



American Teleservices Association -Self Regulatory Organization



SRO STANDARDS: DRAFT

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DRAFT SRO STANDARDS

1. A TELESERVICES CONSUMER BILL OF RIGHTS

1.1. *Members commit to uphold the highest standards of conduct in their inbound and outbound telephone communications with consumers, consistent with the following principles:*

1.1.1. *Be fair, responsible and honest, and follow the standards set forth herein as well as applicable federal and state laws and regulations.*

1.1.2. *Treat consumers with courtesy, dignity and respect.*

1.1.3. *Provide accurate information in a clear and understandable manner in all communications with consumers.*

1.1.4. *Not engage in undue sales pressure or unfair, deceptive or abusive tactics.*

1.1.5. *Respect consumers' privacy and protect their information in a secure manner.*

1.1.6. *Provide prompt, high-quality customer service designed to respond to consumers' changing needs and expectations.*

2. DEFINITIONS.

2.1. Specific "Action" Terms.

- 2.1.1. The word **shall** is used to indicate mandatory requirements strictly to be followed in order to conform to the standard and from which no deviation is permitted (*shall equals is required to*).
- 2.1.2. The word **should** is used to indicate that among several possibilities one is recommended as particularly suitable, without mentioning or excluding others; or that a certain course of action is preferred but not necessarily required; or that (in the negative form) a certain course of action is deprecated but not prohibited (*should equals is recommended that*).
- 2.1.3. The word **may** is used to indicate a course of action permissible within the limits of the standard (*may equals is permitted to*).

2.2. Direction of Telephonic Communication.

- 2.2.1. **Inbound.** An Inbound Call is a Call initiated by a Consumer that is successfully completed to a Seller (or a Seller's Service Bureau).
- 2.2.2. **Outbound.** An Outbound Call is a Call initiated by a Seller (or a Service Bureau on behalf of a Seller) to a Consumer.

2.3. Type/Purpose of Telephonic Communication.

- 2.3.1. **Call.** The generic term "Call" refers to the origination by an entity (or equipment under the direction of an entity) of a signal carried via Landline, wireless, cellular, satellite, or internet technology that delivers voice communication (either live, prerecorded or computer-generated) from the originating entity to another entity.
- 2.3.2. **Cold Call:** An Outbound Sales Call by a Seller (or its Service Bureau) to a Consumer who has not provided express permission for the call, and who is not an Existing Customer, a Former Customer, and/or who is not an Inquiring Consumer.
- 2.3.3. **Informational Call.** 1) an Outbound Call initiated by a Seller (or its Service Bureau) to one of the Seller's Existing or Former Customers for the sole purpose of delivering information to that Consumer; 2) an Outbound Call initiated by a Seller (or its Service Bureau) to a Consumer that is not an Outbound Sales Call.
- 2.3.4. **Lead Generation Call.** An Outbound Call initiated by a person or entity for the purpose of obtaining information from Consumers that can

or will be used to qualify the Consumer for subsequent solicitations to the Consumer. A Lead Generation Call is one type of Sales Call.

- 2.3.5. **Mixed Use Call.** An Outbound Call initiated by a person or entity that includes both a non-Sales component (i.e., Survey Calls, Informational Calls) and a planned Sales component. A Mixed Use Call is a Sales Call so long as the initiator of the Call planned to include a Sales component in at least some of the Calls that were completed pursuant to the particular Outbound Campaign in question. A Mixed Use Call is one type of Sales Call.
- 2.3.6. **Prerecorded Message Call.** An Outbound Call initiated by a person or entity that delivers a prerecorded human voice, or a computer-generated voice, message to a Consumer.
- 2.3.7. **Sales Call.** 1) an Outbound Call initiated by a Seller (or its Service Bureau) for the purpose of encouraging or inducing the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any Consumer; 2) an Inbound Call initiated by a Consumer to a Seller (or its Service Bureau) making use of a telephone number expressly created and held out by the Seller in advertisements or otherwise as a means for a Consumer to contact the Seller for the purpose of purchasing, renting, or investing in property, goods or services and/or to make inquiries for information regarding same; 3) an Inbound Call initiated by a Consumer to a Seller (or its Service Bureau) wherein the Consumer's primary purpose is to purchase or rent, or invest in, property, goods or services and/or to make inquiries for information regarding same; 4) a Lead Generation Call; 5) a Mixed Use Call.
- 2.3.8. **Service Call.** 1) An Inbound Call initiated by a Consumer to a Seller (or its Service Bureau) making use of a telephone number expressly created and held out by the Seller in advertisements or otherwise as a means for a Consumer to contact the Seller for the purpose of requesting information and/or seeking guidance with regard to property, goods, or services previously purchased by the Consumer from the Seller. 2). An Inbound Call initiated by a Consumer to a Seller (or its Service Bureau) wherein the Consumer's primary purpose is to request information and/or seek guidance with regard to property goods, or services previously purchased by the Consumer from the Seller; 3) an Inbound Call from a Consumer to a Seller that is not an Inbound Sales Call.

2.4. *Entities Referenced.*

- 2.4.1. **Consumer.** An individual who interacts with a Member via Inbound and/or Outbound Calls.

- 2.4.2. **Client-Seller.** Where a Seller hires a Service Bureau, that Seller is, in relation to the Service Bureau, a “Client-Seller.”
- 2.4.3. **Charity.** An entity that has been granted exemption from federal taxation under Section 501(c)(3) of the United States Internal Revenue Code.
- 2.4.4. **FTC.** The Federal Trade Commission.
- 2.4.5. **FCC.** The Federal Communications Commission.
- 2.4.6. **Member.** An entity that is a member of the Self-Regulatory Organization that issues these Standards.
- 2.4.7. **Seller.** An entity that provides, offers to provide, or arranges for others to provide goods or services to Consumers in exchange for consideration; a Seller may make Outbound Calls and/or accept Inbound Calls on its own behalf or may hire a Service Bureau for these purposes.
- 2.4.8. **Service Bureau.** An entity that is hired by a Seller to make Outbound Calls and/or accept Inbound Calls on behalf of the Seller.
- 2.4.9. **Service Provider.** An entity that is hired by a Seller and/or a Service Bureau to provide to the Seller and/or Service Bureau information, technology, products, or services in connection with Inbound and Outbound Calls (e.g., list brokers; predictive dialer vendors; DNC compliance vendors.)
- 2.4.10. **Service Representative (“Service Rep”).** An individual employed by either a Seller or a Service Bureau whose primary responsibility is to handle Consumers’ questions, comments, and requests during Inbound and/or Outbound Sales, Service, and/or Informational Calls.

2.5. Means or Manner of Making/Receiving Call.

2.5.1. All Dialing Methods.

- 2.5.1.1. **Automatic Dialer.** Any technology that automatically calls a list of pre-defined telephone numbers, or numbers that are generated randomly or sequentially, for the sole purpose of delivering a Prerecorded Message Call to a Consumer.
- 2.5.1.2. **Manual dialing.** Placing a Call making use of a standalone telephonic device that requires the individual placing the Call to manually press (or enter via a keyboard) the digits necessary to place the Call.

- 2.5.1.3. **Predictive Dialer.** Any technology that has the capacity to store and automatically call a list of pre-defined telephone numbers and that has the capability of screening out no-answers, busy signals, answering machines and disconnected numbers while at the same time predicting at what point a Service Rep will be available to handle the next call to be connected.
- 2.5.1.4. **Preview Dialer.** A software-based system that has the capacity to store telephone numbers and deliver those numbers to a Service Rep's computer in a manner that provides the Service Rep with the option of instructing the software program to generate an Outbound Call to a Consumer.
- 2.5.2. **Answering Machine.** Equipment and/or telephonic service set up by a Consumer to receive messages from persons and entities making Calls to that Consumer.
- 2.5.3. **IVR System.** Any system that allows a Consumer to make a selection or submit information, via Dual-Tone Multi-Frequency (touchtone) and/or voice recognition technologies, from a set of predetermined prerecorded and/or artificial voice menus or prompts.
- 2.5.4. **Voicemail.** For purposes of these Standards, the term Voicemail refers specifically to any system set up by a Seller or a Service Bureau wherein one outgoing message is delivered to a Consumer and the Consumer is provided the opportunity to leave one message on the system (contrast with IVR System which provides for interaction between a Consumer and the System, and an Answering Machine which is a message device used by a Consumer.)

2.6. Type of Phone Service Employed.

- 2.6.1. **Landline.** A colloquial name for conventional telephone facilities. Land lines include conventional twisted-pair lines, carrier facilities, microwave radio facilities and fiber optic cabling for supporting a conventional telephone channel and/or voice over internet protocol, but do not include satellite links or mobile telephone links using radio transmissions (see Wireless Communication Device.)
- 2.6.2. **Wireless Communication Device.** Any communicative device that makes use of a cellular or satellite network to accept voice calls or text messages, and/or any communication service whereby the party called using this communication service is charged for the Call. Examples include cellular telephone services, specialized mobile radio services or other radio common carrier services.

2.7. Other Definitions.

2.7.1. **Affiliates.** A collective term that refers to all of a Seller's subsidiaries, business units, divisions, and/or affiliates under its ownership or control.

2.7.2. **Campaign.** Outbound Sales Calls completed by a Seller (and/or by one or more of a Seller's Service Bureaus) to a specific group of Consumers in which the same or similar goods or services are offered for sale. A Campaign may have a specific beginning and ending date, or it may, where a Seller and/or its Service Bureau's are offering one product (or set of products) on a regular, ongoing basis, have no specific beginning and ending date.

2.7.3. Do Not Call (DNC) Compliance Techniques.

2.7.3.1. **Scrubbing.** A process that utilizes database merging and purging techniques to electronically remove DNC numbers from a list of telephone numbers.

2.7.3.2. **Blocking.** A feature added to a telephone line that performs a real-time query wherein the number being called is compared to numbers on state and federal DNC lists and, if the number appears on any such list, terminates the Call prior to its delivery to the Consumer.

2.7.4. Established Business Relationship (EBR)-specific terms:

2.7.4.1. **Existing Customer.** 1) a Consumer obligated to make payment(s) to a Seller on products or services purchased from the Seller; or 2) a Consumer who has entered into a contract with a Seller involving an existing obligation to perform, either by the Consumer, Seller, or both.

2.7.4.2. **Former Customer.** A Consumer that was an Existing Customer of a specific Seller at one time, but who has since fulfilled all payment and/or contractual obligations due the Seller, and for whom the Seller has fulfilled all contractual obligations.

2.7.4.3. **Inquiring Consumer.** A Consumer that has made an inquiry or application regarding property, goods or services offered by a Seller.

2.7.5. **Free-to-pay Conversion.** In the context of an offer or agreement to sell or provide any goods or services, a provision under which a Consumer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does

not take affirmative action to cancel before the end of that period. (A Free-to-Pay Conversion is a form of Negative Option.)

- 2.7.6. **Material.** For purposes of these Standard's disclosure requirements, "*material*" information is information likely to affect a Consumer's decision to purchase goods or services.
- 2.7.7. **Negative Option.** In the context of an offer or agreement to sell or provide any goods or services, a provision under which the Consumer's silence or failure to take an affirmative action to reject goods or services or to cancel the agreement is interpreted by the Seller as acceptance of the offer.
- 2.7.8. **Normal Business Hours:** Where Sellers and Service Bureaus are required to transmit a telephone number to Consumers under these Standards, such Sellers and Service Bureaus should ensure that any Inbound Calls generated are answered during Normal Business Hours, defined as follows: 9 AM to 5 PM in the time zone of the Consumer making the Call. All Sellers and Service Bureaus shall ensure that, at a minimum, there is parity between the hours during which Outbound Sales Calls are made into a given area code and the hours during which Inbound Calls from Consumers are accepted.
- 2.7.9. **Personally Identifiable Information (PII).** PII shall mean individually identifiable information from or about a consumer including, but not limited to: (a) a first and last name (or any personal mark or other such identifier); (b) a home or other physical address, including street name and name of city or town; (c) an email address or any other online persona or identifier; (d) a telephone or facsimile number; (e) a Social Security number or any account or identification number issued or used by government agencies; (f) credit or debit card information, including card number, expiration date, and numerical security code; (g) a persistent identifier, such as a customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies a consumer; (h) a biometric identifier (fingerprint, voiceprint, retinal image, DNA profile, and/or any other unique physical representation); (i) a photograph or digitized image of a person and/or a person's signature; or (j) any other information from or about a consumer, such as date of birth; educational history; employment history; medical and/or disability history; financial history; credit history, records, or reports; and physical details such as height, weight, or race that is combined with (a) through (i) above.
- 2.7.10. **Political Purposes.** A Call is for Political Purposes if it is completed by an individual employed by or providing volunteer services to an entity that is: 1) regulated by the Federal Election Commission; 2) regulated by any state or county commission or regulatory body with

oversight of elections and fundraising with regard to same; 3) is registered as a political organization under Section 527 of the United States Internal Revenue Code. The term includes direct communication from a candidate for any state or federal public office. The term Political Purposes makes no distinction between Calls made directly by any of the entities, above, or by a Service Bureau hired by any such entity to disseminate messages to Consumers related to the politician or political questions, concerns, or causes.

- 2.7.11. **Prompt.** Disclosures are “prompt” where they are made before any sales pitch is given.
- 2.7.12. **SAN.** A Subscriber Account Number that is issued to entities that purchase or otherwise download National DNC Registry numbers.
- 2.7.13. **Survey.** A question or series of questions delivered to a random sampling of Consumers drawn from a larger identifiable population for the purpose of collecting information that will be used in the context of statistical research.
- 2.7.14. **Upsell.** The solicitation of the purchase of goods or services following an initial interaction and/or transaction during a single Call. The Upsell should be treated as if it were in effect a separate Outbound Sales Call, not a continuation of the initial interaction or transaction.
 - 2.7.14.1. An "External Upsell" is a solicitation made by or on behalf of a seller different from the seller in the initial transaction, regardless of whether the initial transaction and the subsequent solicitation are made by the same telemarketer.
 - 2.7.14.2. An "Internal Upsell" is a solicitation made by or on behalf of the same seller as in the initial transaction, regardless of whether the initial transaction and subsequent solicitation are made by the same telemarketer.
 - 2.7.14.3. In an Outbound Sales Call, an Upsell only occurs where a Service Rep completes a sale to a Consumer, and then attempts to encourage or induce the Consumer to make an additional purchase. In all other types of Calls, an Upsell occurs following the initial transaction or interaction for which the call was generated.

3. INTRODUCTION

- 3.1. These Standards establish general principles and guidelines related to telephonic communications between Members and Consumers. They specifically apply to all Outbound and Inbound Calls, and the Policies and

Procedures, Monitoring/Auditing practices, and Recordkeeping requirements associated with such Calls. (For ease of reference, Standards governing Calls made and/or accepted by or on behalf of Non-Profits, Outbound Business to Business Calls, and Outbound Calls completed for Political Purposes are included in separate Sections.)

- 3.2. These Standards create a floor, not a ceiling - no Member is precluded from implementing policies and procedures that provide greater protections than those afforded Consumers under these Standards. Not all of the rules, guidelines and recommendations in these Standards will apply to all Members, and controls in addition to these Standards may be required.
- 3.3. Where there is a conflict between these Standards and any state and/or federal rule governing teleservices practices, the state and/or federal rule shall prevail.
- 3.4. Whenever a question exists as to the scope of the applicability of any of these Standards, the assumption is that such Standard shall be interpreted broadly (unless specifically indicated otherwise) to protect Consumers' interests to the maximum extent possible.
- 3.5. All Members recognize that each is individually and, as appropriate, collectively (with other Sellers, Service Bureaus, and/or Service Providers with whom the Member does business) responsible for ensuring strict adherence to these Standards.
- 3.6. No Member shall provide substantial assistance or support to any person or entity when that Member knows or consciously avoids knowing that the person or entity is engaged in any act or practice that is prohibited under these Standards.
- 3.7. For ease of reference, the non-specific term "Member" or "Members" is used in many of these Standards; the specific entity(ies) to which each specific Standard applies should be reasonably clear based upon the context of the Standard. It is understood that where specific reference is made to a Seller, a Service Bureau, or a Service Provider, each such entity is a Member and therefore these Standards apply to such entity.
- 3.8. All Members shall have the ability to submit requests seeking clarification of any of these Standards, as well as the ability to submit suggestions regarding changes, deletions and/or additions.
- 3.9. These Standards are designed to clarify and streamline compliance for Members, while at the same time creating a responsive and flexible framework that will support and encourage innovation within the teleservices industry. These Standards shall therefore be amended over time as necessary to reflect

advances in technology and developments related to industry best practices that better satisfy the developing and ever-changing needs of Consumers.

3.10. It shall be the responsibility of all Members to ensure they remain up-to-date with regard to any changes within these Standards.

3.11. In all circumstances, Members shall rely upon the advice of competent legal counsel before implementing these Standards.

4. OUTBOUND STANDARDS

4.1. National Do Not Call Registry.

4.1.1. *Implementation Guidance.* Members commit to strict adherence to all rules and regulations governing access to, use of, and compliance with the National DNC Registry, as well as these National DNC Registry Standards.

4.1.2. *Subscriber Account Number (SAN) Purchase and Transfer.*

4.1.2.1. All Sellers, Service Bureaus, and Service Providers shall ensure that there is an active SAN associated with every non-exempt Outbound Sales Call made by, or on behalf of, each individual Seller.

4.1.2.2. No Member shall gain unauthorized free access to the National DNC Registry by falsely claiming an exemption to such rules as: 1) a non-profit or other such exempt organization; 2) an entity that only calls persons with whom it has an Established Business Relationship; 3) an entity that only calls persons that have given prior express consent; 4) an entity that only completes business-to-business phone calls; or 5) an entity that only calls into five (5) or fewer area codes.

4.1.2.3. To maintain the security of the data that resides in the National DNC Registry, all Members shall take all reasonable steps necessary, via contractual terms and/or other means, to ensure that SAN username and password information is restricted solely to, and shared only with, those entities and individuals that by necessity must have access to it.

4.1.2.4. *Seller and Affiliate Registration.* All Members understand that, by regulation, all non-exempt Sellers must register and pay for the national DNC list. All such Sellers shall ensure that each of its Affiliates have paid for, and have registered as appropriate with, the National DNC Registry. Accordingly, a Seller's separate Affiliates must pay a separate annual fee for a SAN when:

- 4.1.2.4.1. the Affiliate is separately incorporated or, for a non-corporate entity such as a partnership, is a similarly distinct legal entity; and,
- 4.1.2.4.2. the Affiliate has or markets under a different name. If the name difference reflects only a geographic distinction, that will not be sufficient to require the Affiliate to pay a separate fee for access. If, however, the name reflects some other distinction, such as product or service, then the separately-incorporated Affiliate would be required to pay a separate fee for access.
- 4.1.2.5. Individual Service Bureaus and Service Providers may, as appropriate based upon contractual terms and business need, pay for a Client-Seller's SAN on behalf of the Client-Seller, and/or pay separately for their own SAN to gain independent access to the National DNC Registry.
- 4.1.2.6. Service Bureaus and Service Providers recognize that it is important for the FTC to track the usage of the information in the National DNC Registry. Accordingly, all Service Bureaus and Service Providers that access National DNC Registry information on behalf of their Client-Seller(s) shall add each of their Client-Seller's SANs via the "Manage Clients" functionality of the website created by the FTC to administer the National DNC Registry.
- 4.1.2.7. All Members making Outbound Sales Calls shall ensure that no such Calls are made outside the area codes authorized by the SAN applicable to that Member.
- 4.1.3. *Registry Downloads.*
 - 4.1.3.1. All Members recognize the importance of respecting Consumer's Do Not Call wishes in as short a time frame as possible.
 - 4.1.3.2. Accordingly, all Sellers, Service Bureaus, or Service Providers shall ensure, as appropriate given the relationship and roles between these entities, that information from the national DNC registry is downloaded and incorporated into all Outbound Sales Call campaigns at least every 31 days.
 - 4.1.3.2.1. Members may, as appropriate based upon their business needs, download and incorporate information from the national DNC registry more frequently than every 31 days.

- 4.1.3.3. No Member may use information from the National DNC Registry for any purpose other than compliance with these Standards and National DNC rules.

4.2. State Do Not Call

4.2.1. *Implementation Guidance.*

- 4.2.1.1. All Members recognize that certain states have chosen to create and maintain DNC programs that operate separately from and independently of the national DNC registry. Members commit to strict adherence to all rules and regulations governing access to, use of, and compliance with state-run DNC programs.

4.2.2. *State DNC List Compliance Responsibilities.*

- 4.2.2.1. Each Member shall ensure that it complies with all elements of all individual state DNC programs, including, as appropriate: registration; purchase of DNC list information; bonding; and ensuring that no Outbound Sales Calls are completed that violate any of the state DNC prohibitions.
- 4.2.2.2. All Members shall develop, implement and maintain the policies necessary to ensure, via contractual terms and/or other means, that all entities playing a role in a given telemarketing campaign or campaigns are maintaining compliance with state DNC list rules.
- 4.2.3. Members recognize that a number of states have opted to make use of the national DNC registry as the state's official DNC list for purposes of that state's DNC law. Members further recognize, however, that more restrictive state DNC laws still apply even where the list used by the state is the national DNC registry.
- 4.2.4. Members shall download and incorporate as required all state DNC list information in accordance with applicable state timelines.
 - 4.2.4.1. Members should apply the federal DNC registry rule with regard to incorporation of DNC list information to calling campaigns, i.e., DNC list information should be incorporated immediately into all calling campaigns upon receipt of such information, or at a minimum as quickly as possible and no later than 31 days after receipt.
- 4.2.5. *Additional State DNC Exemptions Inapplicable.* Members shall apply only the DNC exemptions that appear in these Standards (Section 4.3.) for all Outbound Sales Calls.

- 4.2.6. No Member shall share state DNC list information with any other entity unless such sharing is in accordance with that state's DNC list rules. No Member shall purchase and make use of a list of telephone numbers that has been subjected to Scrubbing whereby a state's DNC list numbers have been removed without registering for and purchasing, as appropriate, that State's DNC list. No Member shall make Outbound Sales Calls using a Blocking system into any State without registering for, and purchasing, as appropriate, that State's DNC list.

4.3. Exceptions to National, State DNC Standards

- 4.3.1. *Express Written Permission.* Members may make Outbound Sales Calls to Consumers who have listed their phone number(s) on the National and/or any State DNC list(s) when that Consumer has provided the Seller responsible for the Call with express written permission to make the Call.

- 4.3.1.1. The language whereby the Consumer grants express written permission must be clear and conspicuous to a reasonable Consumer, and must include, at a minimum: 1) language indicating that the Consumer is giving consent to the Seller to be contacted via telephone; 2) language indicating that the Consumer understands that the consent applies even if the Consumer's number is on any state and/or federal DNC list; 3) the specific telephone number(s) to be dialed to contact the Consumer; and 4) the Consumer's signature.

- 4.3.1.1.1. There is no mandatory language with regard to the elements listed in Section 4.3.1.1., above; each Member may decide how to phrase the appropriate permission language based upon its business needs.

- 4.3.1.1.2. The signature may be in electronic form in all jurisdictions where such signatures are accepted.

- 4.3.1.1.3. The term "signature" shall be construed broadly (using UCC § 1-201(37) as a guideline). However, the consent provided by a Consumer must be affirmative (e.g., a "pre-checked" box would not constitute such affirmative consent.)

- 4.3.1.1.4. Where a Seller requests such written consent from a Consumer, the request can not be: hidden on the back or bottom of the form; printed in small, pale or non-contrasting type; or included in a part of the form where the Consumer would not expect to find such information.

4.3.1.2. The express permission granted by a Consumer shall extend to the Seller(s) specified within the terms of the permission, as well as those Affiliates of Seller that a reasonable Consumer would expect to be included within the terms of the permission, taking into account the nature and type of goods or services being offered and the identity of the Affiliate(s).

4.3.2. *Established Business Relationship* (EBR). Members may make Outbound Sales Calls to Consumers who have listed their phone number(s) on the National and/or any State DNC list(s) when the Member has an Established Business Relationship with that Consumer. For each type of EBR recognized under these Standards, different obligations will apply as follows:

4.3.2.1. *Existing Customers*. Members may (except as indicated in 4.3.2.1.1., below) make Outbound Sales Calls to Consumers who are Existing Customers of the Member.

4.3.2.1.1. A minority of states may have more restrictive rules in place with regard to Outbound Sales Calls to Existing Customers; Members shall comply with any such State rules as appropriate.

4.3.2.2. *Former Customers*. Members may make Outbound Sales Calls to Consumers that are Former Customers in the majority of states (except where the Former Customer EBR exemption does not apply) for a period of up to eighteen (18) months following the end of the Existing Customer relationship.

4.3.2.2.1. Note that “Former Customer” EBR exemption contact periods may vary in certain states, and the FTC and FCC have each adopted an 18-month standard. Members shall comply with all State rules that provide for a Former Customer EBR exemption period of less than eighteen (18), and under no circumstances shall a Member apply a period longer than eighteen (18) months.

4.3.2.3. *Inquiring Consumers*.

4.3.2.3.1. “Most States” Compliance. Members may make Outbound Sales Calls to Inquiring Consumers for a period of three (3) months from the date of the inquiry.

4.3.2.3.2. Note that some states may have more restrictive rules in place with regard to the Inquiring Consumers exception to DNC rules. Members may choose to take advantage of this exception in those states that permit it, as appropriate based

upon business need and advice of counsel, and as long as all terms of these Standards are followed.

- 4.3.2.3.3. Members may, as an alternative to the conflicting state/federal rules regarding Inquiring Consumers, design their marketing programs so as to obtain an express written permission from Inquiring Consumers (as per the terms of section 4.3.1., above), and this permission will operate as an exemption to DNC rules in all 50 states and at the federal level.
- 4.3.2.4. All Members that accept representations from another entity with regard to the accuracy and efficacy of that other entity's EBR policies and procedures should make best efforts to secure a means whereby the other entity's practices are validated.
- 4.3.2.5. All Members, to the extent they or the Seller and/or Service Bureau for whom they are supplying services rely upon the EBR DNC exception, shall ensure that policies and procedures are in place that serve to maintain strict adherence to any applicable state or federal EBR time frame.
- 4.3.2.6. *Extension of EBR to Affiliates of Seller.* The EBR exception to DNC requirements extends to a Seller's Affiliates only if a Consumer would reasonably expect his/her business relationship to extend to such Affiliates. Factors to consider in making this determination are whether: 1) the Affiliate's goods or services are similar to the Seller's?; and, 2) the Affiliate's name is identical or similar to the Seller?
 - 4.3.2.6.1. This question of whether a Consumer's EBR with a Seller extends to the Seller's Affiliates shall be construed consistently by the Seller. The default position with regard to making this determination is that the EBR does not extend to the Affiliate unless it can be shown that: 1) there is substantial similarity between the goods/services offered by the Seller and the Affiliate; and, 2) the names of the Seller and the Affiliate would, in the mind of a reasonable Consumer, be connected in a manner such that the Consumer would expect to receive a call from the Affiliate when the Consumer has an EBR with the Seller.

4.4. "In-House" Do Not Call

- 4.4.1. All Members recognize that, in addition to a Consumer's right to place his/her telephone number(s) on state and/or federal DNC lists, all Consumers have the additional right to request the cessation of any

and all telephonic solicitations by particular entities to specific telephone number(s) ("In-House" DNC requests.)

- 4.4.2. All Members shall develop and implement the policies, procedures, and training necessary to accept and honor In-House requests made during any Outbound Call.
 - 4.4.2.1. The policies and procedures governing such requests shall make it clear that no specific language is required for the number to be added to the In-House DNC list; all such requests and/or statements shall be interpreted broadly; the assumption shall be that any statement requesting that no further (or follow-up) calls be made is an In-House DNC request.
 - 4.4.2.2. In-House DNC requests shall only apply under these Standards to future Outbound Sales Calls. (Members may apply such requests to other Outbound Calls as well, based upon business needs and practices.)
 - 4.4.2.3. The Member initiating the Outbound Call is not required under any circumstances to prompt the Consumer to make an In-House DNC request.
 - 4.4.2.4. Consumers may request to be placed on an In-House DNC list by sending such a request in writing to the Seller or Service Bureau.
 - 4.4.2.5. *"Third Party" In-House DNC Requests.* Under no circumstances shall a Member be obliged to honor any In-House DNC list request made by a person other than the individual whose telephone number would be added to that Member's In-House DNC list.
- 4.4.3. All Sellers shall ensure that, irrespective of whether Calls are handled internally by the Seller or by outside Service Bureaus on behalf of such Seller, a system is in place to collect and honor all In-House DNC requests.
- 4.4.4. An In-House DNC request shall apply to the Seller responsible for the placement or acceptance of the Call, as well as to those Affiliates of the Seller that a Consumer would reasonably believe would be covered by his/her In-House DNC request. Factors to be taken into account by a Seller in making this determination include: 1) whether there is substantial diversity between the operational structures of the Seller and Affiliates involved; 2) whether the goods/services sold by the Seller and the Affiliates are substantially different from each other; and 3) whether the Consumer would reasonably expect his/her request to

apply to the other Affiliates given the identification of the Caller and the product being sold.

- 4.4.4.1. This rule regarding the application of the In-House request to Affiliates shall be interpreted consistently by the Seller.
- 4.4.4.2. *Parity Between In-House Requests and EBR.* A Consumer's request to be added to a Seller's (or Service Bureau's) In-House list shall apply to the same Affiliates that the Seller/Service Bureau has determined are exempted from DNC rules under the EBR exemption's Affiliate Standards (see Section 4.3.2.6.)
- 4.4.5. An In-House request shall be processed and honored (no calls to the number in question) as quickly as possible, but in no event later than thirty (30) calendar days from the date of the request.
- 4.4.6. Telephone numbers on an entity's In-House DNC list must be maintained on such list, and the request honored, for a period of five (5) years from the date of the request. (State-specific rules requiring a longer period of time for the honoring of such requests may apply.)
 - 4.4.6.1. *Removal of disconnected numbers.* Numbers may be removed prior to the expiration of the five (5) year period if it can be conclusively established that the number(s) in question have been disconnected and reassigned to another person/household.
- 4.4.7. All Sellers shall create and make available, upon demand, their written In-House DNC policy to all Consumers requesting same. All Sellers shall send the Consumer making such a demand a copy of the policy within a reasonable time period not to exceed thirty (30) calendar days from the date of the demand.
- 4.4.8. *In-House DNC Requests to Service Bureaus.* A Service Bureau shall also honor In-House DNC requests in the event a Consumer requests that he/she no longer receives any calls from the specific Service Bureau that is making the Call on behalf of any Seller. All Service Bureaus shall keep such Service Bureau-specific In-House DNC lists as per the Standards above applicable to Sellers (in addition to any such lists that the Service Bureau is contractually obligated to maintain on behalf of its Client Sellers.)
 - 4.4.8.1. *Third-Party In-House DNC Requests.* The Service Bureau's obligation with regard to maintaining its own Service Bureau-specific In-House DNC list shall apply solely in the context of such requests made directly by a Consumer to the Service Bureau. In-house DNC requests submitted in any form to a Service Bureau by a third-party on behalf of a Consumer or

Consumers do not require any action on the part of the Service Bureau.

4.4.9. *In-House DNC Permission.* A Consumer may grant a Seller permission that will serve to override a prior In-House DNC request, as follows:

4.4.9.1. *“Offer-Specific” Permission.* It is acceptable for a Seller to make an Outbound Sales Call to a Consumer’s phone number listed on the Seller’s In-House DNC list when the Consumer, either orally or in a writing that does not fully conform with 4.4.9.2. below, provides the Seller with express permission to make such a Call. This permission enables the Member to make an Outbound Sales Call to the Consumer solely with regard to the specific offer of goods or services for which the Consumer granted such permission. (This permission shall not serve, however, to remove the Consumer entirely from the Seller’s In-House list – see 4.4.9.2., below.)

4.4.9.1.1. This express permission must, at a minimum, evidence: 1) the Consumer’s consent to be contacted via telephone by the Member for the purpose of delivering a Sales Call; 2) the provision by the Consumer to the Member of a telephone number to contact the Consumer.

4.4.9.1.2. In accordance with the three-month Inquiring Consumers exception to the National and State DNC Standards (4.3.2.3., above), Sellers may call a Consumer who has provided the above Offer-Specific express permission for a period of three (3) months from the date of the permission.

4.4.9.2. *In-House DNC List Removal.* A Consumer may grant a Seller express written permission that will serve to remove that Consumer from the Seller’s In-House DNC list. Sellers shall obtain this permission in writing, and such permission shall contain: 1) language indicating that the Consumer is giving consent to the Seller to be contacted via telephone; 2) language indicating that the Consumer understands that this consent applies even if he/she is on the Seller’s In-House DNC list; 3) the specific telephone number(s) to be dialed to contact the Consumer; and 4) the Consumer’s signature.

4.4.9.2.1. Express written permission Standards 4.3.1.1.1. to 4.3.1.1.4. shall apply to In-House DNC List Removal permission.

4.4.9.3. The express permission granted under this Section 4.4.9. shall extend to those Seller(s) specified within the terms of the permission, as well those Affiliates of Seller that a reasonable

Consumer would expect to be included within the terms of the permission, taking into account the nature and type of goods or services being offered and the identity of the Affiliate(s).

- 4.4.9.4. In the absence of the permissions specified above, a Seller shall not call any number appearing on its In-House DNC list unless the number has been on the list for greater than five (5) years or has been disconnected and reassigned (as per Section 4.4.6.1., above.)
- 4.4.10. The In-House request shall apply to the number (i.e., household) so specified in the request and not to the specific individual making the request or to the individual whose name appears on the telephone bill for the household in question.

4.5. **Wireless Calling.**

- 4.5.1. *Implementation Guidance.* All Members recognize that Outbound Calls to Consumers' Wireless Communication Devices (see Definitions) impact Consumers' privacy rights in a different manner than Calls to Landline Devices. These Standards are designed to take such differences into account, while at the same time streamlining permission requirements for Sales Calls in a manner that corresponds with similar provisions in other sections of the Standards.
- 4.5.2. *General Rule.* No Member may initiate any Call via an Automatic, Preview or Predictive Dialer to any Wireless Communication Device, other than a Call: 1) made for emergency purposes; or, 2) made with the prior express consent of the called party.
- 4.5.3. *Sales Calls to Wireless Communication Devices - Permission Required.* No Outbound Sales Calls shall be initiated via any means to any Wireless Communication Device except: 1) in case of emergency; or 2) with the express permission of the Consumer, as follows:
 - 4.5.3.1. *Sales Calls - Express Permission.* It is acceptable for a Member to make an Outbound Sales Call to a Consumer's Wireless Communication Device when the Consumer has provided the Seller, either orally or in a writing that does not fully conform with Section 4.5.3.2., below, with express permission to make such a Sales Call.
 - 4.5.3.1.1. This express permission must, at a minimum, evidence: 1) the Consumer's consent to be contacted via telephone by the Seller for the purpose of delivering a Sales Call; 2) the provision by the Consumer to the Seller of the number to

one or more of Consumer's Wireless Communications Devices as the means to contact the Consumer.

- 4.5.3.1.2. In accordance with the three-month Inquiring Consumers exception to the National and State DNC Standards (4.3.2.3., above), Sellers may call a Consumer who has provided the above express permission for a period of three (3) months from the date of the permission.
- 4.5.3.2. *Sales Calls - Express Written Permission.* It is acceptable for a Member to make an Outbound Sales Call to a Consumer's Wireless Communication Device at any time after the Consumer has provided the Seller express written permission to make such a Sales Call.
 - 4.5.3.2.1. This express written permission must, at a minimum, include:
 - 1) language indicating that the Consumer is giving consent to the Seller to be contacted via telephone;
 - 2) the specific telephone number(s) to be dialed to contact the Consumer;
 - and 3) the Consumer's signature.
 - 4.5.3.2.2. Express written permission Standards 4.3.1.1.1. to 4.3.1.1.4. shall apply to this Section 4.5.3.2.
- 4.5.3.3. The express permission granted under Sections 4.5.2. and 4.5.3. shall extend to those Seller(s) specified within the terms of the permission, as well those Affiliates of Seller that a reasonable Consumer would expect to be included within the terms of the permission, taking into account the nature and type of goods or services being offered and the identity of the Affiliate(s).
- 4.5.4. All entities making Outbound Calls shall ensure that no Calls are completed to Wireless Communication Devices (except as per the terms of 4.5.2. and 4.5.3., above) by:
 - 4.5.4.1. Obtaining a complete listing of area codes/exchanges that have been specifically identified for Wireless Communications Device service; and,
 - 4.5.4.2. Purchasing NeuStar, Inc.'s listing of numbers ported from Landline to Wireless (and vice versa) service as reflected in the Intermodal Ported Telephone Number Identification Service. (Information regarding this listing is available at www.tcpacompliance.us.)
 - 4.5.4.3. Members recognize that the Wireless number resources identified above may, like any complex database resource, experience

internal errors, translation problems, and timing inconsistencies. Good faith compliance with this Section 4.5.4., along with sufficient internal procedures and controls to effectively deploy the above information across a Member's Outbound Calling operation may therefore serve as a defense under these Standards where Calls are completed to Wireless numbers in violation of these Standards.

4.5.5. Consumers have the ability, using various available services, to forward calls from one communications device to another. Members shall not be held responsible under these Standards for Calls that are made to Landline Devices (that are otherwise in accordance with these Standards) that are forwarded by the Consumer to a Wireless Device. It is up to each Member to determine how to handle any such scenario, as appropriate based upon each Member's business needs.

4.5.5.1. In all instances where a Call is routed from a Landline number to a Wireless number, Members should abide by the wishes of the Consumer being called. Members may attempt to identify an alternate Landline number that can be used to contact the Consumer, or alternatively, identify a time during which the routing to a Wireless number does not take place.

4.6. Overall DNC Compliance

4.6.1. All Members shall maintain strict compliance with these Standards as well as any additional applicable rules governing the National DNC registry, state DNC lists, In-House lists, and Wireless Communication Device calling prohibitions.

4.6.2. Members shall, as appropriate based upon each Member's business needs, determine the means by which this strict compliance shall be maintained.

4.6.2.1. At all times, Members (as appropriate based the nature and scope of their relationships with other entities) shall maintain records documenting their DNC compliance systems as outlined in Sections 8.6.4., 8.6.5., and 8.6.8., below, as well as ensure that DNC compliance is monitored in accordance with Section 8.5.3., below.

4.6.2.2. At a minimum, the policies, procedures and technologies deployed to achieve strict compliance with all applicable DNC rules shall ensure that measures are in place designed to account for the potential for human error in the maintenance of the DNC compliance systems.

4.7. Billing Authorizations

4.7.1. *Implementation Guidance.*

- 4.7.1.1. All Members are committed to ensuring that Consumers making purchases as a result of Outbound Sales Calls are completely apprised of all material terms of the sale. All offers and related communications shall therefore be clear, complete and honest at all times.
- 4.7.1.2. All Members recognize that certain types of billing practices lend themselves to an increased risk of mistakes and misinterpretation between the Seller and the Consumer. Therefore, to the extent possible given a Member's business practices, preference shall be given to processing payment via: 1) cash, checks or money orders; and 2) credit/debit cards.
- 4.7.1.3. Members recognize that written consent by a Consumer for a charge to a credit/debit or other account provides the most readily verifiable means to ensure that the Consumer fully understands the implications of, and consents to, the transaction.
- 4.7.1.4. When a Seller or Service Bureau has access to a Consumer's account number prior to a sale ("pre-acquired account" situations), Members recognize that combining a pre-acquired account transaction with a Free-to-Pay Conversion creates a unique environment that historically has created substantial confusion on the part of Consumers.
- 4.7.1.5. Under no circumstances should a Member complete a sale unless the Consumer is made aware of and understands the following:
 - 4.7.1.5.1. the nature of the goods or services that the Consumer has purchased.
 - 4.7.1.5.2. the fact that an offer has been made and that the offer has been accepted by the Consumer resulting in a sale.
 - 4.7.1.5.3. that the Consumer shall be liable for making payment(s) for that sale.
 - 4.7.1.5.4. complete information regarding the full amount(s) to be paid and, as applicable, the frequency and number of the individual payments (that will add up to the full amount to be paid) (see Section 4.8.9.2.)

- 4.7.1.5.5. the specific source from which payment shall be made by the Consumer.
- 4.7.1.5.6. that he or she has consented to have the specific payment sources identified in 4.7.1.5.5. charged the amounts identified in 4.7.1.5.4.
- 4.7.2. *Cash, Checks and Money Orders.* Receipt of payment from a Consumer by cash, check and/or money order shall by itself serve as sufficient indication that the Consumer is fully aware of all the factors listed in 4.7.1.5., above.
- 4.7.3. *All Other Transactions Except Those Combining "Pre-Acquired Account" Information and "Free to Pay Conversions."* Sellers and Service Bureaus shall ensure that factors 4.7.1.5.1 to 4.7.1.5.4 are at all times disclosed to the Consumer, and it is left to individual Members to determine the means to best achieve this based upon business need. In order to ensure that factors 4.7.1.5.5. and 4.7.1.5.6. are achieved, Sellers and Service Bureaus should either:
 - 4.7.3.1. Obtain consent via express written authorization that includes the Consumer's signature (electronic or otherwise) (e.g., a signed, voided check or a facsimile from the Consumer that contains the account number to be charged as well as the Consumer's signature); or,
 - 4.7.3.2. Obtain consent via express oral authorization which is recorded and which evidences clearly:
 - 4.7.3.2.1. The Consumer's authorization of payment for the goods or services that are the subject of the transaction; and,
 - 4.7.3.2.2. The Consumer's receipt of all of the following information: (1) the number of debits, charges, or payments (if more than one); (2) the date(s) the debit(s), charge(s), or payment(s) will be submitted for payment; (3) the amount(s) of the debit(s), charge(s), or payment(s); (4) the Consumer's name; (5) the Consumer's billing information, identified with sufficient specificity such that the Consumer understands what account will be used to collect payment for the goods or services that are the subject of the transaction; (6) a telephone number for Consumer inquiry that is answered during Normal Business Hours; and (7) the date of the Consumer's oral authorization.
 - 4.7.3.2.3. Where a Seller does not, or can not, know the exact dates when a Consumer's payment will be submitted, it is

acceptable to disclose an approximate date provided it gives the Consumer reasonable notice of when to expect the debit or charge.

- 4.7.3.2.4. This recording shall be made available upon request to the Consumer, and the Consumer's bank or other billing entity.
- 4.7.3.2.5. *Inapplicability of Recording Alternative.* A minority of states do not allow for the authorization of "demand drafts" (a check, draft, or other form of negotiable instrument drawn on a person's checking, savings, share, or other depository account) without an express written (as opposed to oral) authorization. Therefore, in this minority of states, the only available option is express written authorization, as per Section 4.7.3.1., above.
- 4.7.3.3. Members may, based upon business need and in accordance with applicable state and federal rules, employ alternative means of obtaining billing authorizations other than those recommended in 4.7.3.1. and 4.7.3.2., above (e.g., follow-up written confirmation received from the Consumer.) The exact procedures to be employed in this context are left to each Member, based upon business need.
 - 4.7.3.3.1. Where follow-up written confirmation is sought from the Consumer, the written confirmation must be clearly and conspicuously labeled as such, on the outside of the envelope in which it is sent, and it shall be sent to the Consumer by first class mail prior to the submission for payment of the Consumer's billing information.
- 4.7.3.4. *Special Rules for Recurring Debit Charges.* Under the Federal Reserve Board's (FRB) Regulation "E" ("Reg E"), any entity that collects from a Consumer recurring charges from any of that Consumer's debit card account(s) must comply with certain additional rules. Specifically, such recurring debits can only be authorized by a writing signed or similarly authenticated by the Consumer.
 - 4.7.3.4.1. An express written authorization (as in 4.7.3.1., above) would be sufficient to meet the requirements of Reg E with regard to recurring debit charges. The FRB has stated, however, that its writing and signature requirements for recurring debit charges under Reg E are satisfied by complying with the "Electronic Signatures in Global and National Commerce Act" ("E-Sign Act"). Specifically, if under the E-Sign Act, a recorded authorization constitutes a written

and signed (or similarly authenticated) authorization, then the authorization would satisfy the Regulation E requirements.

4.7.3.4.2. A Member may, therefore, accept authorization for recurring debit card charges via a recording if, in its estimation and with advice of counsel, this recording meets the requirements of a “signature” under the E-Sign Act.

4.7.3.4.3. In all instances where a Seller or a Service Bureau is offering a good or service for which it requests payment via credit or debit card, a Member shall inquire of the Consumer whether the card he/she is using is a credit or a debit card. The Member may rely on the Consumer’s characterization of the card in question in determining whether it must comply with this Section 4.7.3.4.

4.7.4. *Pre-acquired Account Information Combined with Free-to-Pay Conversions.* In all instances where a Seller or Service Bureau is already in possession of a Consumer’s account information and offers to the Consumer a free-to-pay conversion program, the Seller or Service Bureau shall meet the terms of 4.7.1.5.5. and 4.7.1.5.6. above, by:

4.7.4.1. Obtaining from the Consumer, at a minimum, the last four digits of the account number to be charged;

4.7.4.2. Obtaining the Consumer’s express agreement to be charged using the account number so specified in 4.7.1.5.5.; and,

4.7.4.3. Recording the entire conversation (in accordance with the Call Monitoring standards in Section 7., below.) (When required, the obtaining of the permission to record from the Consumer does not itself have to be included in the recording.)

4.7.4.4. For single transaction Calls, the above requirement means taping the entire call; for Mixed Use Calls, it means recording the entirety of each transaction wherein pre-acquired account information is combined with a free-to-pay conversion.

4.8. Disclosure Requirements

4.8.1. *Implementation Guidance.* Members recognize that in all instances of telephonic communication with Consumers, the utmost care must be given to ensure that the Consumer understands the true nature of the call taking place, and is given all information reasonably necessary to

enable the called Consumer to identify and, as required, contact the Seller responsible for the call.

- 4.8.1.1. Any information conveyed to the Consumer to identify the call shall be clear and understandable, and in all instances using words with their everyday meanings.
- 4.8.1.2. For Sales Calls, the purpose of disclosing information regarding the nature of the call is to give the Consumer the information necessary for the Consumer to make an informed decision whether or not he/she wishes to continue with the Call. Accordingly, Sellers and Service Bureaus shall not attempt to disguise the true purpose of the Sales Call by referring to it as a “courtesy call,” a “public service announcement,” or a “survey call.”
- 4.8.2. The Standards governing disclosures are divided as follows: 1) “Identification Disclosures” (disclosures that provide information to the Consumer regarding the identity of the entity and person making the call and the nature of the call, generally occurring at the beginning of the Call); 2) “Pre-purchase Disclosures” (mandatory information that must be provided to Consumers in order to ensure that such Consumers are fully apprised of all information necessary to make an informed decision on whether to make a purchase or not); and 3) “Additional Disclosures” (these are disclosures governing additional areas that do not necessarily occur in all Sales Calls and/or do not readily fall into either of the above two categories.)
- 4.8.3. All of these disclosures (except for the last category “Special Rules for Answering Machines”) apply whenever a Service Rep contacts a Consumer directly.
- 4.8.4. The following Disclosure Standards present best practices for the industry to follow in virtually all circumstances. There are, however, additional state rules that may be applicable, either overall or in the context of specific campaigns. It is therefore incumbent upon all Members to ensure that they are fully informed with regard to all state disclosure rules governing their campaigns.
- 4.8.5. *Identification Disclosures - Immediate:* The following Identification Disclosure Standards shall apply to all Outbound Sales Calls.
- 4.8.6. As further discussed below, the following identification disclosures shall be made immediately by a Service Rep when making a Sales Call: 1) first name of the Service Rep; 2) identity of the Seller; 3) that the purpose of the call is to sell goods or services; 4) the nature of the goods or services to be offered.

- 4.8.6.1. These disclosures shall be made: 1) immediately following any initial greeting made by and/or to the Consumer; and, 2) before the Caller begins any discussion or questions regarding the specifics of the offer. (State-specific rules requiring specific time frames within which certain identification disclosures must be made may apply.)
- 4.8.6.2. *First Name of Service Rep.* All Consumers contacted during a Sales Campaign shall be given the ability to identify each individual Service Rep who spoke to the Consumer. Therefore, all Sellers and Service Bureaus shall ensure that every Sales Call that is completed to a Consumer can be matched with the specific Service Rep (or Service Reps) that spoke to the Consumer during the Call.
- 4.8.6.2.1. All Sellers and Service Bureaus shall ensure that the Service Rep that is speaking on the Sales Call provide his/her first name to the called Consumer. (Note that certain states require the disclosure of both the first and last names of the Service Rep; wherever so applicable, such laws shall be followed by all Members.)
- 4.8.6.2.2. Sellers and Service Bureaus should ensure that each Service Rep makes use of his/her true (legal) first name; however, based upon each Member's business needs and practices, fictitious names may be used (as per 4.8.6.2.3., below).
- 4.8.6.2.3. The first name (or, as required under state law, first and last name) provided by individual Service Reps can be, based upon a Seller or Service Bureau's business practices, a fictitious one (not the Service Rep's legal name) so long as: 1) such practice does not conflict with State laws requiring the use of a real (legal) name; 2) the Service Rep signs a form documenting the fictitious name to be used; 3) the Service Rep only makes use of the fictitious name as recorded in the signed form; and 4) this form is kept on file so long as the Service Rep is employed by the Seller or Service Bureau and for a period of two years thereafter.
- 4.8.6.3. *Identity of the Seller.* All Sellers and Service Bureaus making Sales Calls shall disclose the identity of the entity that is ultimately providing the goods or services to the Consumer in exchange for payment. If the Seller commonly uses a fictitious name that is registered with appropriate state authorities, it is acceptable practice to use that name instead of the Seller's legal name.

- 4.8.6.3.1. The identity of the Service Bureau making a call on behalf of a Seller need not be disclosed if it is different from the identity of the Seller, unless state law requires such disclosure.
- 4.8.6.4. *Purpose of the Call.* All Sellers and Service Bureaus making Sales Calls shall describe the purpose of the call in a manner that makes it clear to the Consumer that an offer of goods and/or services is going to be made. The specifics of this language are left to each individual Member, based upon business need.
 - 4.8.6.4.1. For Lead Generation Calls (which are a subset of Sales Calls) it would be necessary to disclose to the called Consumer that the Call is for the purpose of collecting information that will be used in subsequent marketing initiatives.
- 4.8.6.5. *Nature of the goods or services.* All Sellers, and Service Bureaus making Sales Calls shall provide to the Consumer a brief description of the items that will be offered during the Call.
- 4.8.7. *Identification Disclosures - During Call.* A Seller or Service Bureau making Sales Calls shall provide the called Consumer with a telephone number or address at which the Seller ultimately responsible for the call may be contacted (note that the resulting Inbound Calls may be serviced by the Seller or by a Service Bureau contracted to perform this activity.) The telephone number so provided may not be a “900” number or any other number for which charges exceed local or long distance transmission charges.
 - 4.8.7.1. If a phone number (rather than an address) is provided, Members should ensure that it is answered during Normal Business Hours by a live representative of the Seller.
 - 4.8.7.2. Where no live representative is available (or where the Member opts not to use a live representative to answer), Members shall provide an IVR System or Voicemail response during Normal Business Hours. The terms of Section 5 of these Standards (Inbound Standards) shall apply to any such Inbound Calls generated as a result of these Identification Disclosures.
- 4.8.8. *Identification Disclosures - Upon Request.* The following information should be provided to Consumers by Sellers’ and Service Bureaus’ Service Reps upon request by the Consumer at any time during the Call:

- 4.8.8.1. A Service Rep should truthfully disclose the name of the Service Bureau by whom the Service Rep is employed, if asked for this information by a Consumer (note that this information may already have been disclosed if a Seller, via a Service Bureau, places calls into those states that require disclosure of this information);
- 4.8.8.2. A Service Rep should truthfully disclose his/her location if asked for this information by the called Consumer (note that some or all of this information may already have been disclosed if the Seller or Service Bureau places calls into those states that require disclosure of this information.)
 - 4.8.8.2.1. This location information should include the city, state and country (if different than the United States) and/or other information as appropriate based upon the country where the Service Rep is located.
 - 4.8.8.2.2. No Seller and/or Service Bureau that makes Outbound Calls to Consumers shall be obligated to re-route the Call from the location/country where the Call was generated to any other location/country, even if the Consumer requests such a re-routing. Each Member shall handle such requests as it deems appropriate, based upon business need.
- 4.8.8.3. *Supervisor – Upon Request.* A Service Rep should identify the Service Rep's immediate supervisor (or other such person with managerial oversight responsibilities for the Service Rep) by first name if asked for this information by the called Consumer. Further, the Consumer should be immediately transferred to this supervisor/manager if the Consumer requests such a transfer. All Service Reps should be trained on transferring Calls to a live supervisor or manager if the Consumer asks for this. If for some reason a supervisor or manager is unavailable, the Consumer shall be routed to an IVR System that gives the Consumer the ability to leave a message. These messages shall be checked by Seller and/or Service Bureau (as appropriate) every day.
- 4.8.9. *Pre-purchase Disclosures:* The following Pre-purchase Disclosures shall apply to all Sales Calls.
 - 4.8.9.1. Members recognize that it is critically important for all Consumers to understand the true nature and terms of the offer before the Consumer agrees to accept any offer. Therefore, before a Consumer pays for a good and/or service during a Sales Call, the Member shall in all instances truthfully, accurately, and fully disclose to the Consumer the following information:

4.8.9.2. *Cost and quantity.* The cost and quantity of the goods/services being purchased.

4.8.9.2.1. In all instances where a payment plan for a specific good or service is offered to the Consumer wherein a series of payments over a given time period are contemplated in order to purchase the good/service, Members shall inform the Consumer of the aggregate sum of all payments so required. (This rule shall not apply where such an aggregation is impossible, i.e., where Consumers agree to make ongoing payments related to a subscription service or installment plan that shall continue until such time as the Consumer terminates the service or plan).

4.8.9.3. All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer.

4.8.9.4. All material aspects of the terms of the Seller's cancellation, exchange, repurchase, and/or refund policies.

4.8.10. *Additional Outbound Sales Call Disclosures*

4.8.10.1. *Prize Promotions.* A Seller (or its Service Bureau) must disclose all material aspects of a prize promotion, including: description of the prize(s) being offered; the true retail value of the prize(s); all material conditions related to the prize promotion (including the number of prizes to be awarded); the odds of winning the prize (if impossible to estimate, this must be stated); a statement to the effect that "no purchase is necessary" in order to win the prize along with information regarding the no-purchase method of entering and becoming eligible to win the prize; a statement that the Consumer is not required to pay shipping/handling.

4.8.10.1.1. The above prize promotion disclosures must be given before or when the prize offered is described.

4.8.10.1.2. Note that additional state laws and regulations may apply to Prize Promotions; all Members shall comply with all such laws and regulations as appropriate based upon business need.

4.8.10.1.3. The terms of Section 5 of these Standards (Inbound Standards) shall apply to any Inbound Calls generated as a result of these prize promotion disclosures.

- 4.8.10.2. *Negative Option Disclosures.* In any offer to sell or provide any goods or services where the Consumer's silence or failure to take an affirmative action to reject the goods or services or to cancel the agreement is interpreted by the Seller as acceptance of the offer (a "negative option" offer), the Member shall disclose all material terms and conditions of the negative option feature, including, but not limited to: the fact that the customer's account will be charged unless the customer takes an affirmative action to avoid the charge(s), the date(s) the charge(s) will be submitted for payment, and the specific steps the customer must take to avoid the charge(s).
 - 4.8.10.2.1. Where a Seller does not, or can not, know the exact dates when a Consumer's payment will be submitted, it is acceptable to disclose an approximate date provided it gives the Consumer reasonable notice of when to expect the debit or charge.
- 4.8.10.3. A Seller (or its Service Bureau) that offers a plan that claims to protect, insure, or otherwise limit a Consumer's liability in the event of unauthorized use of the Consumer's credit card must disclose the limits on a cardholder's liability under federal law.
- 4.8.10.4. *State Specific Disclosure Rules May Apply.* Individual States may have additional and/or different rules governing disclosures. Members recognize that all such disclosure rules at the State level require full compliance in addition to these Standards.
- 4.8.11. *Special Disclosure Rules for Answering Machine Calls.* Where a Seller and/or Service Bureau reaches a Consumer's Answering Machine in the context of an Outbound Sales Call, such Sellers and/or Service Bureaus shall determine, based upon individual business need, whether to discontinue the Call or to leave a message to the Consumer.
 - 4.8.11.1. Where a message is left (whether by a Service Rep or via allowed Prerecorded Messages, as per 4.13.2., below), this message shall include the following information: 1) the name of the Seller; 2) an address or phone number where the Seller may be contacted; and, 3) a statement to the effect that the purpose of the call was to sell goods or services.
 - 4.8.11.1.1. The terms of Section 5 (Inbound Standards) shall apply to any Inbound Calls generated as a result of these Answering Machine message disclosure requirements.

4.8.11.1.2. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

4.9. Upsells During Outbound Calls.

4.9.1. As per the Definitions, Members may attempt to complete an Upsell to a Consumer following the successful completion and billing of a sale during an Outbound Sales Call, following the completion of initial interaction(s) or transaction(s) during any other Outbound Call (i.e., informational or service Calls), or in fact following any attempted or successful Upsell.

4.9.2. In any such instance, where a Member attempts to Upsell a Consumer during an Outbound Call, that Upsell shall be treated under these Standards for all intents and purposes as if it were an Outbound Call. Specifically, with regard to disclosures:

4.9.2.1. The identification disclosures required and/or recommended in 4.8.5., 4.8.6, and 4.8.7, above, apply to the Upsell, but only to the extent these Upsell disclosures differ from the identification disclosures made in the transaction immediately prior to the attempted Upsell.

- Example. In an External Upsell offered by the same Service Rep that completed an initial sale with the Consumer, it would be unnecessary to repeat the Service Rep's name. It would, however, be necessary to immediately provide the name of the External Seller on whose behalf the new offer is being made, as well as to promptly provide the nature of the new goods or services being offered, and also to provide the Consumer with a telephone number or address at which the Seller responsible for the Upsell may be contacted, as well as any prize promotion disclosures (if a prize is being offered in connection with the External Upsell.)

4.9.3. *Additional Requirements (Upsells During Outbound Calls).* The following Standards shall apply to any Upsell occurring during any Outbound Call:

4.9.3.1. The Consumer's "Bill of Rights" and General Guidelines (Sections 1 and 3).

4.9.3.2. Pre-purchase Disclosures (Section 4.8.9, above), but only if all such disclosures have not already been made to the Consumer via written materials delivered via mail, email and/or facsimile to the Consumer.

- 4.9.3.3. Billing Authorization Standards (Section 4.7.)
- 4.9.3.4. Call Monitoring Standards (Section 7.)
- 4.9.3.5. Recordkeeping Requirements as appropriate (Section 8.6.)

4.10. Caller ID Transmission.

4.10.1. *Implementation Guidance.* Members recognize that in order to provide Consumers with all the information they need to identify the Sellers and Service Bureaus making Sales Calls to their homes, it is necessary to ensure that such Sellers and Service Bureaus transmit sufficient information via “Caller ID” that will enable the called Consumer to determine the identity of the source of the Call.

4.10.2. All Members shall, when making Outbound Sales Calls, ensure that: 1) calling equipment is used that is capable of transmitting Caller ID information; and 2) the telephone number transmitted via Caller ID allows the called Consumer to identify the entity making and/or (as appropriate) responsible for the call. Specifically:

4.10.2.1. All Sellers directly making Outbound Sales Calls shall transmit a customer service number that is answered during Seller’s Normal Business Hours.

4.10.2.1.1. Each Seller shall determine, based upon business need, whether to transmit a number which results in no cost to the Consumer (i.e., an “800” number), or a standard number. Under no circumstances shall any Member transmit a “900 number” (pay-per-call service) as its customer service number.

4.10.2.2. All Service Bureaus making Outbound Sales Calls on behalf of one or more Seller(s) shall determine (based upon business need) to either: 1) transmit a number associated with the Service Bureau that allows the called Consumer to identify the Service Bureau (this includes a number assigned to the Service Bureau by its telephone carrier, the specific number from which a Service Rep placed the call, or a number used by the Service Bureau’s telephone carrier to bill the Service Bureau for a given call), or 2) transmit a number that has been given to the Service Bureau by each of its Seller clients and identified by such Sellers as a customer service number.

4.10.2.2.1. If the Service Bureau chooses to transmit its own number (option 1, immediately above), the Service Bureau shall

follow the same rules that a Seller must follow, as outlined in 4.10.2.1., above.

- 4.10.2.2.2. If the Service Bureau chooses to transmit the Seller's customer service number (option 2, above), the Seller must follow the same rules as outlined in 4.10.2.1., above, with regard to the number transmitted by the Service Bureau.
- 4.10.2.3. All Members shall determine, based upon business need, whether to have the number transmitted via Caller ID answered by a live representative of the Seller or Service Bureau (as appropriate), by an IVR System, or by a Voicemail system.
 - 4.10.2.3.1. In all circumstances, the Consumer shall have the right to register an In-House Do Not Call request with the person or system answering the Consumer's call (such requests shall be handled in accordance with Section 4.4, above.)
 - 4.10.2.3.2. If the number transmitted via Caller ID is to be answered by (when available) a live representative, that Service Rep must be trained on the proper identification, handling and processing of Consumers' In-House Do Not Call requests.
 - 4.10.2.3.3. The Standards governing Inbound Calls (Section 5) shall govern Inbound Calls generated via transmission of Caller ID.
- 4.10.2.4. *Transmission of Name of Seller/Service Bureau:*
 - 4.10.2.4.1. All Sellers making Outbound Sales Calls shall transmit the Seller's name (along with the number as required, above) when such name-transmittal service is made available by the Seller's telephone company.
 - 4.10.2.4.2. All Service Bureaus making Outbound Sales Calls on behalf of one or more Seller(s) shall transmit either its (the Service Bureau's) name, or the name of its Seller client(s) when such name-transmittal service is made available by the Service Bureau's telephone company.
- 4.10.2.5. *Blocking Prohibited.* No Member making Outbound Sales Calls shall engage in any practice that would directly or indirectly block the outgoing Caller ID signal that is required to be sent under this Section.
- 4.10.2.6. Members who can show that they took all necessary steps to ensure transmission of Caller ID information in every call will not

be liable for isolated inadvertent instances when the Caller ID information fails to make it to the Consumer's receiver (i.e., where the Call is dropped somewhere between its origination and termination points, or where one or more of the telephone carriers responsible for handling the call lacks the capacity to transmit Caller ID information.)

4.11. **Acceptable Predictive Dialer Usage.**

- 4.11.1. *Implementation Guidance.* Members recognize that Consumers have expressed a unique frustration with "abandoned calls" (see definition, below) wherein the Consumer answers the phone and is not connected immediately to a Service Rep.
- 4.11.2. Members making use of Predictive Dialers in the context of Outbound Sales Calls are therefore committed to: 1) taking all steps necessary to ensure (in the absence of telephone network error and/or other causes beyond the control of the Member) that "dead air" calls (see definition, below) no longer occur; and 2) ensuring that the instances in which a Consumer is not connected to a Service Rep is kept to a reasonable minimum that balances Consumer's interests with the legitimate needs of Members to efficiently conduct Outbound Sales Calls campaigns.
- 4.11.3. For the purposes of this Section:
 - 4.11.3.1. A "Live Call" is a Call completed by a Predictive Dialer where a Service Rep is connected to a live Consumer.
 - 4.11.3.2. An "Abandoned Call" is any Call where a Consumer is not connected to a Service Rep within two seconds of the called Consumer's completed greeting (and, as per the Standards below, a pre-recorded identification message is played for the Consumer.) A call that terminates due to a network error or other reason beyond the control of the Caller is not, for the purposes of these Standards, considered an Abandoned Call.
 - 4.11.3.3. A "Dead Air Call" results when a Consumer receives an Outbound Sales Call and is not connected to either a Service Rep or a prerecorded identification message within two seconds of that Consumer's completed greeting.
- 4.11.4. *Dead Air Calls Prohibited.* All Members shall take all steps necessary to ensure, to the extent that they have control over this issue, Consumers do not receive Dead Air Calls.
- 4.11.5. All Members shall, when making Outbound Sales Call via a Predictive Dialer, comply with the following rules:

- 4.11.5.1. *Ring Time.* In order to provide Consumers with sufficient time in which to answer the Call, Members shall ensure that when a Call is completed to a Consumer's phone number (and the number is not busy or the Call fails to connect for some other reason), the Consumer's phone shall ring, at a minimum, for either four (4) complete rings, or for fifteen (15) seconds.
- 4.11.5.2. *Recorded Message.* In the context of a Live Call, whenever a Service Rep is not available to handle the called Consumer's questions, comments, and/or requests, that Consumer must receive, within two (2) seconds after the Consumer's completed greeting, a prerecorded identification message that states only the name and telephone number of the business, entity, or individual on whose behalf the call was placed, and that the call was for telemarketing purposes.
- 4.11.5.2.1. Members should make use of the specific language "for telemarketing purposes" during this message; however, the specific language of this message is left to each Member, as appropriate based upon business need.
- 4.11.5.2.2. The telephone number provided must be answered during Normal Business Hours.
- 4.11.5.2.3. The terms of Section 5 of these Standards (Inbound Standards) shall apply to any Inbound Calls generated as a result of Recorded Messages delivered as a result of these Predictive Dialer Standards.
- 4.11.5.3. *Abandonment Rate.* Members shall employ technology that ensures that no more than three percent (3%) of Calls completed to live Consumers are abandoned. This 3% abandonment rate shall be calculated as follows: **(Total Number of Abandoned Calls)** divided by **((Total Number of Live Calls) plus (Total Number of Abandoned Calls))**
- 4.11.5.3.1. For Members that are subject to the jurisdiction of the FTC, the Abandonment Rate shall be calculated on a per day/per calling Campaign basis.
- 4.11.5.3.2. For Members that are not subject to the jurisdiction of the FTC, the Abandonment Rate shall be calculated by aggregating abandoned call statistics over a 30-day period across all Campaigns active during that 30-day period.

- 4.11.5.4. *Recordkeeping.* Records sufficient to illustrate compliance with the ring time, recorded message, and abandonment rate rules above shall be kept in accordance with Section 8.6.7., below.
- 4.11.5.5. *Predictive Dialer Calls to Emergency Numbers.* All Members shall adopt procedures reasonably designed to ensure that no Outbound Prerecorded Message Calls are completed, in the absence of express permission and/or emergency, to: 1) any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency; or, 2) the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment.
- 4.11.5.6. *Line Release.* All Members shall ensure that for all calls completed using a Predictive Dialer, the called telephone line shall be released within five seconds of the termination of the call by the called Consumer.
- 4.11.5.7. *Predictive Dialer Calls to Wireless Communication Devices.* See Section 4.5, above.

4.12. **Calling Time Restrictions.**

- 4.12.1. *Implementation Guidance.* Members recognize that all Consumers, irrespective of their willingness to receive Sales Calls, nonetheless maintain certain expectations with regard to the timing of such calls. Members shall therefore ensure that all Outbound Sales Calls are completed at times that maintain respect for Consumer's wishes.
- 4.12.2. *State/Federal Rules: Time Restrictions.*
 - 4.12.2.1. For the majority of jurisdictions, the Federal rule restricting Outbound Sales Calls to the hours of 8:00 AM to 9:00 PM for all days of the week apply.
 - 4.12.2.2. A significant number of states have more restrictive rules in place. A "most restrictive" analysis that would result in one Standard that would enable compliance with all state and federal rules may not be acceptable to all Members. At the same time, it exceeds the scope of these Standards to define the different time restriction rules in place across the United States. It is therefore up to each Member to ensure that all of its Outbound Sales Calls are made in accordance with any and all applicable state time restrictions rules.

- 4.12.3. *Holiday Calling Restrictions.* A significant number of states have rules restricting calls on specific state holidays. A “most restrictive” analysis that would result in one Standard that would enable compliance with all such state rules would not be acceptable to the vast majority of Members. At the same time, it exceeds the scope of these Standards to define the different holiday calling restriction rules in place across the United States. It is therefore up to each Member to ensure that all of its Outbound Sales Calls are made in accordance with any and all applicable state (and, if applicable) federal holiday calling restrictions.
- 4.12.4. *State of Emergency Declarations.* Members should be cognizant of declarations of emergencies made by both state and federal agencies, and should suspend Calls into areas affected by such declarations as appropriate.

4.13. **Prerecorded Message Calls**

- 4.13.1. *Implementation Guidance.* All Members recognize the unique frustration expressed by Consumers with regard to Outbound Calls in which Prerecorded Messages are delivered. There are, however, a number of instances in which Consumers are willing to accept, and in fact expect, Prerecorded Message Calls. In these instances, it is advantageous to both the Consumer and the entity delivering the message to make use of Prerecorded Messages. It is the goal of these Standards to effectively delineate the circumstances under which Prerecorded Message Calls are proscribed, and those circumstances where such messages can in fact serve a very useful communicative purpose.
- 4.13.2. No Member shall deliver a Prerecorded Message to a Consumer for any purpose, except in the following limited circumstances (and as further defined in Section 4.13.3. (state specific rules)).
- 4.13.2.1. *Debt Collection.* Calls delivering Prerecorded Messages are allowed for purposes of debt collection (all applicable state and federal rules governing debt collection activities must be followed).
- 4.13.2.2. *Surveys.* Calls by any Member delivering Prerecorded Messages are allowed for the purpose of conducting a survey. A “survey,” for purposes of these Standards is defined as a question or series of questions delivered to a random sampling of Consumers drawn from a larger identifiable population for the purpose of collecting information that will be used in the context of statistical research.

- 4.13.2.2.1. A “survey” does not include calls made to Consumers to ask a question or a series of questions designed to elicit information that will be used to qualify the contacted Consumer(s) for follow-up marketing efforts of any sort. These types of calls are classified as “Lead Generation” Calls, which are a subset of Sales Calls (as per the *Definitions*.)
- 4.13.2.3. *Emergencies*. Calls delivering Prerecorded Messages for the purpose of delivering information in the event of an emergency are allowed.
- 4.13.2.4. *Prerecorded Informational Calls*. Informational Calls by Sellers delivered via Prerecorded Messages that contain no sales solicitation are allowed where the Seller responsible for the delivery of the message has an EBR with, and/or express permission from, the person to whom the message is delivered.
- 4.13.2.4.1. The EBR referenced herein applies to Existing, Former, and Inquiring Consumers as defined in 4.3.2., above and in the *Definitions*.
- 4.13.2.4.2. Each Member shall determine, based upon business need, the scope and applicability of the term “express permission” as applied to the delivery of Prerecorded Message Calls for informational purposes.
- 4.13.2.4.3. Examples of such Informational Calls include (but are not limited to): notifications of flight cancellations; reminders of medical appointments and overdue payments; and medical prescription order notifications.
- 4.13.2.5. *Prerecorded Sales Calls - EBR*. Calls by Members (who are not subject to the jurisdiction of the FTC) that deliver Prerecorded Messages containing a sales solicitation are acceptable under these Standards where the Member responsible for the delivery of the message has an EBR with the Consumer to whom the message is delivered.
- 4.13.2.5.1. The EBR referenced herein applies to Existing, Former, and Inquiring Consumers as defined in 4.3.2., above and in the *Definitions*.
- 4.13.2.5.2. Members who are subject to the jurisdiction of the FTC recognize that the FTC’s rules governing abandoned calls may mandate additional restrictions on the delivery of

Prerecorded Sales Calls to Consumers with whom the Member has an EBR.

- 4.13.2.6. *Prerecorded Sales Call - Express Permission.* It is acceptable for a Member to make an Outbound Prerecorded Sales Call to a Consumer when the Consumer has provided the Member, either orally or in a writing that does not fully confirm with Section 4.13.2.7., below, with express permission to make such a Call. This permission must, at a minimum, evidence: 1) the Consumer's consent to be contacted via prerecorded message delivered via the Consumer's telephone; and 2) the provision by the Consumer to the Member of the number to be called. A Member may make such Calls to the Consumer for a period of three (3) months from the date of the permission.
- 4.13.2.7. *Prerecorded Sales Call - Express Written Permission.* It is acceptable for a Member to make an Outbound Prerecorded Sales Call to a Consumer after the Consumer has provided the Member express written permission to make such a Call. The express written permission must, at a minimum, include: 1) language indicating that the Consumer is giving consent to the Member to be contacted via prerecorded message delivered to the Consumer's telephone; 2) the specific telephone number(s) to be dialed to contact the Consumer; and 3) the Consumer's signature. (Express written permission Standards 4.3.1.1.1. to 4.3.1.1.4. shall apply to this Section 4.13.2.4.3.)
- 4.13.2.8. *Special Rules for Prerecorded Message Calls to Answering Machines.* Where a Member reaches a Consumer's answering machine in the context of an Outbound Prerecorded Informational or Sales Call (in accordance with 4.13.2.4. through 4.13.2.7., above), the terms of Section 4.8.11 ("Special Rules for Answering Machine Calls") shall apply.
- 4.13.2.9. *Informational and "Sales" Calls from Non-Sellers.* Entities that do not meet the definition of Seller in these Standards (e.g., tax-exempt non-profit organizations; religious institutions; educational institutions; political organizations; and, trade organizations) may deliver Prerecorded Messages for informational and sales purposes with certain restrictions at both the state and federal levels. These Calls, however, fall outside the purview of these Outbound Specific Standards and shall be discussed in other sections of these Standards.
- 4.13.2.10. *Abandoned Call Messages.* It is permitted to deliver Prerecorded Messages in those circumstances where it is necessary in order to comply with these Standards (i.e., to deliver

a pre-recorded message in the abandoned call context as per 4.11.5.2., above).

4.13.3. *Additional Prerecorded Message Calling Rules.*

4.13.3.1. *Calls to Emergency Numbers.* All Members shall adopt procedures reasonably designed to ensure that no Outbound Prerecorded Message Calls are completed, in the absence of express permission and/or emergency, to: 1) any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency; and/or 2) the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment;

4.13.3.2. *Calls to Wireless Communications Devices.* Calls delivering Prerecorded Messages to Wireless Communications Devices must comply with all Standards herein (e.g., for a Member to use the permission exception to deliver a Prerecorded Sales Call to a Wireless Communications Device, that permission must encompass both the Prerecorded Message Call permission (under 4.13.2.6. or 4.13.2.7., above) and the Wireless Communication Device permission (under 4.5.3., above.))

4.13.4. *State-Specific Rules Apply.* A significant number of states have rules in place that are more restrictive than these Standards. A “most restrictive” analysis that would result in one Standard that would enable compliance with all state and federal rules may not be acceptable to all Members. At the same time, it exceeds the scope of these Standards to define the different rules governing the delivery of Prerecorded Messages in place across the United States. It is therefore up to each Member to ensure that all of its Outbound Prerecorded Message Calls are made in accordance with any and all applicable state rules governing such calls.

4.14. **Additional Best Practices: Outbound**

4.14.1. *Calling Frequency.* It shall be a violation of these Standards for any Member to repeatedly or continuously, with the intent to annoy, abuse, or harass, to: 1) cause any telephone to ring; 2) to leave Answering Machine messages; or, 3) to engage or attempt to engage any Consumer in telephone conversation.

4.14.2. *Line Disconnection.* Members making Outbound Calls shall ensure that the called Consumer’s telephone line is released within five seconds of the Consumer hanging up.

- 4.14.3. *Minimum/Maximum Ring Time.* All Outbound Sales Calls shall ring the called Consumer's phone at least four (4) complete rings or a total ring time of at least fifteen (15) seconds. Members shall also ensure that at no time is a Consumer's phone rung more than ten (10) complete rings or for a period of greater than forty (40) seconds.
- 4.14.4. *Permission to Continue.* Members shall comply with any state rule which requires a Service Rep, at the beginning of an Outbound Sales Call, to ask the Consumer so called for permission to continue with the call.
- 4.14.5. *No Rebuttal.* Members shall comply with any state rule which mandates the discontinuation of an Outbound Sales Call in the event the Consumer indicates that he/she is no longer interested in continuing with the Call (or words to that effect.)
- 4.14.6. *"Over 18" Inquiry.* Members shall comply with any state rule which mandates that a Service Rep making an Outbound Sales Call ask the called Consumer whether he/she is over the age of 18. In all such circumstances, the Seller and/or Service Bureau responsible for the Call may rely upon the representation made by the called Consumer in reply to this inquiry.
- 4.14.7. *Prohibited Calls.* All Members should adopt procedures reasonably designed to ensure that no Outbound Sales Calls are completed via any dialing method (in the absence of an emergency or with prior consent of the called party) to: 1) any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency; and, 2) the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment.
- 4.14.8. *No Random or Sequential Dialing.* Members shall not use equipment that generates phone numbers to be dialed either via a random method of creating phone numbers, or by sequentially dialing numbers.

5. INBOUND STANDARDS

5.1. *Implementation Guidance.*

- 5.1.1. These Standards apply to all Inbound Calls irrespective of the means by which the Call was generated and the purpose for which the Consumer is placing the Call.
- 5.1.2. Members recognize that in all instances of telephonic communication with Consumers, Consumers must be given all information reasonably

necessary to allow the Consumer to make informed purchasing decisions.

5.1.3. Members recognize that Consumers expect to receive prompt, courteous, and efficient service during all Inbound Calls, whether they relate to service or to sales.

5.1.4. As per the Definitions, Inbound Calls are divided according to the method by which the Call is answered (Live or IVR System) and by the purpose behind the Call's initiation by the Consumer (Sales or Service.) These Inbound Standards are divided according to these criteria.

5.2. *Disclosures – Inbound Calls.* The following disclosure Standards shall apply to Inbound Calls as indicated:

5.2.1. *Immediate Disclosures (All Inbound Calls).* The following information shall be disclosed immediately upon answering an Inbound Call: 1) the identity of the Seller; and, 2) information sufficient for the Consumer to identify the purpose for which the Seller established the telephone number called by the Consumer.

- Example: “You’ve reached XYZ Pharmaceutical’s automated prescription renewal line.”

5.2.1.1. For Inbound Live Calls, the Service Rep should provide his/her first name (fictitious names allowed, as per Section 4.8.6.2.3.)

- Example: “Hi, this is Jane with XYZ Computers’ Technical Support. How may I assist you today?”
- Example: “Hello, this is Jane with ABC Vacations’ Booking and Excursions Department. How may I help you today?”

5.2.1.2. *Special Requirements for Voicemail Only Response.* If the Inbound Call is to be answered by a Voicemail system that provides solely for one outgoing message followed by an opportunity for the Consumer to leave a message, the outgoing message to the Consumer must provide the name of the Seller and an invitation to the Consumer to leave a message. Sellers may also provide information to the Consumer during the outgoing Voicemail message regarding one (or more) alternative means of contact (e.g., email or mail). Any messages left by a Consumer on such a Voicemail system shall be reviewed and responded to by Seller (or its authorized representative) on a prompt and regular basis.

- 5.2.2. *Prompt Disclosures (Inbound Sales Calls).* For Inbound Sales Calls, the Service Rep (or IVR system, as appropriate) shall promptly provide information regarding the nature of the goods or services that the Consumer is interested in purchasing.
- 5.2.3. *Identification Disclosures - Upon Request (All Inbound Live Calls):* The following information should be provided to Consumers by Sellers' and Service Bureaus' Service Reps upon request by the Consumer at any time during the Call:
 - 5.2.3.1. A Service Rep should truthfully disclose the name of the Service Bureau by whom the Service Rep is employed, if asked for this information by a Consumer.
- 5.2.4. *Location Disclosures – Upon Request (All Inbound Live Calls).* A Service Rep shall truthfully disclose his/her location if asked for this information by a Consumer.
 - 5.2.4.1. This location information should include the city, state and country (if different than the United States) and/or other information as appropriate based upon the country where the Service Rep is located.
 - 5.2.4.2. No Seller and/or Service Bureau that accepts Inbound Calls from Consumers shall be obligated to re-route the Call from the location/country where the Call was received to any other location/country, even if the Consumer requests such a re-routing. Each Member shall handle such requests as it deems appropriate, based upon business need.
- 5.2.5. *Supervisor – Upon Request (All Inbound Live Calls).* Consumers should have the right to speak with a supervisor/manager of the Service Rep responsible for handling the Inbound Call, or in the alternative to be able to leave a message that will be routed promptly to the supervisor/manager in question. In all instances where the supervisor or manager is unavailable, the Consumer shall be given the ability to leave a message which shall be reviewed and responded to in a prompt and regular manner. A Service Rep should identify the Service Rep's immediate supervisor (or other such person with managerial oversight responsibilities for the Service Rep) by first name if asked for this information by the called Consumer.
- 5.2.6. *Inbound Upselling Disclosures (All Inbound Calls).* Members recognize that Consumers making an Inbound Call do so for a specific purpose, whether to have a specific service-related question answered, to inquire about and/or purchase a good or service, and/or for many other reasons. Where a Member attempts to Upsell a Consumer following

the completion of the initial interaction(s) and/or transaction(s) for which the Consumer initiated the Inbound Call, that Upsell shall be treated as a new telemarketing call, independently requiring adherence to all relevant provisions of these Standards. Specifically, with regard to disclosures:

- 5.2.6.1. The identification disclosures required and/or recommended in 4.8.5., 4.8.6, and 4.8.7, above, apply to the Upsell, but only to the extent these Upsell disclosures differ from the identification disclosures made in the transaction immediately prior to the attempted Upsell
 - Example. In an External Upsell (see Definitions) offered by the same Service Rep that completed an initial sale with the Consumer, it would be unnecessary to repeat the Service Rep's name. It would, however, be necessary to immediately provide the name of the External Seller on whose behalf the new offer is being made, as well as to promptly provide the nature of the new goods or services being offered, and also to provide the Consumer with a telephone number or address at which the Seller responsible for the Upsell may be contacted, as well as any prize promotion disclosures (if a prize is being offered in connection with the External Upsell.)

5.3. *Generally Applicable Standards (All Inbound Calls)*. The following Standards shall apply to all Inbound Calls:

5.3.1. The Consumers' "Bill of Rights" (above).

5.3.2. *In-House DNC for Inbound*. All telephone numbers held out to the public by any Seller as part of an advertising campaign (or otherwise) to induce the purchase of goods or services or as information or service lines shall be answered (when available) by Service Reps trained on accepting or processing In-House DNC requests. (Where a Service Rep is unavailable for any reason, such Calls shall be routed to an IVR or Voicemail system that shall have the capability during normal business hours of accepting a Consumer's In-House DNC request, if made.)

5.3.2.1. The terms of Section 4.4. (In-House DNC) shall apply to all In-House DNC requests made during any Inbound Call.

5.4. *Generally Applicable Standards (Inbound Sales Calls and Upsells)*. The following Standards shall apply to any Inbound Sales Call and/or to any Upsell during any Inbound Call:

- 5.4.1. Pre-purchase Disclosures (Section 4.8.9., above), but only if all such disclosures have not already been made to the Consumer via written materials delivered via mail, email and/or facsimile to the Consumer.
- 5.4.2. Billing Authorization Standards (Section 4.7.)
- 5.4.3. Call Monitoring Standards (Section 7.)
- 5.4.4. Recordkeeping Requirements as appropriate (Section 8.6.)

5.5. *IVR Systems (all Inbound Calls).*

5.5.1. *Implementation Guidance.*

- 5.5.1.1. Members shall design their IVR Systems in a manner that facilitates efficient and effective communication.
- 5.5.1.2. It is up to each Member to determine whether and how to deploy IVR Systems in a manner that maximizes Consumer satisfaction and ease of use while still taking advantage of the many efficiencies associated with IVR System technology.
- 5.5.2. *IVR Navigation.* Each Member shall in all instances seek to ensure that it is reasonably simple for Consumers to move through the IVR System, to exit the IVR System, or to otherwise achieve their goals within the System.
- 5.5.3. *Plain Language.* As with all communications between Sellers/Service Bureaus and Consumers, Sellers/Service Bureaus shall use plain language for prompts, questions and messages wherever possible when implementing an IVR System.
- 5.5.4. *Press "0" Acknowledgement.* Members recognize that some Consumers who make Inbound Calls press "0" in an attempt to bypass IVR Systems. Members shall therefore acknowledge this as a universal default action and program their IVR Systems to recognize and respond accordingly.
 - 5.5.4.1. Members shall announce to the Consumer information regarding alternative means of contact that may be available (e.g., voice, mail, e-mail, etc.) other than the IVR System.
 - 5.5.4.2. If the IVR System is the only method of communication offered to the Consumer, Members shall announce this and notify the Consumer that their call will route back into the IVR System.
 - 5.5.4.3. Where a Member enables bypass of its IVR System by routing the Consumer to a Service Rep, the Member may choose to

make use of key other than “0” (or a method other than key pressing) for this purpose.

5.5.5. *Interruption.* Consumers should always be able to interrupt prompts (via dial-through for touch-tone applications and/or via barge-in for speech applications) whenever doing so will enable the Consumer to complete his/her task more efficiently.

5.5.6. IVR Best Practices.

5.5.6.1. *Unnecessary Repetition.* Where a Member receives information via an IVR System from a Consumer, that Member should, where practicable and unless otherwise prohibited by state and/or federal law, ensure that the Consumer is not prompted to submit the same information again during the same Call.

5.5.6.2. *Prompts and Messages.* Members should ensure that prompts and messages in IVR Systems are clear and concise.

5.5.6.3. *Disconnection.* Members should ensure wherever possible that Consumers using IVR Systems are not disconnected for “user” errors (e.g., when there are no perceived key presses).

5.6. *Inbound Calls Resulting from Outbound Disclosure Standards.*

5.6.1. In accordance with the Outbound Standards, above, all Members making Outbound Sales Calls shall ensure that a phone number is disclosed to the called Consumer in the following circumstances: 1) Caller ID signal (Section 4.10.2.); 2) predictive dialer abandoned call message (Section 4.11.5.2.); 3) a message left on a Consumer’s answering machine by a Service Rep (Section 4.8.11.); 4) a message left on a Consumer’s answering machine via a Prerecorded Message Call (Section 4.13.2.8.); 5) standard “identification” disclosures (Section 4.8.7.); and 6) billing recording disclosure 4.7.3.2.2.; 7) number given during prize promotion disclosures (4.8.10.1.)

5.6.2. The terms of these Inbound Standards shall be followed for all such Calls.

5.6.3. The terms of Section 4.4. (In-House DNC) shall apply to all In-House DNC requests made during any of the above Inbound Calls.

5.7. *Outbound Follow Up Calls.* In any Inbound Call in which a Consumer (who is neither an Existing or Former Customer of the Seller) provides a Seller (or its Service Bureau) with a phone number and/or requests a follow-up Call (and does not make an In-House DNC request), this shall operate as an “Inquiry” for EBR purposes. (See Section 4.3.2.3., above.)

5.8. *Additional Best Practices: Inbound.*

- 5.8.1. *Language.* Default language shall be based on Consumer demographics as determined by each Member. Members may provide Consumers with the option of using languages different than the default language based upon business need.
- 5.8.2. *Clear Communication.* As with all communications under these Standards, all Inbound Service Reps of the Member should communicate with Consumers in a clear, easily understandable manner.

6. STATE REGISTRATIONS

- 6.1. Members recognize that many states require entities that make Outbound Calls as well as accept Inbound Calls to register with the state and, very often, post a bond. States may base these requirements on the type of Calls being made (Sales or otherwise), the means of making the call (live or Prerecorded Message), and/or the entity responsible for the Calls (Seller or Service Bureau.) All Members shall ensure that all such state registration/bonding requirements (irrespective of whether they apply to live Calls, Prerecorded Message Calls, Calls completed by specific technologies/devices, Sales or other types of Calls) are followed.

7. CALL MONITORING

- 7.1. All Members recognize the need to respect the privacy wishes of Consumers as reflected in state and federal rules governing call monitoring and recording. At the same time, Members recognize that call monitoring and recording is an absolute necessity for Sellers and Service Bureaus who must bill Consumers when making a sale as well as to provide quality assurance for the Calls.
- 7.2. There are three general rules that shall be followed when it comes to call monitoring (see below); individual Members shall seek out the advice of legal counsel and employ the following call monitoring Standards as appropriate based upon such advice and individual business needs:
- 7.2.1. *One-Party Consent.* For those jurisdictions that require only the consent of one party to a telephonic conversation when recording or monitoring the call, each Member shall ensure that such one-party consent is obtained from its employees who shall be making and/or receiving Calls.
- 7.2.1.1. Members shall obtain the express written consent of all Service Reps employed by the Member to conduct all necessary call monitoring and recording. This express written consent shall consist of: 1) acknowledgement by the Service Rep that call

monitoring and recording may take place during calls completed pursuant to the employment of the Service Rep; 2) acknowledgement by the Member that a phone (or phones) shall be made available to Service Reps that are not subject to such call monitoring and recording; and 3) the signature of the Service Rep.

7.2.2. *Two-Party Consent With No Exemption.* For those jurisdictions that require the consent of both (or all) parties to a telephonic conversation before such conversation can be monitored or recorded, and there is no exemption that would render such rule in effect a One-Party Consent rule, Members shall ask the called Consumer for his/her permission to be monitored and/or recorded during the Call (specific language and timing of this disclosure to be determined by individual Members based upon business need).

7.2.3. *Two-Party Consent With Exemption.* For those jurisdictions that require the consent of both (or all) parties to a telephonic conversation before such conversation can be monitored or recorded but specifically exempt certain types of calls, and the Member has determined that its calls are eligible for one (or more) of such exemption(s):

7.2.3.1. Members shall obtain the express written consent of all Service Reps employed by the Member to conduct all necessary call monitoring and recording. This express written consent shall consist of: 1) acknowledgement by the Service Rep that call monitoring and recording may take place during calls completed pursuant to the employment of the Service Rep; 2) acknowledgement by the Member that a phone (or phones) shall be made available to Service Reps that are not subject to such call monitoring and recording; and 3) the signature of the Service Rep.

7.3. A Member making a call from a One-Party Consent state to a Two-Party Consent state, or vice versa, must as appropriate determine, with the aid of legal counsel, whether to follow the rule of the state from which the Call originates or the state into which the Call terminates.

7.4. *Implied Consent Acceptable.* In those situations, based upon these Standards and advice of counsel, where it is necessary to obtain consent from the called Consumer for call monitoring/recording, the Consumer must expressly indicate that such consent is not forthcoming; otherwise, silence or an affirmative response shall serve to meet the requirements of "consent" for purposes of these Standards.

8. COMPLIANCE

8.1. *Implementation Guidance.* Members shall implement a compliance program which includes the following elements: written policies and procedures; employee training; monitoring; and recordkeeping.

8.2. All Members shall appoint one person to be that Member's Chief Compliance Officer (or other title as appropriate), who shall be responsible for ensuring compliance with these Standards as well as applicable State and Federal laws.

8.3. Policies and Procedures

8.3.1. *Implementation Guidance.* Members recognize that in order to track and measure the effectiveness of compliance programs, it is critical that internal written policies and procedures governing all of the elements referenced in these Standards are adopted. Members shall develop internal written policies and procedures implementing all applicable Standards. Members shall track and measure compliance with these Standards.

8.3.2. Each Member's written policies and procedures will necessarily differ based upon business practices and needs, however, any such written policies and procedures shall be based upon these Standards and shall include, at a minimum:

8.3.2.1. *National DNC compliance.*

8.3.2.1.1. Statement regarding scope of calling programs (if limited to specific states, or national, as appropriate).

8.3.2.1.2. Statement regarding the frequency of the Member's national DNC registry download.

8.3.2.1.3. Statement regarding the registration (or non-registration) of affiliates and subsidiaries of the Member to the national DNC registry, specifically describing the justification for non-registration (if applicable.)

8.3.2.2. *In-House DNC compliance.*

8.3.2.2.1. Statement regarding the dissemination of the Member's In-House DNC policy upon request for same by a Consumer, including the reasonable time frame within which such requests shall be honored.

8.3.2.2.2. A description of the process by which all in-house DNC requests are accepted and disseminated, either internally

and/or to/from external entities, as appropriate, and the means by which such requests are stored.

8.3.2.2.3. Statement regarding the speed with which such in-house DNC requests shall be honored.

8.3.2.2.4. Statement regarding what specifically constitutes (and does not constitute) an in-house DNC request by a Consumer.

8.3.2.3. *State DNC compliance.*

8.3.2.3.1. Statement regarding the Member's commitment to ensuring compliance with (as appropriate based upon business need and scope of calling operations) State DNC programs.

8.3.2.4. *Overall DNC compliance.* Statement regarding the Member's DNC compliance procedures and practices, to include:

8.3.2.4.1. Description of the process to be used by the Member to ensure DNC compliance in its Outbound Sales Calls campaigns.

8.3.2.4.2. Description of the process to be used by the Member in order to ensure compliance with the Wireless Calling Standards (Section 4.5.)

8.3.2.4.3. Description of the process to be used by the Member to properly make use of the EBR and express written permission exemptions to state and federal DNC laws.

8.3.2.4.4. Statement regarding the means by which the potential for human error is accounted for in the Member's DNC compliance procedures (i.e., "failsafe" DNC compliance.)

8.3.2.4.5. Members should make training materials available to all employees involved in Outbound Sales Calls that present, in easy to understand language and terms, information sufficient to explain the Member's DNC compliance program.

8.3.2.5. *Training Policies.* Specifics of the training program(s) in place, including frequency of same, for various levels of employee(s).

8.3.2.6. *Telemarketing Compliance Manual.* The above policies and procedures should be maintained as one compilation entitled the Member's "Telemarketing Compliance Manual." (For purposes of reference within these Standards, the compilation of such policies and procedures to be maintained by all Members shall be termed the "Telemarketing Compliance Manual.")

8.4. Training

- 8.4.1. Members shall train employees regarding the Member's compliance policies and procedures.
- 8.4.2. Training should be designed to educate employees about their specific duties and responsibilities.
- 8.4.3. Training should be consistent with the employee's level of responsibility.
- 8.4.4. All new employees shall receive compliance training as part of the hiring process, and all employees shall receive periodic training on at least an annual basis.
- 8.4.5. All employees shall be tested to determine whether they have achieved an acceptable level of understanding of the Member's compliance policies and procedures.
- 8.4.6. Members shall update all training materials upon any changes in its compliance policies and procedures and train employees regarding these changes.

8.5. Monitoring Procedures

- 8.5.1. Members commit to ensuring that regular testing and monitoring shall occur across all Standards as appropriate based upon each Member's business practices and needs.
- 8.5.2. The DNC-specific monitoring procedures outlined in 8.5.3., below, are based upon best practices culled from federal-level DNC enforcement actions, and as such are recommended practices for all Members.

8.5.3. *DNC Compliance:*

- 8.5.3.1. *DNC Escalation Plan.* All Members shall prepare and distribute a plan by which identified DNC process breakdowns are addressed. The plan must identify a clear path of successive levels of escalation, so that the Member can promptly identify and respond to data indicating a failure of DNC compliance.
- 8.5.3.2. All Members responsible for making Outbound Sales Calls should designate a "DNC Compliance Team" whose responsibility it shall be to ensure compliance with these Standards as well as applicable State and Federal laws.
- 8.5.3.3. *DNC Reports.* Sellers and Service Bureaus should ensure that reports containing information on In-House DNC requests and

DNC complaints filed by Consumers are created on a regular basis, the frequency of which to be based upon business need.

- 8.5.3.4. Sellers and Service Bureaus should ensure that summary information culled from the DNC reports (Section 8.5.3.3., above) are generated and reviewed by that Seller's or Service Bureau's DNC Compliance Team.
- 8.5.3.5. Sellers and Service Bureaus should ensure that Outbound Sales Call campaign reports summarizing the status of DNC compliance for each active Outbound Sales Call campaign are generated on a regular basis for review by the Seller's or Service Bureau's legal department and at the VP level (including the Chief Compliance Officer, as per Section 8.2., above.)
- 8.5.3.6. *"Failsafe" DNC Compliance:* Members may choose one of two options in order to implement the procedures necessary to account for the potential for human error in DNC compliance efforts: 1) employ Scrubbing across all Campaigns with regular testing of all Outbound Sales Calls to ensure that no Calls are being made in violation of state and/or federal DNC programs; and/or 2) employ Blocking technology across all telephone lines from which Outbound Calls are made.

8.6. RECORDKEEPING

- 8.6.1. *Implementation Guidance.* All Members recognize both the importance of maintaining compliance with these Standards as well as the importance of maintaining sufficient records such that such compliance can be conclusively established. Sellers, Service Bureaus, as well as Service Providers each must maintain separate records, as appropriate based upon business type and practices; all such entities shall also cooperate as necessary in order to ensure all Records required under these Standards are maintained.
- 8.6.2. In those instances where a Seller hires a Service Bureau to make or accept Calls on the Seller's behalf, it shall be up to the Seller and the Service Bureau to determine how to allocate the maintenance of the records outlined below.
- 8.6.3. At a minimum for every marketing program wherein Sales Calls are being made and/or accepted, the information below must be collected and maintained in a manner and format such that the information therein is readily accessible and produceable in the event of an investigation by any enforcement entity. Irrespective of the manner in which any Member maintains such information, in the event a Member is required to produce any or all of the records indicated below, such

Member should be able to respond in full within thirty (30) business days of the date the request was made.

8.6.4. *Federal DNC Records.*

8.6.4.1. All Members shall maintain all records necessary to establish compliance with Section 4.1., above.

8.6.4.2. In the event that an outside Service Bureau has undertaken responsibility for downloading the National DNC registry on behalf of one or more Sellers, such Service Bureau shall maintain proof sufficient to establish the dates on which the registry was downloaded on behalf of each such Seller. Service Bureaus shall maintain this information for a period of two years.

8.6.4.2.1. Sellers that allow outside Service Bureaus to download the National Registry on behalf of the Seller should require such outside Service Bureaus to provide to the Seller proof of such downloads on a regular basis.

8.6.5. *State Do Not Call Records.*

8.6.5.1. All Members shall maintain all records necessary to establish compliance with Section 4.2., above.

8.6.5.2. As appropriate based upon scope of Calls made, proof of all current registrations with state Do Not Call programs (which shall include the beginning and ending dates of same establishing uninterrupted compliance for as long as the entity has been making Outbound Calls into the state(s), or for three years, whichever period is shorter.)

8.6.5.2.1. Records establishing that state DNC list information was downloaded and the specific dates of all such downloads.

8.6.5.3. Where the Member determines that it is exempt from a specific state's DNC requirements, the Member must maintain proof of such exemption consisting of: 1) reason for exemption; 2) specific statutory reference supporting the exemption; and 3) supporting proof of eligibility for such exemption.

8.6.6. *Training Records.* All of a Member's employees, as appropriate based upon their scope of calling activity, as well as each Service Bureau hired by any Member, as applicable, shall acknowledge in writing that they have read, understand, and will abide by the terms of that entity's Telemarketing Compliance Manual (as per Section 8.3.2.6., above).

- 8.6.6.1. Acknowledgements of additional/supplemental training must also be in writing.
- 8.6.6.2. The Records maintained by Members regarding acknowledgement of training shall be maintained (as appropriate) for the duration of an employee's employment or for the duration of a Service Bureau's engagement by a Member and for a period of two (2) years thereafter.
- 8.6.7. *Predictive Dialer Records.* All Members shall ensure, whether they themselves are responsible for the generation of Outbound Sales Calls via predictive dialers, or if outside Service Bureaus are hired for such calls, that the following information is reported and maintained for a period of two years:
 - 8.6.7.1. Summary and other information establishing that the abandonment rate was kept to 3% or below as required by these Standards and applicable law.
 - 8.6.7.1.1. Members may maintain screenshots of predictive dialer settings to establish standard business practices relating to predictive dialer usage to establish that the dialer(s) was/were set to maintain a maximum 3% abandonment rate.
 - 8.6.7.1.2. Members shall maintain all call disposition reports generated by all predictive dialers in use for a period of two years.
 - 8.6.7.2. Proof that for all Outbound Sales Calls which result in a connection to the Consumer's phone, the Consumer's phone was allowed to ring for fifteen (15) seconds or four full rings.
 - 8.6.7.2.1. Members may maintain screenshots, as per 8.6.7.1.1., above, for this purpose.
 - 8.6.7.3. Proof that for all Abandoned Calls a recorded message was played within two seconds of the called person's completed greeting, and that no solicitation was made during this recorded message.
 - 8.6.7.3.1. Members may maintain screenshots, as per 8.6.7.1.1., above, for this purpose.
 - 8.6.7.3.2. Members shall maintain copies of all recorded messages played in the context of Outbound Sales Calls completed via predictive dialers (and written scripts for same, if available).

8.6.7.4. Records sufficient to establish that no calls were completed by predictive dialer to area codes/exchanges set aside for Wireless Communication Devices and newly “ported” Wireless Communication Device numbers.

8.6.7.4.1. Members shall maintain records to provide proof that the Neustar ported number list was downloaded and deployed as appropriate at least every fifteen (15) days.

8.6.8. *In-House DNC Requests.*

8.6.8.1. All Members shall maintain all records necessary to establish compliance with Section 4.4., above.

8.6.8.2. Members shall maintain records regarding all complaints from Consumers related to a Member’s failure to abide by that Consumer’s In-House DNC Request for a period of five years.

8.6.8.3. Members shall maintain records regarding the removal of disconnected numbers from In-House DNC lists (as per 4.4.6.1., above) for a period of five years.

8.6.8.4. Members shall maintain records establishing that all In-House DNC requests were honored within thirty (30) days or any applicable shorter time frame (as per Section 4.4.5., above.)

8.6.8.4.1. Sellers employing outside Service Bureaus shall require such outside Service Bureaus to generate reports and to forward same to the Seller on a regular basis (the frequency of which to be based upon business need) that contain information regarding all In-House DNC requests accepted by the Service Bureau on behalf of the Seller. These Reports should be maintained for a period of five (5) years.

8.6.9. *State Commercial registration.*

8.6.9.1. Proof of current commercial registration as appropriate (which shall include the beginning and ending dates of same establishing uninterrupted compliance for as long as the entity has been making Outbound Sales Calls into the state(s) in question or for three years, whichever period is shorter).

8.6.9.2. Proof that a bond was submitted as appropriate based each such state’s rules (which shall include the beginning and ending dates of such bond(s) establishing uninterrupted compliance, as above.)

8.6.9.3. Where the Member determines that it is exempt from a specific state's commercial registration requirement, the Member must maintain proof of such exemption consisting of: 1) reason for exemption; 2) specific statutory reference supporting the exemption; and 3) supporting proof of eligibility for such exemption.

8.6.10. *Additional Recordkeeping Rules.* All Members shall, as appropriate, maintain the following records for a period of two years:

8.6.10.1. All substantially different advertising and promotional material and scripts.

8.6.10.2. Information about prize recipients (including name, last known address, and prize awarded for all prizes with a value of \$25 or more.)

8.6.10.3. Records of completed sales transactions (including name and last known address of the customer; the specific goods or services purchased; the date the goods or services were provided to the customer; and the total amount paid by the customer.

8.6.10.4. Employee records for all current and former employees directly involved in Outbound Sales Calls (including name; fictitious name used (if any); last known home address and phone number; and job title.)

8.6.10.5. All records of Billing Authorizations as required under 4.7., above.

9. CALLS BY CHARITIES

9.1. *Implementation Guidance.* The following Standards apply to all Outbound and Inbound Calls initiated or accepted by a Charity and/or the Charity's Service Bureau. These Standards draw no distinction between:

9.1.1. Calls made directly by a Charity, or on behalf of a Charity by any other entity;

9.1.2. a solicitation of a donation from a Consumer, and an offer of a good or service requiring payment from a Consumer wherein some or all of the payment submitted is earmarked for Charitable purposes; and

9.1.3. a solicitation by a Charity to obtain volunteer services from a Consumer, and either solicitation in 9.1.1. and 9.1.2., immediately above.

9.1.4. In addition, the assumption made under these Standards is that Consumer's have a reasonable expectation to be treated with the same courtesy and respect irrespective of whether a Call is generated to them by a Seller or a Charity. Accordingly, for purposes of this Section on Calls by Charities (as well as those Standards incorporated by reference within this Section), all Definitions shall apply along with the following additional definitions and amendments:

9.1.4.1. the term "**Contribution**" shall refer to any instance whereby a Consumer provides funds or volunteer services to a Charity for charitable purposes. A Contribution therefore includes a direct donation of funds, a purchase of goods or services for the purpose of raising funds for charitable purposes, and/or agreeing to provide volunteer services to a Charity.

9.1.4.2. the term "**Seller**" shall apply to a Charity soliciting Contributions, via Outbound or Inbound Calls, whether the solicitation is conducted by the Charity itself or by a Service Bureau hired by the Charity for that purpose. (For ease of reference, the term "**Charity-Seller**" shall be used throughout this Section.)

9.1.4.3. The term "**Contribution Call**" is adopted for ease of reference for purposes of these Standards governing Calls by Charities. The term "Contribution Call" shall take the place of the term "Sales Call" where this Section on Charity Calls refers to other Sections of these Standards. Accordingly:

9.1.4.3.1. the term "Contribution Call" shall apply to: 1) an Outbound Call initiated by a Charity-Seller (or its Service Bureau) for the purpose of encouraging or inducing a Consumer to make

a Contribution, which is transmitted to any Consumer; 2) an Inbound Call initiated by a Consumer to the Charity-Seller (or its Service Bureau) making use of a telephone number expressly created and held out by the Charity-Seller in advertisements or otherwise as a means for a Consumer to contact the Charity-Seller for the purpose of making a Contribution and/or to make inquiries for information regarding same; 3) an Inbound Call initiated by a Consumer to a Charity-Seller (or its Service Bureau) wherein the Consumer's primary purpose is to make a Contribution to the Charity-Seller; 4) a Lead Generation call; and/or 5) a Mixed Use Call.

- 9.1.4.4. The term "**Service Call**" shall apply to: 1) an Inbound Call initiated by a Consumer to a Charity-Seller (or its Service Bureau) making use of a telephone number expressly created and held out by the Charity-Seller as a means for a Consumer to contact the Charity-Seller for the purpose of requesting information and/or seeking guidance with regard to any Contribution(s) previously made by the Consumer to the Charity-Seller; 2) an Inbound Call initiated by a Consumer to a Charity-Seller (or its Service Bureau) wherein the Consumer's primary purpose is to request information and/or seek guidance with regard to Contributions previously made to that Charity-Seller; and/or 3) an Inbound Call from a Consumer to a Charity-Seller that is not an Inbound Sales Call.

9.2. Outbound Calls by Charities. Specific Standards as applied to Outbound Call by Charities are as follows:

9.2.1. *National Do Not Call Registry.* Charity-Sellers are under no obligation to comply with the National DNC Registry. Individual Charities may, based upon business needs and practices, choose to comply with all provisions outlined in Section 4.1. of these Standards, except to the extent that payment for access to the National Do Not Call Registry is not required.

9.2.2. *State Do Not Call.*

9.2.2.1. Except as provided below, Charity-Sellers are under no obligation to comply with individual State DNC programs, where such programs specifically exempt all Contribution Calls made by the Charity-Seller and/or a Service Bureau hired by the Charity-Seller.

9.2.2.2. Where any State requires DNC compliance by a Service Bureau hired by a Charity-Seller, all Charity-Sellers (whether making

Contribution Calls on their own behalf or making use of a Service Bureau) shall comply with that State's DNC requirements.

- 9.2.2.3. Members recognize that individual States may require Charity-Sellers making Contribution Calls to comply with that State's DNC program where the Contribution Call offers goods and/or services for sale to Consumers. All Members shall, as appropriate, comply with such state DNC rules.

- 9.2.2.3.1. When Sections 9.2.2.2. and/or 9.2.2.3. require compliance by a Charity-Seller with one or more State DNC program, all of the remaining terms of Section 4.2. shall be followed, as applicable.

9.2.3. *Exceptions to National, State DNC Standards.*

- 9.2.3.1. Charity-Sellers complying with National Registry and/or State DNC List rules, as per the terms of Sections 9.2.1. and 9.2.2., above, may make use of, and shall comply with all the terms of, Section 4.3. of these Standards.

- 9.2.4. *"In-House" Do Not Call.* Charity-Sellers making Contribution Calls shall comply with all In-House DNC Standards as outlined in Section 4.4., above.

- 9.2.5. *Wireless Calling.* Charity-Sellers making Contribution Calls shall comply with all Wireless Calling Standards as outlined in Section 4.5., above.

- 9.2.6. *Overall DNC Compliance.* As applicable, Charity-Sellers making Contribution Calls shall comply with all DNC Compliance Standards as outlined in Section 4.6., above.

- 9.2.7. *Billing Authorizations.* Charity-Sellers shall comply with all Billing Authorization Standards as outlined in Section 4.7., above.

- 9.2.8. *Disclosure Requirements.* Charity-Sellers making Contribution Calls shall comply with all Disclosure Standards, as applicable, as outlined in Section 4.8., above. Except as provided below, the specifics of ensuring such Disclosure compliance shall be left to each individual Charity-Seller Members, as appropriate based upon business needs and practices.

- 9.2.9. Charity-Sellers shall make the following "immediate" disclosures:

- 9.2.9.1. *First name of Service Rep.* (See 4.8.6.2., above.)

- 9.2.9.2. *Identity of the Charity.* All Charity-Sellers (and Service Bureaus retained by Charity-Sellers) to make Contribution Calls shall immediately disclose the name of the Charity responsible for the Contribution Call. The name disclosed shall be the name of the Charity as registered with State authorities (where the State in question has such requirements) or the name of the Charity as disclosed to the IRS for purposes of obtaining 501(c)(3) exempt status.
- 9.2.9.3. *Purpose of the Call.* All Charity-Sellers making Contribution Calls shall immediately describe the purpose of the Call in a manner that makes it clear to the Consumer that he/she is being contacted by a Charity seeking Contributions. The specifics of this language is left to each individual Member, based upon business need.
- 9.2.9.4. *Nature of the Goods or Services.* As appropriate, where the Charity-Seller is offering goods and/or services for sale, a brief description of such goods/services shall be immediately offered to the Consumer.
- 9.2.9.5. *Contribution Percentage Disclosures.* A Charity-Seller shall not be required to disclose to the Consumer, either proactively or upon request of the Consumer, the percentage of the Contributions collected that ultimately are paid out to a Charitable entity or purpose. If, however, any such disclosure is made to the Consumer, the Charity shall not misrepresent this information and shall base this disclosure upon the most up-to-date information available with regard to such disbursements.
- 9.2.9.6. *No Misrepresentations.* No Charity-Seller shall make a false or misleading statement to induce a Contribution. Specifically, Charity-Sellers shall not misrepresent (directly or indirectly), any of the following information:
- 9.2.9.6.1. the nature, purpose, or mission of the Charity;
 - 9.2.9.6.2. that any Contribution is tax-deductible;
 - 9.2.9.6.3. the purpose for which the Contribution will be used;
 - 9.2.9.6.4. any material aspect of a prize promotion (e.g., odds of winning, value of the prize, or that a Contribution is necessary in order to win the prize);
 - 9.2.9.6.5. any affiliations, endorsements or sponsorships by any person or government entity.

9.2.10. *Upsells During Outbound Calls.* Charity-Sellers shall comply with all Upsell Standards as outlined in 4.9., above.

9.2.11. *Caller ID Transmission.* Charity-Sellers shall comply with all Caller ID Standards as outlined in 4.10., above.

9.2.12. *Calling Time Restrictions.* Charity-Sellers shall comply with all Calling Time Standards as outlined in 4.12., above.

9.2.13. *Pre-recorded Messages.* Charity-Sellers shall comply with all Pre-recorded message Standards as outlined in 4.13., above.

9.2.14. *Additional Best Practices.* Charity-Sellers shall comply with all Additional Outbound Best Practices as outlined in 4.14., above.

9.3. **Inbound Calls to Charities.** To the extent a Charity seeks to generate Inbound Calls from Consumers aimed at generating Contributions, and/or to the extent a Charity accepts Service Calls from Consumers, all Inbound Standards as outlined in Section 5 shall apply.

9.4. **State Registrations.** Members recognize Charities are subject to a set of specific registration and other regulations at the state level. All Members shall ensure that all such state requirements are followed.

9.5. **Call Monitoring.** Charity-Sellers shall comply with all Call Monitoring Standards as outlined in Section 7, above.

9.6. **Training.** Charity-Sellers shall comply with all Training Standards as outlined in Section 8.4., above.

9.7. **Policies/Procedures; Compliance Monitoring; Recordkeeping:** Charity-Sellers shall comply with all provisions of Sections 8.3., 8.5., and 8.6., above, as appropriate.

10. **BUSINESS-TO-BUSINESS (“B2B”) CALLS. [under development]**

11. **POLITICAL CALL STANDARDS. [under development]**

12. **PRIVACY STANDARDS.**

12.1. *Implementation Guidance.* All Members recognize that information and the processes, systems and networks that support information security are critically important business assets. All Members that collect, maintain and/or store Personally Identifiable Information (PII) must proactively address security threats from both external and internal sources, and diligently work to prevent instances of data breach, theft, and loss. All Members must also respect the needs of Consumers to maintain control of and ultimate authority over their PII.

- 12.2. Members that collect, use, store or disclose PII for any purpose shall comply with all state and federal rules impacting such practices (including, as appropriate, the Federal Trade Commission Act (FTC Act), the Gramm Leach Bliley Act (GLBA), the Health Insurance Portability and Accountability Act (HIPAA), the Fair Credit Reporting Act (FCRA), and state data breach notification statutes.)
- 12.3. Members that collect, maintain, and/or store credit and/or debit card data shall ensure that their internal network, communication, and data storage systems are fully compliant with the Payment Card Industry (PCI) Standards.
 - 12.3.1. *Credit/debit card data encryption.* Members shall not disclose or receive, for consideration, unencrypted consumer account numbers for use in telemarketing, except when the disclosure or receipt is to process a payment for goods or services (or a charitable contribution) pursuant to a transaction.
- 12.4. All Members that collect, maintain, and/or store PII should ensure that their processes, systems and networks meet all the practices recommended in the International Organization for Standards' publication "Information Technology - Security Techniques - Code of Practice for Information Security Management." (ISO 17799).
- 12.5. No Member shall make PII available to any other person or entity when the Member knows, or consciously avoids knowing, that the other person or entity is engaged in any practice that violates these Standards or any state or federal law applicable to teleservices and/or PII.
- 12.6. A Member shall not supply, promote, advertise or offer to supply PII to any other person or entity unless the Member is also the owner of the PII and can demonstrate that the PII was collected and will be disclosed in accordance with these Standards.
 - 12.6.1. Where the Member is not the owner of the PII, the Member supplying, promoting, advertising, or offering to supply the PII shall obtain written confirmation from the data owner that the PII has been collected and will be disclosed in accordance with these Standards.