

# Standards of Conduct

Effective: October 6, 2009



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# VEHICLE PROTECTION ASSOCIATION STANDARDS OF CONDUCT

## *Preamble*

Sound business practices and redundant standards result in business longevity and a solid reputation. Members of the Vehicle Protection Association (“Association” or “VPA”) subscribe to this principle. Members agree to the Standards of Conduct herein to ensure that a consumer’s experience with a Member is exemplary. Because Members perform different functions, not all of the Standards in the Association’s Standards of Conduct may apply to each Member. A Member must comply with all standards that apply to his or her business.

The Standards of Conduct are intended to guide the Association’s Member in the ethical conduct of business with consumers. All Members must conduct business in a manner that supports the Standards’ aims and principles. These Standards acknowledge that industry and consumers are best served when industry enacts self-regulatory measures, and as such, self-regulation is preferable to governmental mandates. Self-regulatory actions are more readily adaptable to changing techniques and economic and social conditions. They encourage widespread use of sound business practices.

Because dishonest, misleading or offensive communications discredit all members of the industry, Members should take reasonable steps to encourage other industry members to follow these Standards as well. The Association’s goal is to enhance the customer experience by providing training, establishing cohesive standards, defining quality products and reliable services while establishing a self regulatory mechanism.

## **Standards**

This document serves as the Association's Standards of Conduct for its members. Members shall truthfully and accurately answer all inquiries, to the best of their knowledge, made by the Association during an investigation of a potential violation of these Standards.

These Standards create a floor, not a ceiling; therefore, no Member is precluded from implementing policies and procedures that provide greater consumer protections than these Standards. Not all of these Standards will apply to all Members, and other controls in addition to these Standards may be required. Where there is a conflict between these Standards and any state and/or federal rule governing practices and procedures, the controlling state or federal rule prevails. Whenever a question exists as to the scope of the applicability of any of these Standards, the assumption is that such Standard should be interpreted broadly to protect consumers' interests to the maximum extent possible.

## Basic Standards

- Members shall operate in accordance with laws and regulations of the Federal Trade Commission, the Federal Communications Commission, the Federal Reserve Board, the United States Postal Service and all other applicable federal, state, and local regulations and laws. Members shall conduct due diligence to ensure that the companies with whom they do business are also complying with the law. Merely relying on a contract provision requiring the parties to comply with all applicable laws, when the member has reason to believe that a business party is not operating consistent with legal requirements, is not sufficient to meet this standard.
- Members shall not use in their company name, advertisements, sales solicitations or any other description of their products, words such as “warranty,” “dealer,” “dealership,” “manufacturer” (including actual manufacturer’s name; *e.g.* “Ford”) or any other words that falsely imply that the company is somehow associated with the manufacturer of the motor vehicle. Members may use these words to describe the coverage the consumer currently has on their vehicle.

It is the totality of the sales presentation that determines whether the presentation is deceptive or not. Thus, it is possible to comply with this Standard and still have a script or sales presentation that is deceptive. Members who choose to use these words must, therefore, insure that their scripts in totality are not deceptive and must monitor sales presentations to insure that their sales representatives who use these words do not do so in a deceptive manner.

- Members shall not use in their company name, advertisements, sales solicitations or any other description of their products, words such as “insurance,” “surety,” “mutual” or any other words descriptive of the insurance, casualty or surety business, or a name deceptively similar to the name or description of any insurance or surety corporation.
- Members shall not create a *false* and misleading sense of urgency in their marketing materials. Members must be able to substantiate any claim of urgency *before* they distribute a marketing piece. For example, a member shall not use language that indicates that a consumer’s warranty is expiring unless they possess information that establishes that the consumer’s current warranty will expire within a reasonable time in the near future.
- Members shall not make an offer that gives a *false* and misleading sense of exclusivity unless it is true. For example, a member shall not claim that an offer is “exclusive” or that the consumer was “preselected” unless that is true and the member only makes the offer to a select number of potential customers.

- Members shall not indicate that an offer is for “a limited time” or that the offer “will expire” unless the member is prepared to change or refuse to honor the original offer after the stated time period ends and be able to substantiate a reasonable limited time for the offer.

Members may also use this phrase if they have actual knowledge that the consumer’s vehicle is within 7500 miles or 6 months of no longer qualifying for exclusionary coverage or if they have actual knowledge of an impending rate increases.

- Members shall not communicate with customers so as to infer that they are agents of the vehicle manufacturer if such is not the case. If a member refers to a manufacturer or dealer in a marketing piece, it must also disclose in the piece in a clear and conspicuous manner that it is not affiliated with those entities or state that it is an independent company selling vehicle service contracts.
- Members shall make a voice confirmation disclosure for all phone sales that includes all of the information contained in Appendix A, including but not limited to, the requirement to obtain express consent from the consumer to charge his or her credit or debit card. Appendix A represents the minimum confirmation disclosure requirements. Members may include additional disclosures not contained therein.
- Members shall record all phone sales from start to finish, including but not limited to, the voice confirmation disclosure and corresponding consumer consent. These recordings shall be available on demand to the administrator, payment processing company and Association. The equipment used for the recording must be PCI compliant so that the consumer’s credit card number or ACH information are not recorded. The fact that the call is being recorded must be disclosed to the customer at the beginning of the call, and customer representatives must not have the ability to pause the recording other than to avoid recording credit card information.
- Members shall maintain coverage to adequately fund claims and cancellations, such that claims and cancellations can be timely honored.
- Members shall provide the purchaser with a copy of the contract. Members must provide the consumer’s service contract electronically or mail the contract to the consumer within three (3) business days of when the consumer agrees to purchase the contract. Product warranty providers must overnight the contract to the product provider. The product provider must mail the product and the contract within five (5) days of receiving it. Upon request, a Member must provide a consumer with a copy of the contract prior to purchase.

The contract shall be dated, clearly written in understandable language and printed or typed in easy to read type. The form of contract shall contain certain specific information including the price, products and services covered, limitations, exclusions, deductible amounts and other significant information (such as the initial payment) and must comply with all applicable state law requirements. The Member or its fulfillment company shall maintain evidence that they sent the consumer their contract and when it was sent.

- Members shall employ an adequate staff to promptly respond to customer service inquiries and telephone calls.
- Members shall permit and honor a consumer's request to opt out of receiving future marketing pieces and/or telephone solicitations.
- Members shall not knowingly sell a consumer duplicative coverage of a warranty or service contract that the consumer already possesses.
- Members shall not sell personal information that the consumer has provided during a sale to other companies for marketing purposes without the consumer's knowledge or choice.
- Members shall not use consumers' personal information obtained from a state department of motor vehicles for any unauthorized use in violation of 18 U.S.C. 2721 *et seq.* or any similar state laws.
- Members shall appoint a representative of the company to serve as its compliance officer. The compliance officer's duties shall include ensuring that the Member is complying with all state and federal laws and regulations, as well as the guidelines set forth in the Standards of Conduct.
- Members shall meet all state licensing and marketing requirements applicable to the industry.
- Members shall conduct criminal background on all newly hired employees.

## Advertising

- Members shall be prepared to substantiate any claims or offers made. Advertisements or specific claims that are untrue, misleading, deceptive, or fraudulent should not be used.
- Each member shall ensure that each advertising piece complies with all applicable consumer protection laws. As a safe harbor, members should have these materials reviewed by an attorney experienced in these laws or by the Member's compliance officer.
- When using the term “free” or “complimentary” or other similar terms, advertisers shall ensure proper disclosures are made in proximity to the term, if some form of action is required of the consumer to receive the offer.
- If a Member makes a specific offer in a marketing piece, it must contain clear and consistent statements or representations of all the material points of the offer. The offer shall not be contradicted by individual statements, representations or disclaimers. Representations which, by their size, placement, duration, or other characteristics are unlikely to be noticed or are difficult to understand should not be used if they are material to the offer.
- If a Member’s marketing piece contains informational material, such as the fact that a recall exists for the consumer’s auto, the Member must clearly and conspicuously disclose that if the consumer calls the Member for information, the Member will be offering for sale an automobile service contract.
- Members shall make reasonable best efforts to ensure that mailing lists they purchase contain legally obtained consumer information and comply with federal laws that now require that consumers opt in to their motor vehicle public information being sold or shared.
- Members shall not knowingly make false statements to consumers, e.g. “...buy now; your vehicle will be inspected if you re-apply...”
- Since service contracts are not financed, Members shall not represent that the contracts are financed and shall make no reference to interest rates or charges. For contracts sold that are not paid in full at the time of purchase, Members shall only describe the payment as a “no fee payment plan.”
- Members shall not use full vehicle identification numbers in their promotional materials. If a VIN is used in promotional materials, it shall be limited to the first 12 digits.
- All marketing shall contain clear and consistent statements so as not to be misleading or purposefully confusing.

## Offers

- All offers shall be disclosed to a prospective customer in a clear, honest, and complete manner.
- The service contracts that Members sell shall be consistent with the product that they represent to the consumer.
- Where required, Members shall have their contracts approved by or filed with the appropriate state.
- Members shall clearly and conspicuously disclose the material terms and conditions of the offer before obtaining the consumer's consent, including:
  - The identity of the marketer and the contract's administrator and contact information for service or cancellation for both
  - A description of the goods or services being offered including:
    - ✓ The type of coverage
    - ✓ The number of miles and/or years that the contract covers
    - ✓ If a waiting period exists before the consumer can make a claim under the contract and how that period is determined
    - ✓ Whether the contract is transferable to a subsequent purchaser
    - ✓ Whether the contract is refundable and if so, the time frame within which the consumer cancel for a full refund
    - ✓ Whether the consumer must perform mandatory maintenance
    - ✓ Any dollar limitation on the total amount of claims
  - The price or the range of prices of products or services purchased by the consumer, including whether there are any additional charges including a deposit
  - Whether the consumer will be billed or automatically charged
  - When and how frequently the consumer will be billed or charged
  - The fact that the consumer must take affirmative action to cancel in order to avoid future billing or charges
  - The specific and easy steps that consumers should follow to cancel the plan and avoid the charges, and
  - The time period, if any, within which the consumer must cancel
  - Who will process the consumer's payments

- In order to obtain the consumer's consent, Members must receive an affirmative response that the consumer accepts the material terms and conditions of the offer as described above. It is appropriate to group these disclosures together and obtain affirmative consent in that manner.
- Members shall post a sample copy of all contracts they currently offer online and direct prospective purchasers to the web address where these contracts are displayed. Members shall also offer to send consumers a copy of the contract being offered to the consumer via electronic mail or by facsimile.

## **Outbound Telemarketing**

- Members shall not conduct any outbound telemarketing unless they have obtained a Subscription Account Number (SAN) by registering with the Federal Trade Commission, if required.
- When telemarketing, Members shall immediately disclose:
  - the identity of the seller providing the goods or services for sale
  - that the purpose of the call is to sell goods or services
  - the nature of the goods or services being offered
- Members shall follow all state and federal do not call laws and regulations and register as a telemarketer in states where required. If a Member believes that it is exempted from a law, the burden is on the Member to prove that the exemption applies to their company.
- Members shall always display an accurate caller ID number when calling consumers. Members shall not “spoof” their caller ID with a number or name that does not belong to them.
- Members shall not use prerecorded sales messages.
- Members shall not knowingly make telephone solicitations to a wireless device unless they have express permission from a person to call the wireless device for that purpose. Members shall scrub their calling lists against a wireless number list unless the calling list only includes wireless numbers where the consumer has given their express consent to receive sales calls.
- Before a Member accepts a transfer call from anyone, the Member must conduct reasonable due diligence to ensure that the transfers were obtained legally. A Member shall not accept a transfer-call if it is known, or reasonably could have been determined, that the transferred call originated with an illegal prerecorded message.
- When the VPA establishes its Association-wide do not call list, all Members shall scrub their outbound call lists against this list according to the procedures established by the Board of VPA. Members who receive do not call requests shall provide those numbers to the VPA for inclusion in the Association-wide do not call list according to the procedures established by the Board
- If a Member uses a third party telemarketing vendor, even if the vendor is not located in the United States, the Member shall require the vendor to follow these Standards and all applicable laws and regulations of the Federal Trade Commission, the Federal Communications Commission, the Federal Reserve Board, the United States Postal Service and all other applicable federal, state, and local regulations and laws.

- Members shall provide its administrators, payment processing companies and the Association with the identity of all third-party companies used to make outbound telephone solicitations and proof that the member has obtained a SAN from the Federal Trade Commission.
- Many other telemarketing laws apply if a Member offer contains a negative option or a free to pay conversion. If a Member is using these offers, the Member must ensure that it is complying with all applicable laws.

## **Telemarketing Using a Predictive Dialer or a Third Party Vendor**

The Association has established the following minimum compliance requirements for any Member who chooses to use predictive dialing, or to contract with an entity that uses predictive dialing. These guidelines are a minimum standard and not a substitute for full understanding of applicable laws, rules and regulations. It is the requirement of the Member company to ensure its practices are compliant such applicable laws, rules and regulations.

These guideless are intended to apply to any technology that falls with the FCC definition of “autodialer,” meaning any piece of equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.

1. Every sale of every service contract must be recorded start to finish and made available on demand to the administrator, payment processing company and Association. The equipment used for the recording must be PCI complaint so that the consumer’s credit card number or ACH information are not recorded. This fact that the call is being recorded must be disclosed to the customer at the beginning of the call, and customer representatives must not have the ability to pause the record other than to avoid recording credit card information.
2. For each call, the person or entity making the call must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.
3. No telephone call may be initiated using an autodialer:
  - (i) to any paging service, cellular telephone or any other service for which the called party is charged for the call;
  - (ii) to any emergency telephone number; or
  - (iii) to the telephone line of any guest or patient room at a hospital or health care facility.

If the device cannot eliminate such calls, it may not be used.

4. Autodialers should not be used in such a way as to engage two or more telephone lines of a multi-line business simultaneously.
5. Live third party call monitoring must be made available to payment processing companies, administrators and the Association, and such monitoring to assure quality must be disclosed to callers.

6. A Subscription Account Number (SAN) number is required for each individual marketing company in addition to any third party company physically making the phone call in every area code.
7. Teleblock service with insurance must be in place for all calls made to insure that no calls are made to telephone numbers on the national Do-Not-Call list or to wireless phones.
8. Unanswered telemarketing calls may not be disconnected prior to at least fifteen (15) seconds or four (4) rings.
9. Calls must be handled by live sales representatives. A pre-recorded or artificial voice or message may not be used at any point in the sales process. A live voice cannot be transferred to a pre-recorded message.
10. No more than 3% of telemarketing calls that are answered live by a person, or over a 30-day period, may be abandoned. A call is “abandoned” if it is not connected to a live sales representative within two (2) seconds of the called person’s completed greeting.
11. If a sales representative is not available to speak with the person answering the call within two (2) seconds, that person must receive 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.” The telephone number provided must permit any individual to make a do-not-call request during regular business hours for the duration of the telemarketing campaign.
12. No telephone solicitation calls shall be made to consumers before 8:00 AM or after 9:00 PM local time at the called party’s location or in violation of state holidays.
13. Under no circumstances may a telephone number be dialed for the purpose of determining whether the line is a facsimile or voice line or has an answering machine.
14. The third party dialer who is conducting predictive dialing in-house must be certified by an independent third-party organization approved by the VPA, such as the American Teleservices Association. The application for such certification must be done immediately and an aggressive timeframe for certification must be set and scheduled.
15. All call centers must agree to an in-house audit at anytime whether it is announced or not.

16. If adopted, Members must both contribute to and scrub against the Industry-wide Do-No-Call List (DNC).
17. Call centers and third party services must maintain proof of all federal and state licensing and registration. Call centers and third party services must implement the Association's Standards.
18. If predictive dialing is used, the call centers must register with the Association as a center that uses predictive dialing (either in-house or third party). A member must register with the Association prior to starting to use predictive dialing as a marketing method.
19. Every Member that is an administrator, fulfillment company, or payment processing company may perform an in-person compliance review either directly or through an auditor or attorney at each facility with which they have a contract for marketing.
20. All parties will be required to sign affidavits attesting that the above rules will be followed.

## **Refund Policies & Procedures**

- Refund policies shall be clearly and conspicuously disclosed to consumers prior to the sale of any product of service.
- Members shall honor all consumer refund requests made within thirty days of the date they sold the contract in full. If the consumer has only paid the initial deposit, Members shall provide the refund within five (5) business days, if made by credit card; and within thirty (30) days if made by check or ACH. If the consumer has also made subsequent payments, the Member shall provide the refund within thirty (30) days from the date they receive the completed notice of cancellation with odometer information.
- Members must be aware of and comply with all applicable state laws governing refunds and/or applicable three (3) day right to cancel laws.
- Upon request, Members shall provide a written cancellation fee calculation and state the information upon which they base the calculation.

## *Security of Customer Information*

- Members shall adequately protect all nonpublic consumer/customer personal information regardless of whether it is handled or maintained in paper or electronic format.
- In order to adequately protect this information, Members shall maintain a written information security program. This program shall contain administrative, technical and physical safeguards that are appropriate to the size, complexity, nature and scope of business and the sensitivity of the information.
- Members shall oversee service providers by taking reasonable steps to select and retain service providers that are capable of maintaining the security standards set forth herein.
- Members shall require service providers by contract to implement and maintain the security standards set forth herein.
- The program shall:
  - 1) Require the designation of one or more employees to coordinate, monitor and revise the program.
  - 2) Identify reasonably foreseeable internal and external risks to the security, confidentiality and integrity of the customer information.
  - 3) Provide for employee training.
  - 4) Identify the information systems necessary to detect, prevent and respond to attacks, intrusions and other system failures.
  - 5) Set forth regular testing or monitoring of the effectiveness of the program.
  - 6) Provide for the evaluation and adjustment of the program as results of the testing and monitoring dictate or other changes such as a business model change, facility change, etc.
  - 7) Ensure that personal information is adequately and securely disposed of at the end of its useful life.
  - 8) Use Social Security Numbers only when necessary and in compliance with all state restrictions on display and use of social security numbers.

## **Privacy Policy and Data Protection**

- If a Member has a website, the Member shall have a privacy policy and shall clearly and conspicuously post a copy of the policy on-line.
- The privacy policy shall disclose and outline the practice of data collection, usage, and sharing (“Data Practices”). Data Practices should be easy to find, easy to read and easy for consumers to act upon.
- The privacy policy shall be posted in a clear and conspicuous fashion when accepting the consumer’s personal information.
- All notice disclosures should appear in or be linked to every consumer data collection site/application and the company’s website.
- Consumers shall be given reasonable and adequate notice of any privacy policy change. Members shall have a notice on their home page that their privacy policy has been updated and should highlight the updates and list the dates the revisions were made at the top of their privacy policy. Members should also strongly consider email notification to all consumers covered by the original privacy policy.
- Members shall have both technical and management controls in place to comply with their respective privacy policy.
- Members shall ensure that personal data is gathered in compliance with law, including restrictions on use of the motor vehicle registration data.
- Members shall conduct a regular, periodic evaluation of their privacy policy and data protection procedures to ensure compliance.

## *Online Data Collection Practices*

- On a Member's website, Members shall not hide consumer input fields without consumer disclosure.

Hiding fields means the collection of personally identifiable information ("PII") and the transmission of that data to an advertiser without notifying the consumer that the data has been collected or that the data will be shared. PII that is entered on a website prior to the consumer's interaction may be pre-populated, using cookies or otherwise, in an offer form, but shall not be passed without providing the opportunity for the consumer to review that information.

For example, if a consumer's email address is known from the registration page, it may be pre-populated on the offer data form in the appropriate field. This allows the consumer to easily review and edit his/her data, if necessary, and make an informed decision on whether he/she wants to share that data with the advertiser. This information shall not be shared with an outside entity without the consumer's knowledge.

- If a Member chooses not to show one or more fields, it shall either:
  - Include a clear and conspicuous notice prominently on the offer page or via a prominently displayed link indicating which fields will be collected and shared with another, OR
  - Include text next to each offer on the page that specifically lists each field that will be collected and shared with the advertiser(s).
- Members shall include a clickable link to its privacy policy within each offer.
- Members shall provide reasonably adequate security to protect consumers' personally identifiable information.

## **Consumer Complaint Process**

- Members shall have a written consumer complaint process in place to address complaints received from consumers or regulatory agencies.
- Members shall address all complaints received in a prompt, courteous and professional manner and share that information with the company involved with that complaint.
- Members who receive a complaint from a third party such as the Better Business Bureau or state attorney general shall respond to the complaint within the timeframe that the third party requests.
- Members shall make a good faith effort to resolve every complaint.
- Members' complaint processes shall be such that patterns of problems or severe problems are identified and addressed. Senior management shall be kept apprised of all such problems identified by consumer complaints. Members shall create procedures that require the Member to investigate the cause of the problem and to correct the issues identified within a reasonable time period.

## APPENDIX A

### VOICE CONFIRMATION DISCLOSURE for a SERVICE CONTRACT:

Congratulations on the purchase of your *Admin, Inc.* protection plan for your vehicle from *XYZ Seller!* You have selected *X Plan Brand* for \_\_\_\_\_ months or \_\_\_\_\_ miles, whichever occurs first. During this period you will be provided *Y Coverage Type plan* on your vehicle. Your protection plan has a waiting period, so coverage will commence at the sooner of the passing of \_\_\_\_\_ days and \_\_\_\_\_ miles from your current odometer statement. (This should be consistent with the vehicle service contract sold).

You will receive a full contract containing all terms and conditions in the mail shortly. Please contact us at (800) 123-4567 if you do not receive your package. Upon receipt of your contract, please be sure to review the coverage, terms, conditions and exclusions to confirm it meets your needs. You have \_\_\_\_\_ days from today, (*June 1st*), to review your coverage and are entitled to a full refund during this period. (This should be consistent with the vehicle service contract sold).

The contact information we have on file is *Mr. John Q. Customer* located at *123 Main Street, City, State 12345*. Your email address is *John.Smith@email.com*. You have elected a down payment of \$200 and 12 installment payments of \$150.00 which will be processed by our partner *Payment Processor, Inc.* The total cost of your protection plan is \$2,000 [OR You have elected to pay for your contract in full at this time for \$2,000.]

Your monthly payment will be charged to your *Visa* credit card account number ending in *1234* on or around the *5th day of each month* starting *July 5, 2009*. At this time, we will need your voice verification of these terms and conditions and to authorize the charges to your account. Do you authorize a charge today of \$200? Do you authorize 12 monthly charges of \$150 beginning on July 5 and each month thereafter until your balance is paid in full? (Need to receive a verbal YES).

X Plan Brand = Administrator's Brand Name

Y Coverage Type Options: Exclusionary, Named Component, Powertrain