

CODE OF PRACTICE INCLUDING RULES GOVERNING THE USE OF THE **AUSTRALIA PROFITS** LOGO



PART 1 – INTRODUCTION

The **AUSTRALIA PROFITS** logo (shown above) was developed to be used as a mark for use by Australian wholly owned businesses to differentiate their business, goods and services from those that aren't wholly Australian owned whether they be partially or fully owned by foreign nationals or entities. The brand is a marketing initiative developed by the directors of Australia Profits Pty Ltd to assist businesses of all types to promote their goods &/or services, and to also assist consumers to distinguish those goods &/or services from foreign owned entities.

Australia Profits Pty Ltd is responsible for the management of the use of the **AUSTRALIA PROFITS** logo brand.

Enterprises who meet the eligibility criteria for use of the logo and accept the obligations in the Rules are encouraged to apply for approval as licensees to use the logo on the terms and conditions of the Rules. Approved users are encouraged to participate in the marketing opportunities that the use of the logo that will enable them to promote their goods &/or services.

The **AUSTRALIA PROFITS** logo may only be used by approved users, and not any other person other than is provided in Rule 4 without the express written authority of Australia Profits Pty Ltd.

PART 1 – RULES

1. Scope of Rules

These Rules are the 'rules governing the use of the certification trade mark' pursuant to Section 173 of the Trade Marks Act 1995.

2. Owner of Certification Trade

Australia Profits Pty Ltd of 14 Mitchell Court, Taylors Lakes, Victoria, 3038 is the owner of the certification trade mark ("CTM") in the **Australia Profits** logo ("**the logo**") and Australia Profits is the only person/entity who may certify an applicant and their goods &/or services in relation to the CTM. Australia Profits Pty Ltd is responsible for the administration of the CTM and the maintenance of the Rules. The contact details for the owner and certifier are:

Australia Profits Pty Ltd

Attention: General Manager, Australia Profits Pty Ltd

Address: 14 Mitchell Court
TAYLORS LAKES VIC 3038

Telephone: 1800 512 286

Website: www.australiaprofits.com.au

Email: info@australiaprofits.com.au

3. Owner of Certification Trade

The requirements that CTM Applicants must meet to use the CTM are detailed in this section.

Licensees must satisfy the following criteria to be eligible to be accredited to use the logo in relation to any goods –

- (a) that the Licensee entity is wholly Australian owned;
- (b) that the Licensee will not distribute profits to a person or entity in a country other than Australia; and
- (c) that the Licensee provide Australia Profits Pty Ltd with a signed Licensee Undertaking in the form provided in Annexure A below, that the



Licensee is wholly Australian owned and that no profits will be distributed to a person or entity in a country other than Australia.

4. **Attributes for Person Approved to Assess Approval of Users and Monitor Compliance**

The General Manager of Australia Profits shall be the Assessor of applications and responsible for monitoring compliance with these Rules, and may appoint such Australia Profits officers as are reasonably qualified to undertake assessments on his/her behalf (“an Australia Profits Officer”).

An Australia Profits Officer appointed for CTM assessment and monitoring must have general qualifications, skills and abilities to be competent to assess whether goods meet the certification requirements, to undertake inspections and meetings and to review applications and assess compliance with the Rules. An Australia Profits Officer will hold a position within Australia Profits Pty Ltd with authority to assess relevant Australia Profits Pty Ltd records and undertake required inspections and meetings. An Australia Profits Officer may obtain the assistance of Australia Profits’ appointed accountant or appointed solicitor to assist in its approval and compliance roles.

5. **Process of Licence Approval for Determining Certification Requirements and Compliance Criteria**

The process to determine whether goods meet the certification standards is as follows:

- (a) Applicants for a license to use the logo are required to submit a completed licence application in the form prescribed and made available by Australia Profits Pty Ltd, including:
 - i. a product &/or service list of each and all their goods &/or services which they seek to use the logo in relation to;
 - ii. information about the registered business or trading name, street, postal and web addresses, contact details and authorised contact officer, and their eligibility for use of the logo;
 - iii. completion of a Licensee Undertaking of an authorised officer of the Applicant attesting, *inter alia*, to:



- a. the Licensee being wholly Australian owned and that the profits of the Licensee will not be distributed to a person or entity in a country other than Australia;
 - b. their use of the logo to be in strict accordance with the Rules and comply with all laws at their own risk;
 - c. their agreement to advise Australia Profits Pty Ltd in writing and cease to use the logo on any goods &/or services where any changes to the composition of the Applicant occurs and subsequently where the Applicant would no longer meet the certification requirements;
- (b) on receipt of a completed application form, an Australia Profits Pty Ltd officer will review the application, assessing the eligibility of the Applicant based on the Certification Requirements;
 - (c) an application which fails to provide the required completed Licensee Undertaking will be rejected;
 - (d) Australia Profits Pty Ltd will within a reasonable time after receipt of the application make a final decision on the application and notify the Applicant in writing;
 - (e) Should the applicant be rejected, the Rules provide a procedure for independent review of the decision;
 - (f) Should the application be accepted, Australia Profits Pty Ltd will notify the Licensees by Issuing a Licence Certificate for the period of approved registration specified on the Licence Certificate.

6. **Licence Register**

Australia Profits will maintain a register of all current licensees including their registered business or trading name, street, postal and web addresses, contact details and authorised contact officer, and what type of business the Applicant is and the industry that the Applicant's business is within and approved by Australia Profits Pty Ltd to use the logo in relation to.

The licence register will be available for public inspection during normal business hours at Australia Profits Pty Ltd or on its website.

7. **Licensing Terms and Fees**



The licensing year for each Applicant is each 12 month period commencing on the date and month that Australia Profits Pty accepts the Applicants application and ending 365 days after acceptance.

8. Licensee Obligations

Licensees must on acceptance for Licence:

- (g) maintain adequate records to substantiate the compliance of their compliance requirements of the Rules, and produce such records to Australia Profits Pty Ltd or an Independent Reviewer upon request;
- (h) assist Australia Profits Pty Ltd or an Independent Reviewer in relation to any random audits, inspections or independent reviews which are undertaken;
- (i) establish and maintain policies and procedures to ensure their obligations under the Rules and their underlying legal obligations in relation to the use of the logo are met, and act to ensure that such policies and procedures are being effectively complied with by all employees and agents
- (j) immediately advise Australia Profits Pty Ltd in writing where any changes to the composition of the Licensee occurs.
- (k) immediately advise Australia Profits Pty Ltd in writing of any change in contact details or any intention to terminate a licence before its expiry date;
- (l) immediately advise Australia Profits Pty Ltd in writing of any complaints received by the Licensee about its use of the logo.

9. Licensee use of logo

On acceptance for Licence, a licensee must only use the logo:

- (a) on approved goods;
- (b) in relation to the marketing of approved services;
- (c) in accordance with the Logo Usage and Style Guidelines which will be sent to licence holders on approval of their application and which restrict the form and representation of the logo;



(d) during the term of the approved Licence period.

10. **Dispute Resolution**

An Applicant may request in writing review of a decision by Australia Profits Pty Ltd not to approve a licence or renewal of a licence, such as whether the applicant meet certification requirements, or any other dispute relating to the CTM. The procedure for review of a decision or for any dispute is as follows:

- (a) Australia Profits Pty Ltd staff will undertake a process of internal review by an Australia Profits Pty Ltd officer with a record of the staff handling the process and decision made to be recorded and the decision after internal review to be notified to the Applicant;
- (b) If the dispute is not resolved within 21 days, the Applicant may seek independent review by an Independent Reviewer to be appointed by agreement between Australia Profits Pty Ltd and the Applicant or to be appointed by the Law Institute of Victoria;
- (c) The Applicant will bear the costs and disbursements of the Independent Reviewer;
- (d) The Independent Reviewer will determine the dispute and the decisions of the Independent Reviewer will be binding on the parties.

11. **Complaints Procedures**

The procedure for dealing with any complaints received by Australia Profits Pty Ltd about use of the logo is as follows:

- (a) Where a complaint relates to the use of the logo by a person who is not a current Licensee:
 - iv. Australia Profits Pty Ltd will undertake a process of internal review of the complaint by an Australia Profits Pty Ltd officer with a record being made of the staff handling the process and the decision about whether or not the complaint is valid;
 - v. Where it decides the complain is verified and may devalue the logo, Australia Profits Pty Ltd will notify the non-Licensee complained about advising the nature of the complaint and notifying its rights in the logo and the circumstances under which it may be legally used, and request its action to rectify within 14 days;



- vi. Australia Profits Pty Ltd may take legal action against any infringing use or refer the complaint to appropriate authorities;
- vii. Australia Profits Pty Ltd will notify the complainant whether it proposes to take legal action against any infringing use or refer the complaint to appropriate authorities.

12. **Sanctions for Breach of Rules**

Australia Profits Pty Ltd may use the following sanctions for a breach by the Licensee of these Rules:

- (a) Suspension for a specified period or revocation of a license;
- (b) Amendment of a licence;
- (c) Publication of the details of a breach of these Rules, or a corrective statement approved by a Licensee, on the Australia Profits Pty Ltd website or its reports.

13. **Licensee Liable for Own Compliance**

Licensees acknowledge that they are liable in relation to the compliance of their usage of the logo with all laws including statutory compliance (including the Australian Consumer Law) and Australia Profits Pty Ltd has no liability in this regard.

