



# Independent Distributor Application & Agreement

#0190 Rev. 7/99

NEWAYS, INC. • P.O. Box 651 • 150 East 400 North • Salem, Utah • 84653 • (801) 423-2800

## Applicant Information:

DATE \_\_\_\_\_

E-MAIL \_\_\_\_\_

LAST NAME FIRST MIDDLE \_\_\_\_\_

CO-APPLICANT OR BUSINESS NAME \_\_\_\_\_

I.D.#, SOC.SEC.# OR FED. TAX OR SIN.# \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY STATE COUNTRY ZIP CODE \_\_\_\_\_

HOME PHONE \_\_\_\_\_

CHECK ONE of the following:  SOLE PROPRIETORSHIP  CORPORATION  PARTNERSHIP  OTHER BUSINESS ENTITY (INDIVIDUAL)

BUSINESS PHONE \_\_\_\_\_

### Sponsor Information

SPONSOR I.D. NUMBER \_\_\_\_\_

LAST NAME FIRST MIDDLE \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

CITY STATE \_\_\_\_\_

COUNTRY ZIP CODE \_\_\_\_\_

HOME PHONE BUSINESS PHONE \_\_\_\_\_

SPONSOR'S FIRST UPLINE EXECUTIVE \_\_\_\_\_

**DISTRIBUTOR'S AGREEMENT: YOUR SIGNATURE BELOW INDICATES THAT YOU HAVE CAREFULLY READ THIS AGREEMENT AND THAT YOU WILLINGLY ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT AS WELL AS THOSE INCORPORATED BY REFERENCE. A PARTICIPANT IN THIS MULTI-LEVEL MARKETING PLAN HAS A RIGHT TO CANCEL AT ANY TIME, REGARDLESS OF REASON. CANCELLATION MUST BE SUBMITTED IN WRITING TO THE COMPANY AT ITS PRINCIPAL BUSINESS ADDRESS: P.O. BOX 651, 150 EAST 400 NORTH, SALEM, UTAH 84653. (USE FORM #9084 "DISTRIBUTORSHIP CANCELLATION" AVAILABLE THROUGH NEWAYS DISTRIBUTOR RELATIONS DEPT. OR IN THE CAREER SUCCESS PACK.**

DISTRIBUTOR'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ CO-APPLICANT'S SIGNATURE \_\_\_\_\_

## New Distributor Personal Volume Transfer Request

Please transfer Personal Volume from my (*The sponsoring Distributor*) account. As a sponsor understand and accept that I must maintain my Personal Volume requirement after transfers in order to qualify for a commission check. I understand I cannot transfer more Personal Volume than I purchased in the SAME MONTH. Personal Volume must be transferred in the currency in which it was purchased. Please mark country below. Please credit my PV transfer to the month of \_\_\_\_\_.

Signature of Transferring Distributor \_\_\_\_\_ Distributor ID Number \_\_\_\_\_ Date \_\_\_\_\_

Receiving Distributor's Name \_\_\_\_\_ Distributor ID Number \_\_\_\_\_ Date \_\_\_\_\_

Currency:  US  CAN \_\_\_\_\_

Total Personal Volume Transferred \_\_\_\_\_

### Payment information for Career Success Kit: (Item #0100)

\$19.95 US/\$29.95 CAN + Shipping & Tax.  Yes, send me a NEWAYS career success kit

Personal Check

Money Order or Cashier's Check Amount remitted \$ \_\_\_\_\_

VISA  M/C  Discover  American Express

CARD NUMBER \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

CARDHOLDER'S SIGNATURE \_\_\_\_\_

Complete price list and order form available by FAX-ON-DEMAND at (512) 404-2335 (Doc #13 & 14)

CORPORATE USE ONLY  
FILE NUMBER \_\_\_\_\_

- I am of legal age in the state of my residency. I agree that I am an independent contractor, responsible for my own business activities and not an agent, employee or legal representative of the Neways, Inc. (the, "Company"). I will not represent in any manner that I am an agent or representative of the Company. I am responsible for the payment of all federal and state self-employment taxes and any other tax required under any federal, state, province or regulatory or taxing agency. I will allow the Company to remit applicable sales taxes in my behalf with each product order unless I have on file with the Company a copy or statement of my tax resale number in the state of my residency.
- This position does not constitute the sale of a franchise or a Distributorship, and no fees or purchases have been or will be required from me for the right to distribute the Company's products pursuant to this Agreement.
- I agree that as a NEWAYS Distributor, I shall place primary emphasis upon the making of retail product sales to consumers and that I will offer and sell at least 80% in dollar volume of my product purchases to retail consumers prior to reordering of product. I further agree that I may be required upon Company request to show proof of retail sales activities. Retail sales to non-distributor consumers are a condition of receipt of commissions. Distributor purchases for all purposes are limited as to Georgia, Maine, North Dakota, Michigan, Indiana, Iowa and West Virginia resident Distributors, during the first six months of Distributorship, to the sum of \$495.00. Oklahoma, South Dakota and Georgia residents- \$245.00 limit as to obligated purchases during the first six months of Distributorship. Texas residents- \$495.00; Connecticut residents- \$195.00 limit as to obligated purchases during the first year of Distributorship. (Purchases using customer funds excepted.)
- Permissible Distributor purchases shall be automatically modified to comply with the exemption requirements set forth in any states' laws regulating business opportunities. In the states of Georgia, Maine, North Dakota, Michigan, Iowa, Indiana and West Virginia, personal sales volume requirements are automatically adjusted to provide all applicable qualification and advancements by reduced sales volume in accordance with state total purchase limitations.
- In order to maintain a viable Marketing Program and comply with federal, state or local laws and economic conditions, NEWAYS, INC. shall provide Policies and Procedures, a Code of Ethics and a Distributor Compensation Program, which are incorporated by this reference as though fully set forth herein. (A copy of a number of said Policies and Procedures is contained on the reverse side of this agreement.) The Distributor is responsible to review and follow all Policies and Procedures, the Code of Ethics and the Marketing Plan as found in the Distributor Manual. Said Policies and Procedures, Code of Ethics and Distributor Compensation Program shall and may be modified from time to time, at the sole discretion of the Company, and said modifications shall become a binding part of this Agreement upon publication in the monthly Company newsletter.
- I understand that my Distributorship can be inherited or bequeathed, but cannot be transferred or assigned during my lifetime without written consent of the Company, which consent will not be unreasonably withheld, and pursuant to the Company Policies and Procedures.
- This Agreement shall be deemed in effect upon the date it is received by the Company. If this agreement is sent via fax or phone, an original must be received by the Company within 20 days.
- I will not use the names, trade names, logos, copyrighted material, trademarks or service marks of the Company except in materials provided by the Company or approved in writing by the Company prior to their use by me. I understand that unauthorized use or duplication of trademarks or copyrighted materials is a violation of federal law.
- I am responsible for supervising and supporting Distributors I sponsor into the program and in my commissionable downline. I agree to maintain monthly communication and support to those Distributors in my commissionable downline by way of any of the following: Personal contact, telephone communication, written communication and attendance at Distributor meetings.
- The Company provides the following fulfillment to its Distributors: Shipment of ordered sales aids and products within two days of receipt of order and clearance of funds, subject to availability of units ordered; service of product warranties. Payment terms on Distributor purchases: Cash, check, money order, bank draft or credit card with order. No purchases on account; C.O.D.'s not allowed except to Retail Dealers. Commissions are payable to Distributors according to the Compensation Plan which is incorporated herein by reference. Distributor training information is available through the Company.
- I will not make false or misleading statements about the Company or its Distributor opportunity.
- Distributor and customer lists and names are owned by the Company and may never be used for any commercial purpose without prior written consent of Company.
- This Agreement shall be governed by the laws of the State of Utah. The parties agree that any disagreement or disputes arising out of or pursuant to this agreement shall be resolved by binding arbitration in the form described in the Policies and Procedures.
- If a Distributorship is cancelled within 5 days following execution of the Distributorship Agreement, refunds will be made in full for all product, Distributor Kits and sales aids returned in resalable condition. Distributors may return products, literature & sales aids in reusable and resalable condition at any time within 30 days of purchase and receive 90% refund on resalable product returns. All refunds to the Distributor are offset by the amount of commissions and rebates paid to the Distributor and their upline Distributors upon the returned items for the months in which their commissions were paid out. All upline commissions paid out will be deducted from the Distributor returning the products. Shipping costs for returned items shall be borne by Distributor. Payment will be made within 60 days of actual receipt of returned items. Request for refund may cancel this Agreement at the option of the Company. The Company will honor refund policies provided by any state law applicable to Distributor. (New Mexico- one year; Georgia- no time limitation; Maryland- 90 days.) A Distributor may at any time exchange product purchased within 30 days of the purchase date, provided it is returned in unused, resalable condition.
- I further certify by signing this agreement that I have not participated in any other Distributorship with the Company for the previous six months.

## An Independent Distributor:

1. Must be of legal age of consent (usually 18) or a business entity properly registered in the state/area in which they reside.
2. Has completed and signed a NEWAYS Independent Distributor Application and Agreement Form #0190 (English) and the original signed application is received and approved by NEWAYS Corporate Office and an acceptance letter is received.
3. Has become familiar with all of the Policies & Procedures, Code of Ethics and Compensation Plan of NEWAYS as contained in the Distributor Manual.
4. May not be a NEWAYS Employee, immediate family member residing with an employee of the company or a business in which an employee participates or has any ownership interest in the Company.
5. Members of the same family unit may not enter into more than one Distributor Agreement. A family unit is defined as a husband and wife; cohabitants; or a father, mother and dependent children living at or doing business at the same address. The Distributor Agreement is void if the Distributor or the family unit to which the Distributor belongs has previously signed a Distributor Agreement, unless said agreement is now expired or terminated.

## Becoming a Distributor

It is highly recommended that a new Distributor purchase an Executive Career Success Kit (Item #0099) however, it is not required. NEWAYS has the right to review and approve or disapprove any or all applications within the calendar month following the month in which they are submitted.

## Independent Distributors and the Law

An Independent NEWAYS Distributor is not permitted to diagnose any medical condition or prescribe the product as a specific treatment for any disease or condition.

The law does not permit specific medical claims or purported "cures." This legislation is in place to protect the public from those who would deliberately suggest that any substance or device would replace the need for established diagnostic or medical advice or treatment.

Experiencing NEWAYS products provides the consumer an opportunity to reach a personal conclusion without influence or inducement. A Distributor may provide current company literature and may speak of his/her own personal experience with the products.

Distributors have no authority to bind NEWAYS to any obligation. Each Distributor shall hold NEWAYS harmless from any claim, damages, or liability arising out of a Distributor's business or advertising.

**Any Distributor making illegal and/or unapproved claims about NEWAYS or its products should be aware that his/her Distributorship shall be cancelled.**

**Retention of Attorneys** — NEWAYS Corporate attorneys are not available to defend Independent Distributors who are in violation of NEWAYS policies on issues such as unauthorized claims or advertising. If a NEWAYS Distributor fails to comply with established policies and procedures, laws or court orders, NEWAYS has no choice but to cancel their Distributorship.

## Product Liability — NEWAYS is Self-Insured

NEWAYS does not cover any harm or cost which may result from any type of misrepresentation or misinformation given to anyone by the Distributor. Usually the Distributor's home owner's policy covers damage of commercial products. If the home owner's policy does not cover such damage, most insurance companies have a "salesman's floater" which can be added to the home owner's policy.

## Advertising — Approval Required

All advertising, including but not limited to flyers, press releases and statements made on telephone answering machines or prepared for publication in any advertising medium using company names, trademarks or logos, **must be approved by the Company in writing prior to publication.**

If an ad or promotional activity is approved for one Distributor, it is approved **only for that specific Distributor.** This policy allows NEWAYS to have all advertising activity on file to reference for each Distributor and assist Distributors with regulatory agency compliance. This way you can avoid publishing false information or claims. Please inform individuals in your downline that failing to receive approval will result in cancellation of their Distributorship.

In addition, Distributors, as independent contractors, are fully responsible for all verbal and written statements regarding the product and marketing program that are not expressly contained in advertising or promotional materials supplied directly by the Company. All Distributors agree to indemnify NEWAYS and hold it harmless from any and all liability including judgments, civil penalties, refunds, attorney fees, court costs or lost business incurred by NEWAYS as a result of any advertising or any unauthorized representations made by any Distributor.

Advertisements that promote and sell products for less than the suggested retail price cannot be approved. Advertisements for prices higher than suggested retail price can be approved. Distributors are free to sell products for whatever price they choose. NEWAYS does not set product prices.

## Answering Services and Answering Machines

In the past, it was discovered that some independent Distributors were answering their phones "NEWAYS," "John and Jane of NEWAYS," or "Thanks for calling *Skimpy Dip*." Answering the phone in this manner, recording this type of message on your answering machine, or paying an answering service to answer the phone this way is in violation of NEWAYS Policies and Procedures. All NEWAYS Distributors must identify that they are Independent NEWAYS Distributors and not mislead callers to think that they are calling NEWAYS Corporate Offices.

## Use of NEWAYS Trademarks, Copyrighted Materials

Trade Names and/or Trademarks: The names NEWAYS and *ProAttitude* are used to identify the Company, its products, sales and marketing programs and to distinguish them from any other product and program offered to the public. The names NEWAYS, *ProAttitude* and other names, logos or marks may be adopted and used by the company as proprietary and have great commercial and intrinsic value to the company

as distinguishing marks and symbols. Whenever the name is used in an unauthorized manner, the value and effectiveness of the name is lessened or weakened. Therefore, it is incumbent upon the Company to make every effort to protect its names, products and marketing program. Any unauthorized use will result in the immediate cancellation of the Distributorship.

The Company also copyrights all of its printed materials, sales aids, tapes, etc., in order to prevent others, particularly competitors, from copying, altering or duplicating such printed materials or sales aids. By originating and copyrighting its literature, sales aids and other promotional materials, the Company assures its Distributors that the materials provided for their use are original, of acceptable quality, fully authorized and contain pertinent, accurate information that Distributors need in order to be successful in operating their Distributorships.

Therefore, in order to protect its proprietary rights, the Company requires that its Distributors comply with the following rules and regulations:

1. NEWAYS will not permit the use of its copyrights, designs, logos, trade names, trademarks, etc., without prior written permission. If said use is for other than personal advertising, a licensing agreement and fee will be required.
2. All NEWAYS materials, whether printed, on film or produced by sound recording are copyrighted and may NOT be reproduced in whole or in part by Distributors or any other person except as authorized by the Company. Permission to reproduce any materials will be considered only in extreme circumstances. Therefore, a Distributor should not anticipate that approval will be granted.
3. A NEWAYS Distributorship may not produce, sell or distribute any materials relative to the marketing program nor project any earnings based on said marketing program nor can any potential hypothetical examples relative to earning potential be used which cannot be documented as realistic and accurate. Any hypothetical examples must be accompanied by a statement that typical or individual earnings of Distributors are contingent upon individual efforts, geographical location, timing, and many other factors beyond the control of the company.
4. A Distributor may not purchase, sell or distribute non-company materials which imply or suggest that said materials originate from the Company.
5. A NEWAYS Distributorship shall not at any time use the NEWAYS name or any of its trademarks as part of its own Distributorship name, or imply in any other way that it is an agent or employee of the company.
6. The ONLY authorized use of the NEWAYS name by a Distributor is in identifying him/herself as an INDEPENDENT DISTRIBUTOR. All cards, signs and advertising materials, etc., utilized by a Distributor must identify the Distributor clearly as an Independent Distributor of NEWAYS.

## Telephone Listings

All NEWAYS and *ProAttitude* Distributors may list themselves in the White Pages Directory under the heading "NEWAYS Independent Distributor." Under this heading each Distributor may list his/her last name, first name, address and telephone number only. Distributors may not use the name NEWAYS, *ProAttitude* or the name of any NEWAYS or *ProAttitude* product as part of their personal listing. When placing the listing, each Independent Distributor must make it clear to the phone company that this is a general listing and that one Distributor may not be listed exclusively under the heading.

Listings may not be done in such a manner as to mislead or give the impression that the listing is for the NEWAYS or *ProAttitude* Corporate Office.

Yellow Page display advertisements must conform to the advertising guidelines established by NEWAYS. All copy must be submitted to Corporate Offices for approval. Allow one week for approval. The words NEWAYS and *ProAttitude*, logos, trademarks or product names must not be used in any way. Yellow Page category listings are allowed, but must be under accurate classifications. Headings would include such categories as Skin Care products, Hair Care products and Nutritional products.

Distributors may use a 1-800 number, but must not use any NEWAYS or *ProAttitude* trademarks, names or slogans. Neither must the telephone number spell out NEWAYS, *ProAttitude* or any other product name.

In addition, Distributors must abide by local laws, rules and regulations pertaining to telephone listing and advertisement. Some telephone companies require written authorization from the owner of restricted names. Said approval will be provided by NEWAYS upon Distributor request.

## Over-the-Counter Retail Sales

No retail sales of product from commercial retail premises are allowed. Owners of retail establishments may be sponsored as Independent Distributors, but no NEWAYS product may be displayed or offered for sale in a retail establishment. This is to include but is not limited to, drug stores or pharmacies, supermarkets or food stores, health food stores, flea markets, swap meets shopping mall booths, restaurants, bars or nightclubs, and any such similar establishments.

*ProAttitude* products, on the contrary, may be sold through select types of retail establishments that, for example, perform personal grooming services, such as salons or fitness centers, etc.

Direct sale from Distributor to customer is the essence of network sales. It is essential that the Distributor-customer relationship be conserved and fostered as the foundation of the sponsoring process.

## Conventions, Trade and Mall Shows

NEWAYS Distributors can participate in and sell product at conventions, trade shows and mall shows. The length of the show or convention must be less than one week and the show must not cater to the salon industry. Only *ProAttitude*-certified Distributors may sell *ProAttitude* products and participate in salon conventions and shows.

Under no circumstance can NEWAYS products be sold in a retail environment. NEWAYS will cancel the Distributorship of any and all Distributors who fail to comply with this policy.

## Defective Product

If a product is defective, the consumer must notify the Distributor in writing within 10 days of purchase. Each Distributor is expected to honor the Customer Refund Policy found on the back of the Retail Order Form in a prompt and courteous manner and should refund the full purchase price.

Within 14 days of reimbursement to the customer, the Distributor must contact NEWAYS and request a Return Authorization Number. The defective product must be sent to the Company in a package clearly marked on the outside with the Return Authorization Number within 30 days from the time the order was placed. All such product will then be promptly replaced at no charge. Product not returned within 30 days is considered dated and cannot be returned.

## Damaged Product

Should your shipment arrive in less than satisfactory condition, alert the delivery man and call the carrier immediately to advise or refuse the shipment. It is the responsibility of the Distributor to verify the condition of each shipment upon receipt. In the case of missing items, extra items and damaged items that cannot be attributed to the carrier(s) involved, call NEWAYS Customer Service for a Return Authorization Number within 15 days.

## Involuntary Cancellation

The company reserves the right to cancel any Distributorship at any time for violation of any municipal, state or federal laws or regulations, the Distributor Agreement, the Code of Ethics or these Policies & Procedures as they may be amended from time to time.

## Voluntary Cancellation of Distributorship

Each NEWAYS Independent Distributor has the right to cancel their Distributorship for any reason and at any time. The Distributor must notify the Company of the intention to cancel, in writing, by submitting Form #9084, *Distributorship Cancellation* to NEWAYS Customer Service. A NEWAYS Customer Service representative will contact the Distributor and provide all necessary information with respect to cancellation.

Distributors may return products, literature and sales aids in resalable and resalable condition at any time within 30 days of purchase and receive 90% refund upon resalable product returns. All refunds are offset by the amount of commissions and rebates received by the Distributor and paid to their upline Distributor organization on returned items. Shipping costs for returned items shall be borne by Distributor. Payment will be made within sixty days of actual receipt of returned items. The Company will honor refund policies provided by any state or federal law applicable to Distributor. A Distributor may at any time exchange product purchased within 30 days of the return, provided it is returned in unused, resalable condition.

If a Distributorship is cancelled within five days following execution of the Distributorship Agreement, refunds will be made in full for all product, Distributor Kits and sales aids returned in resalable condition.

## 80% Rule

By placing an order, a Distributor certifies on each product order placed through NEWAYS that at least 80% of all products previously purchased have been sold. For the purposes of this rule a sale may include a purchase for family or personal use.

## Price Changes

All NEWAYS products and literature are subject to change. Any change will be announced through the Company newsletter, *Inside NEWAYS*.

## Training Requirement

A Distributor who sponsors a Distributor is required to ensure that the new Distributor is properly trained with respect to the NEWAYS Distributor Application, NEWAYS Policies and Procedures and Code of Ethics. **ANY SPONSOR WHO FAILS TO FULFILL THIS RESPONSIBILITY IS SUBJECT TO LOSS OF DISTRIBUTOR STATUS.**

## Downline Communications

Distributors, as independent contractors, are encouraged to promote information to their respective downline. The proper use of internal newsletters, training workshops, and other organizational programs are encouraged. However, every Distributor must exercise the utmost diligence to avoid giving the impression that they are acting as an agent for NEWAYS. The independent status of the Distributor must be maintained and clearly represented at all times and the Code of Ethics and Policies and Procedures followed.

## Medical or Therapeutic Claims

No medical claim is to be made for any NEWAYS product by any Distributor, whether expressed or implied. Distributors are advised to recommend to any customer under physician's care or suffering from any chronic disorder that they should first consult with their physician before undertaking any changes in diet or beginning any nutritional program. Persons currently under any kind of medical treatment should always be urged to seek the advice of their physician before changing their diet or when beginning any nutritional program. Advertising containing medical or therapeutic claims are strictly forbidden and may result in cancellation of Distributorship.

## Changes in Policies & Procedures

NEWAYS reserves the right to make any changes deemed necessary for the success and well-being of the Company and of the Independent Distributors. These changes may be made without prior approval or agreement of the Distributors. Any such changes will become an amendment to the agreement between NEWAYS and the Distributor and shall be effective concurrent with the date of notification to Distributors. All Distributors will be promptly notified of any such changes in the most expeditious and cost-effective manner.

## California Resale Certificates

Due to a mandate by the state of California, Newways will no longer accept resale certificates for any of our California distributors. Newways will collect sales tax for all orders placed by distributors. Newways will collect sales tax for all orders placed by distributors residing in or doing business in said state.

**The above constitutes only a portion of NEWAYS Policies and Procedures. Each Distributor is responsible for reviewing and following all Policies and Procedures, the Code of Ethics and the Marketing Plan as set forth in the Distributor Manual or the Career Success Pack.**