectual Property") (b) such Intellectual Property is owned exclusively by ACN Companies; and (c) the rights granted to me in this Agreement do not in any way affect ACN Companies' ownership of the Intellectual Property.

(b) such Intellectual Property is owned exclusively by ACN Companies; and (c) the rights granted to me in this Agreement do not in any way affect ACN Companies' ownership of the Intellectual Property.
- 11.2 I acknowledge and agree that ACN grants me the right during the term of this Agreement, to use the Intellectual Property to the extent that they form part of the marketing materials I am permitted to use according to the Policies and Procedures.

- Accordingly, I agree that I will not use the Intellectual Property in any form whatsoever except in accordance with the Policies and Procedures or in advertising or promotional materials provided, designed or published by ACN. I understand that I may not copy or duplicate any materials provided by or purchased from ACN and that the unauthorised use of any Intellectual Property is a violation of law and this Agreement. I will comply with any instructions from ACN in relation to the use of the Intellectual Property. ACN may withdraw the right to use the Intellectual Property at any time in which case I shall cease my usage of the Intellectual Property and return to ACN all of the Intellectual Property that I have in my possession or control.
12. I understand that no regulatory authorities have reviewed, endorsed or otherwise approved the terms of this Agreement or the ACN Opportunity and that ACN has not represented to me that any of these things have occurred.
 13. I further agree that, as an IBO, I am responsible for the payment of all taxes and maintenance of all insurance cover which may be required in connection with this Agreement. I hereby indemnify ACN and must keep ACN indemnified against any claim, action, damage, loss, liability, cost, expense or payment which ACN directly or indirectly suffers or incurs in connection with or in relation to any failure by me to pay any tax as and when it falls due, any failure by ACN to perform obligations required of me or ACN by law in relation to paying all necessary taxes on amounts due to me, withhold money on account of any tax from amounts due to me and any failure by me to maintain any policies of insurance that I am required by law to obtain. I acknowledge that ACN may withhold payments due to me until I notify ACN of my registered Australian Business Number.
 14. I understand that, as an IBO, I am free to select my own means, methods and manner of operation and that I am free to choose the hours and location of my activities under this Agreement, subject to the terms of this Agreement, the Policies and Procedures, all applicable laws, regulations and industry codes.
 15. I acknowledge that ACN transacts business as a reseller and/or agent for various suppliers of products and services at rates established by ACN from time to time and that those products, services and rates are subject to change. I shall remain up-to-date with regards to the products and services which may be offered by ACN from time to time.
 16. I acknowledge that I am responsible for supervising and supporting IBOs whom I organise to solicit the sale of products and services supplied by ACN Companies and ACN's service partners (**my "downline IBOs"**). I agree to maintain regular communication to support, train and motivate my downline IBOs.
 17. ACN shall periodically make various sales literature and/or promotion materials available. I am under no obligation to purchase any quantities of those materials or literature at any time. If I choose to purchase materials or literature then I may return any unused, unopened and currently marketable items for up to one (1) year from the date of purchase and receive a refund of 90% of the purchase price. I will incur the cost of shipping the said materials to ACN.
 18. IBOs are not required to purchase any products or services offered by ACN Companies or ACN's service partners other than those provided as part of the Business Support Fee. In respect of the Business Support Fee or if I elect to purchase any products or services offered by ACN Companies or ACN's service partners, I agree to pay the relevant fees in a timely manner as prescribed in the relevant agreement. If I fail to pay the relevant fees by the date payment is due, ACN may do all or any of the following: (a) suspend my IBO position; (b) withhold any or all compensation due to me; (c) terminate this Agreement; or (d) apply any compensation otherwise due to me toward the satisfaction of any unpaid balance of fees payable or against any indebtedness owed to me by ACN. Notwithstanding the above, ACN reserves the right to suspend an IBO immediately if, in the sole opinion of ACN, the IBO's usage of products or services was unusually high or in the case of suspected fraud.
 19. I acknowledge that I have the right to refer to ACN as many applications from people wishing to acquire products and services supplied by ACN Companies or ACN's service partners (**"personal customers"**) as I wish. I acknowledge that I will receive a commission each month based on the product or service usage payments of my personal customers and the customers of my downline IBOs in accordance with the applicable Compensation Plan published at the time I become entitled to those payments. Any other payments I receive will be based upon fulfilling certain terms of qualification as set forth by the applicable Compensation Plan published by ACN from time to time. I agree that, as an ACN IBO, I shall place primary emphasis upon soliciting the sale of products and services to customers as a condition of my receipt of commissions. Under certain circumstances, commission rates may be adjusted by ACN for promotional products or negotiated pricing.
 20. I agree to indemnify and hold each ACN Company, its shareholders, directors, officers and employees harmless from any and all claims, damages and expenses, including any attorney's fees, arising out of my actions or inactions in violation either of this Agreement or any law or regulation, including industry standards pertaining to activities arising out of this Agreement.
 21. Any dispute or claim arising out of or relating to this Agreement will be referred to the Australian Disputes Centre Limited ("**ADC**") for arbitration. The laws of Australia will apply to the resolution of the dispute, unless otherwise agreed in writing. Any arbitration organised through the ADC shall be held in Sydney, Australia or any other place that the parties agree. The parties will arbitrate in good faith and agree to be bound by any solution to the dispute arbitrated by ADC. The costs of the arbitrator and the arbitration hearing shall be borne by the parties equally. The arbitrator may award preliminary and permanent injunctive relief and compensatory damages and shall award reasonable legal fees and costs to the prevailing party. The arbitration award may be enforced in any court of competent jurisdiction. This provision shall not restrict ACN from seeking preliminary or permanent injunctive relief in any court of competent jurisdiction. Nothing in this clause shall prevent ACN from terminating this Agreement for non-payment of amounts owed to ACN or to bring an action in a court of competent jurisdiction in order to collect any unpaid amounts.
 22. I acknowledge that I have received the Policies and Procedures and the Compensation Plan and I understand they, as well as any other applicable Policies and Procedures and Compensation Plan are contractually binding upon me. Any obligation described as an obligation of an IBO under any applicable Policies and Procedures and any applicable Compensation Plan will be deemed to be incorporated in, and an express obligation on me under, this Agreement. I further acknowledge that ACN fully reserves its right to modify this Agreement, the Policies and Procedures and the Compensation Plan, at any time by providing me with written, electronic or verbal communication or by updating the materials that are on the ACN website. These amendments shall apply to me even though they may be detrimental to me or an improvement of my rights. If the modification is detrimental to me, I may terminate this Agreement in accordance with clause 5 without penalty and if I do so within 14 days of notice of the notification, I will be entitled to a pro rata refund of the Sign-Up Fee (first year) or Annual Renewal Fee (subsequent years) paid in respect of any unused whole months in the relevant year. I also acknowledge and agree that I am at liberty to terminate this Agreement in accordance with clause 5 at any time for any other reason without penalty. I understand that I am obliged to regularly visit the IBO Back Office website and read all the communications sent to me from time to time by ACN. I understand that although I may be provided with information concerning ACN, its business, my status and other matters by parties other than ACN, including my sponsor and other ACN IBOs, to the extent that any such information conflicts with the terms of the Agreement or the Policies and Procedures, this Agreement and the Policies and Procedures shall prevail. For purposes of this Agreement, my address as indicated on this Agreement shall be deemed to be my correct address unless and until written notification of a change of address is provided by me to ACN. I further agree to receive communications from ACN, including legally binding notices, in electronic form.
 23. I acknowledge that this Agreement, including my application form, the applicable Compensation Plans and the applicable Policies and Procedures incorporated herein by reference, constitute the entire Agreement between the parties hereto, and shall not be modified or amended except as set out in this Agreement. ACN's failure to enforce strict performance of any provision of this Agreement will not constitute a waiver of ACN's rights to subsequently enforce such provision or any other provision of this Agreement. Subject to the terms of the Policies and Procedures, this Agreement shall be binding upon and inure to the benefit of heirs, successors and permitted assigns of the parties hereto. If any provision of the Agreement is determined by any authority of competent jurisdiction to be invalid or unenforceable in part or in whole for any reason whatsoever, such provision shall be reformed only to the extent necessary to make it enforceable and the validity of the remaining provision or portions thereof shall not be affected. Where the Agreement provides that ACN "may" do something or "may" require something to be done, the discretion conferred on ACN is sole, absolute and unfettered.
 24. I acknowledge that the Compensation Plan is based on current products and services ACN is marketing and both the range of products and services and the Compensation Plan are subject to change. I acknowledge that I must maintain qualifications, as detailed in the Compensation Plan, to continue to receive all residual income based on customers' usage of products and services.
 25. Notwithstanding termination or expiration of this Agreement, any provision hereof, which, by its context, is intended to survive the termination or expiration hereof, shall so survive.
 26. I understand and agree that, where I solicit personal customers or downline IBOs in a country other than my home country, the Policies and Procedures and Compensation Plan of the ACN Company responsible for that country shall be incorporated by reference in this Agreement. I agree that I will comply with such local Policies and Procedures in relation to all activity in that country as an IBO. I acknowledge that, except where otherwise stated or notified: (a) commissions on a customer's billings will be calculated according to the Compensation Plan applicable in the country where that customer has its billing address; (b) personal commission percentages will be determined by aggregating the total spend of my personal customers in all countries converted to my home country currency and applying the personal commission table from my home country Compensation Plan; (c) customer acquisition bonuses (CABs) will be calculated according to the Compensation

Plan applicable in the home country of the new IBO, whose qualifications, by the acquisition of the required number of customers, has generated the entitlement to the CAB; (d) bonuses and promotions, which may be announced from time to time, are, subject to their stated terms and conditions.

27. During the term of this Agreement, I must not, directly or indirectly, sell or solicit services and products offered by ACN Companies or ACN's service partners through any other person or entity unless specifically designated or approved in writing by ACN. I must not, during the term of this Agreement and for a period of six (6) months thereafter, directly or indirectly, divert, entice, knowingly call upon, sell or solicit, take away or move any customer of an ACN Company or an ACN service partner to or for a person offering products or services similar to those offered by an ACN Company or an ACN service partner during that period, whether or not I originally procured or brought such customer to ACN (such activities are collectively referred to herein as 'Solicitation'). I acknowledge and agree that all customers solicited by IBOs on behalf of an ACN Company or an ACN service partner are deemed to be customers of the ACN Company or the ACN service partner and not of its IBOs. I understand that the non solicitation prohibition contained in this paragraph shall be strictly enforced. Further, during the term of this Agreement and for a period of six (6) months thereafter, I may not enter into a direct marketing or direct selling relationship with any supplier to any ACN Company or any of ACN's service partners. During the term of this Agreement and for a period of six (6) months thereafter, I may not solicit any other ACN IBO, to participate in a network marketing or direct selling program offered by any other company, regardless of whether or not such network marketing or direct selling company offers products and services offered by ACN Companies or ACN's service partners. During the term of this Agreement, I may not induce or attempt to induce any other ACN IBO, to market, sell, supply, buy or acquire products, business aids or services not produced, supplied or endorsed by ACN.
28. I shall not, except as authorised or required by ACN, reveal to any person or entity any of the trade secrets or confidential information of ACN including but not limited to information of or used by ACN relating to its selling system, its operations and affairs in general, information regarding my downline IBOs or customers, which shall at all times remain the property of ACN. I shall keep such information secret and shall not use or attempt to use any such information in any manner, which may injure or cause loss either directly or indirectly to ACN or any of its customers or business partners. This restriction shall continue to apply after the termination of this Agreement for a period of one (1) year but shall cease to apply to information which may come to the public domain otherwise than by my fault or in breach of this Agreement. Notwithstanding the foregoing, the time limit does not apply to any customer data that has come into my possession. Upon termination of this Agreement, I must return to ACN's Australian address stated on the application form all literature or materials I have received in substantially as good a condition as when received, together with all notes, reports, memoranda and information concerning trade secrets, customer orders, customer data and confidential information of ACN (including Personal Customer Lists and information regarding downline IBOs) that were received by me in the course of this Agreement. I hereby acknowledge that all such information, whether in paper or electronic form, is the property of ACN.
29. ACN is committed to collecting and using personal information in a fair and lawful manner, ensuring its accuracy, keeping personal information only for lawful purposes, not using or disclosing such information in a manner incompatible with such purposes, taking appropriate security measures against unauthorised access, disclosure or destruction. I acknowledge that the information I give to ACN (including information relating to IBOs, their address or other details) will be retained by ACN and will be used by ACN Companies and ACN's suppliers and service partners for marketing and other administration purposes. I acknowledge that ACN may disclose this information in connection with such purposes to other ACN Companies, which may be situated outside Australia, to ACN's suppliers and service partners and to other IBOs as part of ACN genealogies. I consent to ACN collecting, retaining, processing and disclosing the information referred to above. Such information will be held at ACN's Australian address and ACN Inc's United States address as notified to you from time to time. I understand I have rights of access to, and correction of, this information. I agree to be bound by the ACN Privacy Policy published by ACN from time to time.
30. If I: (a) breach this Agreement; (b) breach any obligation of an IBO described in the Policies and Procedures; (c) breach this Agreement or the Policies and Procedures on three or more separate occasions during a period of 12 consecutive months (regardless of whether the breaches have been remedied); (d) am convicted of a criminal offence; or (e) am placed into bankruptcy or any action is taken to re-organise or dissolve me or I take any step to enter into any arrangement with creditors or steps are taken towards appointing a receiver or liquidator or analogous person over all or any of my assets or a security interest holder exercises rights over all or any of my assets or I become insolvent or threaten to cease business or suspend payments to all or any of my creditors, ACN may elect, by written notice to: (a) suspend all or any of the rights I enjoy under this Agreement including (without limitation) my right to receive commissions or bonuses of any kind (including CAB's) and impose such conditions as ACN thinks fit including (without limitation) obligations to re-train; (b) require me to repay any commissions or other payments received by me as a result of payments made under fraudulently obtained Customer Authorisation Forms or Online Customer Applications, as a result of slamming or any other conduct described in the Policies and Procedures that entitles ACN to require a refund of payments; (c) reduce the commissions to which I would otherwise be entitled by an amount and period determined by ACN at its absolute discretion; (d) offset any amount I owe ACN (including and without limitation amounts due under a contract of the kind described in clause 18) against any amounts due and payable to me by ACN; and/or (e) terminate this Agreement. I understand that during any investigation by ACN with respect to any alleged breach of this Agreement and/or ACN's Policies and Procedures, my rights under this Agreement may be suspended by ACN and/or any payments, which may be otherwise owing to me, may be withheld until ACN has completed its investigation. If ACN elects to terminate this Agreement due to a breach by me, then I will cease to be entitled to all commissions, bonuses and payments of any kind that I would otherwise have received under this Agreement, including payments that were due but not paid at the date of termination. The forfeiture of these rights does not diminish any other remedies ACN may have against me in connection with my breach.
31. This clause applies only to those IBOs who indicate they are registered for GST during the online application process or on their application form or become registered for GST after becoming an IBO. I must inform ACN of my GST registration within 7 days of becoming registered for GST. In respect of all payments arising out of this Agreement (e.g. commissions, bonuses) which become payable to IBOs who are registered for GST, ACN will issue recipient created tax invoices. At any time during the term of this Agreement where I am registered for GST, I will not issue tax invoices in respect of any supplies made by me to ACN. Furthermore, I agree that I will immediately notify ACN if I cease to be registered for GST. ACN herewith acknowledges that it is registered for GST at the time of entering of this Agreement and that it will immediately notify the IBO if it ceases to be so registered.
- 31.A I agree to indemnify and hold each ACN Company, its shareholders, directors, officers and employees harmless from any and all claims, damages and expenses, including any attorney's fees, where: (a) I indicate I am registered for GST during the online application process but am not so registered; or (b) I cease to be registered for GST and fail to notify ACN as required under clause 31 of this Agreement.
- 31.B (a) In this clause, expressions have the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999. (b) All consideration provided to ACN under this agreement is exclusive of GST, unless it is expressly stated otherwise. If GST is payable by ACN on any supply made under this agreement or in relation to any payment, whether by way of adjustment, reimbursement, indemnity, damages or otherwise, the recipient must pay to ACN an amount equal to the GST on that supply or payment. Any such amount is payable at the same time as the consideration for the supply is payable or is to be provided. (c) If ACN is a member of a GST Group, references to GST payable by ACN include GST payable by the Representative Member of the GST Group of which ACN is a member.
32. Any notice required to be given under this Agreement or the Policies and Procedures must be in writing in English and may be sent by facsimile, prepaid post, email or handed to: (a) ACN at the facsimile number, address or email address below; or (b) me at the current facsimile number, address or email address advised in writing to ACN. A notice is deemed to be delivered: (a) if sent by facsimile, on the sender's receipt of a transmission report indicating that the facsimile was sent in its entirety to the recipient's facsimile number; (b) if sent by prepaid post, four (4) business days after the date of dispatch; (c) if hand delivered, at the time of delivery during normal business hours; (d) if sent by normal email on the sender's receipt of an email message indicating that the email has been opened at the recipient's terminal; (e) if sent in an "ACN in Action" electronic message to my email address recorded with ACN and my "IBO Back Office" website message box, two (2) business days after the date of dispatch; but, if the delivery or receipt is not on a business day or after 5pm (local time for the recipient) on the business day, the notice will be treated as received by the recipient at 9am (local time for the recipient) on the next business day. ACN may, but without limiting its options, give notice to me by publishing a notice in official literature, whether such literature is distributed to me by fax, letter or by email or by publication on our website.