

# CONFLICTS OF INTEREST AND ETHICAL BUSINESS PRACTICES

## I. OBJECTIVE

To establish guidelines covering potential situations which may involve a conflict of interest between an employee's personal interest and his or her duties to the Company\* and concerning compliance with the requirements of law and ethical business practices of the Company.

## II. POLICY STATEMENT

### CONFLICTS OF INTEREST

Each employee of the Company is expected to avoid situations which involve a conflict of interest between the employee's personal interests and his or her duties to the Company.

A "conflict of interest" is defined as any activity, investment, interest, or association which interferes with the independent exercise of the employee's judgment and best efforts on the Company's behalf.

Ordinarily a person who applies good judgment will know whether or not a particular situation involves an actual or possible conflict of interest without the need for specific and all-encompassing rules.

Conflicts of interest most often occur when an employee, or a member of his or her immediate family, obtains some personal benefit at the expense of the Company's best interests. It is not possible to enumerate every circumstance that would give rise to a potential conflict of interest, but the following list should serve as a guide to the types of activities, among others, that might constitute such a conflict of interest:

#### 1. Investment in or Provision of Services to Certain Firms and Persons

Employment by, service as a director, consultant or independent contractor to, or having a financial interest in or business relationship with, any entity that competes with the Company or that does business with the Company in any capacity (including concerns doing business as a supplier of products or services to the Company or as a customer or distributor of the Company). Engaging in any other transaction involving the Company if the employee, or a close relative, has a substantial interest in the transaction and can benefit, directly or indirectly, except through his or her normal compensation from the Company.

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\* The "Company" as used in this policy means Harry & David Holdings, Inc., a Delaware corporation, and any partially or wholly owned domestic or foreign subsidiary or division.

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An investment in stock or debentures amounting to less than one percent of the securities of a publicly-owned corporation which is listed on a national exchange or on NASDAQ, would not ordinarily constitute a conflict of interest, provided that such investment was made or acquired as a part of a general investment program.

### 2. Service on the Board of Certain Firms

The Clayton Act (A Federal antitrust law) generally prohibits a person at any time from acting as a director or officer of two or more corporations which are or were competitors. "Competitors" are defined as corporations in competition by virtue of their business and location of operations. Usually the meaning and application of the term "competitors" will require legal assistance. As a matter of Company policy, directors, officers, and employees of the Company should generally not serve as a director or officer of a competitor, customer, or supplier.

### 3. Receipt of Benefits

Acceptance from a competitor of the Company of any benefit, other than: a reasonable business meal; or a gift or advertising novelty of a nominal value given generally and publicly to a number of the firm's competitors.

Acceptance from an outside firm which does business with the Company, of any of the following:

- compensation;
- gifts of more than nominal value (other than gifts given in certain countries as a matter of courtesy in accordance with local custom);
- loans in any amounts (except from established financial institutions engaged in the business of making such loans, and on an arm's length basis);
- services other than those of a nominal value provided to customers generally;
- the gratuitous use of property or entertainment facilities, lavish entertainment, or substantial favors of any nature; or
- partially or wholly expense-paid trips (transportation, lodging, meals and/or recreational fees or other expenses) if the trip is:
  - for purely personal benefit;\*
  - solely for recreational or networking purposes;\*
  - for a business purpose or a mixed business and recreational purpose, unless it is approved as specified below in advance by the Senior Vice President in charge of the employee's area (or, if the Senior Vice

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\* If the trip is for purely personal benefit or solely for recreational or networking purposes, it should not be accepted, even if the Company were to reimburse the other company providing the benefit.

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President is the one involved, the person to whom he or she reports).  
(If there is a significant recreational purpose to the business trip, the  
Company should pay for, or reimburse the sponsoring firm for, all  
benefits provided to the employee.)

A Senior Vice President (or the person to whom he or she reports) may approve receipt of a partially or wholly expense-paid trip only if all of the following conditions are met:

- there is a strong business purpose to the trip;
- the benefit is commonly provided to customers and is not excessive;
- the employee and the Senior Vice President are certain that receipt of the benefit would not influence the employee's business decisions or actions with respect to the firm involved; and
- the Senior Vice President believes that under all of the circumstances, acceptance of the benefit is appropriate and in the best interests of the Company. (Rarely would it be appropriate to accept a wholly expense-paid trip.)

Reasonable business meals, and locally sponsored seminars or social or recreational events, may be accepted if they are normal and reasonable in nature and amount, they do not interfere with the independent exercise of the employee's judgment and best efforts on the Company's behalf, and the employee appropriately reciprocates if it is reasonably possible to do so.

If a gift or benefit in excess of that permitted above is received, it should be returned promptly with a courteous reply to the effect that the policy of the Company prevents its acceptance.

#### 4. Competitive Activity

##### a. Competition

Directly or indirectly competing with the Company will be considered a conflict of interest.

##### b. Aid to Competitors

It will be considered a conflict of interest for an employee of the Company to disclose directly or indirectly any of the Company's confidential information or to provide directly or indirectly to a competitor any aid that is detrimental to the Company.

### ETHICAL BUSINESS PRACTICES

This statement of Policy is predicated upon the fundamental and abiding respect by the Company for law and ethical business practices, and a realization that the Company's

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overall interests and those of its employees, stockholders, and the public are best served by compliance with the requirements of law and ethical business practices.

The Company values its reputation for integrity and honesty in the business and social community and has strived to achieve a high standard of ethical business practices. In no event shall the Company's business practices be less ethical than those that would be required by the economic and social priorities of the locale, whether domestic or foreign, in which it operates.

Even though standards of ethics may vary in different business environments, it is the Company's policy that the honesty and integrity of its people, as well as the high quality of its products, shall consistently characterize its business activities. Further, it is the Company's policy not to permit any persons affiliated with it to achieve results at the cost of violating laws and regulations, or through unscrupulous dealings.

The integrity and reputation of the Company should never be compromised. An attitude must be maintained within the Company that unethical or illegal actions are not acceptable.

In order to effectuate the foregoing Policy, all employees of the Company shall adhere to the following guidelines:

1. Use of Funds for Certain Purposes

No Company funds shall be used for any unlawful purpose. No undisclosed or unrecorded funds or assets shall be established or maintained for any purpose.

2. Payments to Certain Persons

No payment shall be made or authorized and nothing else of value shall be given on behalf of the Company, directly or indirectly, to any person, including, but not limited to, suppliers, customers, government officials or political candidates or parties, if such payment constitutes a bribe or kickback or otherwise is for the purpose of influencing the recipient in his or her official capacity, or inducing the recipient to use his or her influence elsewhere in order to obtain or retain business or to direct business to any person. This prohibition shall not apply to providing free samples of the Company's products, in the normal course of business, to customers or potential customers, in order to demonstrate to them the quality and value of the Company's products.

3. Accurate Books and Records

The books and records of the Company shall properly and accurately reflect all transactions of the Company and no payment shall be made or approved nor shall anything else of value be given on behalf of the Company with the intention or understanding that any part thereof is to be used for any purpose other than that described by the documents supporting the payment.

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### 4. Appropriation of Competitive Information

The Company and its employees shall obtain and use information from other companies in an ethical and legal manner.

#### a. No Misappropriation of Trade Secrets

Each employee must ensure that he or she does not appropriate trade secrets of another company without the owner's consent.

#### b. Electronic Access and Computer Storage.

Employees must not download, access, or store at a Company facility, or on its computing resources, unauthorized trade secret information.

#### c. Contractor, Vendor and other Non-Employee Contacts.

Employees must not accept from a contractor, vendor or other non-employee, confidential information which is obtained, or provided, without the owner's consent.

#### d. Former Employer.

Employees must not use trade secrets of a former employer without consent.

### 5. Compliance with Laws

The Company and its employees, in relation to the Company's affairs, shall follow a standard of strict compliance with all applicable laws and regulations, including, but not limited to, political contributions, lobbying representation, and corrupt practices.

Each manager must be aware of, and will be held by the Company to be accountable for, the ethical quality of behavior, within a business context, of the people managed.

## **III. RESPONSIBILITY AND IMPLEMENTATION**

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Upon hire, every new employee will be provided with a copy of this Policy and will be required to sign a statement acknowledging receipt of the Policy. Responsibility for implementing this procedure shall be with the Human Resources Department of the company hiring the employee.

Each manager shall discharge the responsibilities of his or her office in full compliance with these Policy statements. The manager shall also make these Policy statements

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known to all personnel under the manager's direction and be responsible for adherence to them. Furthermore, it is the responsibility of every employee of the Company who in any way may affect the Company's compliance with the laws and standards of ethical and moral conduct to carry out these Policy statements.

Each employee should promptly and fully consult with his or her manager and with the Office of General Counsel if he or she has a question as to the application or interpretation of this Policy, or in relation to any situation which involves a conflict of interest, or which is unclear and which might involve a conflict of interest, or which involves an unethical business practice, or which is unclear and which might involve an unethical business practice (see Part II. above), whether such transaction involves the disclosing employee or any other employee of the Company. It shall be the responsibility of the person to whom such matters are reported to review each matter presented and to seek such further assistance or advice and to take such action as the situation requires.

The Company's Executive Vice President and Chief Financial Officer has overall responsibility to oversee compliance with the standards and procedures relating to those portions of this Policy grounded in the Foreign Corrupt Practices Act (primarily Sections 1 through 3 of the "Ethical Business Practices" section of this Policy). The Senior Vice President, General Counsel of the Company has overall responsibility to oversee compliance with the standards and procedures relating to the remaining portions of this Policy.

Only the Chief Executive Officer of the Company shall have the authority to consent to the existence or continuation of a possible conflict of interest or a possible violation of high ethical business practices, and this consent will be given only upon his or her determination that the existence or continuation of such situation does not result in an actual conflict of interest or actual unethical business practice, and that the existence or continuation of the situation is in the best interest of the Company and its stockholders.

Any significant infraction of these Policy statements or applicable laws or of recognized ethical/moral business standards will subject an employee to disciplinary action which may include reprimand, probation, suspension, reduction in salary and/or other compensation, demotion, or dismissal, depending on the seriousness of the offense. In addition, disciplinary measures will apply to any manager who directs or approves such actions, or has knowledge of them and does not act promptly to correct them. Appropriate actions will also be taken if any manager fails to carry out his or her responsibility to ensure that employees are adequately informed regarding Company policy or moral, legal and ethical principles.

The term "employee" as used in this document includes all officers as well as non-officer employees of the Company and any partially or wholly owned domestic or foreign subsidiary.

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### ANNUAL STATEMENT

In order to assure the Company of compliance with these Policy statements, a copy of this Policy on Conflicts of Interest and Ethical Business Practices will be sent to all officers and employees on an annual basis. In addition, a Questionnaire Relating to Conflicts of Interest and Ethical Business Practices will be sent as frequently as once each year to all manager-level employees and above, and to other employees with purchasing-related or certain other functions. The Questionnaires will also be sent to all employees of foreign subsidiaries who are at the manager-level and above, as well as to all foreign employees with purchasing-related or certain other functions.