

## **INTERNET MINIMUM ADVERTISED PRICE (IMAP) POLICY**

### **1. Introduction**

The Zendex Tool Corporation ("Zendex") is committed to maintaining the superior quality and integrity of its line of products. Zendex has unilaterally developed the following Internet Minimum Advertised Pricing ("IMAP") Policy in order to promote internet advertising practices that preserve and enhance the reputation of Zendex Products for superior quality and performance, thereby encouraging the long term success of Zendex and its distribution network. This policy will become effective on January 1, 2019.

The Policy requires all Zendex direct customers, distributors and re-distributors (collectively and individually "Distributors") who advertise Zendex Products for sale on the Internet to aggressively promote the Zendex brand image. Zendex recognizes the value of Distributors that dedicate resources and provide services to support and promote Zendex Products in the marketplace. Zendex unilaterally implemented and adopted this Policy to support Distributors in protecting the Zendex image and reputation, promoting the Zendex brand and providing excellent customer service. Zendex will conduct business only with those Distributors that comply with this Policy.

This Policy supersedes any similar policies that were in effect prior to its effective date. Zendex, at any time and in its sole discretion, may vary the IMAP for a Product or add to or delete any or all of the Products covered by the IMAP. This policy may be modified, extended, suspended, discontinued, or rescinded, in whole or in part, by written notice from Zendex at any time. Any such notice will describe the nature of any such modification, extension, suspension, discontinuation, or rescission of the Policy. Because this is a unilateral Policy, if there is any disagreement over the interpretation, application or enforcement of the Policy, Zendex's interpretation or decision will control.

The Policy is a unilateral statement of Zendex's preferences concerning the type of Distributor through which Zendex chooses to distribute its Products. It is not the intent or purpose of this Policy to restrict, coerce, force, or reach agreement with Distributors to charge a particular price for any Zendex Products. The Policy is not a contract or an offer to form a contract, agreement or any other form of mutual understanding and Zendex will not engage in any negotiation with a Distributor regarding the matters addressed by this Policy.

### **2. IMAP Policy**

This Policy applies to all products manufactured by Zendex (the "Products"). Zendex may, from time to time, announce special promotional periods during which this Policy will not apply with respect to all or some Products.

The Distributor is solely responsible for their compliance to the IMAP Policy. This Policy applies to all parties reselling Zendex products on the Internet. Parties who resell Zendex Products to a third party internet seller are required to inform the third party of the Zendex IMAP Policy and also to notify Zendex with the name and contact information of the third party internet seller. Failure to abide by the terms set forth in this Policy shall void any and all Zendex Product warranties for such products.

Each Distributor remains free to establish its own resale prices, but must not (a) advertise Products at a net price that is less than the Internet Minimum Advertised Price established by Zendex, as defined below ("IMAP"), or (b) sell Products to any other person or entity which advertises Products at a net price less than the IMAP established by Zendex.

IMAP: The IMAP for all Zendex Products is set forth in Exhibit A, attached hereto. This Policy prohibits all Distributors of Zendex Products from internet advertising (as defined below) any Zendex Product to which this Policy applies at a price which is less than the IMAP as established by Zendex.

Advertising a Product on the Internet at a net price below the IMAP violates this Policy. For purposes of this Policy, "net price" shall mean the published or advertised price at which the resellers make the Product available to its customers, taking into account all discounts, deductions, rebates, allowances, credits, charges, trade-ins, the separate price of products bundles with the Products by the reseller, coupons, premiums, promotions, free goods and services and gifts offered with the Product.

### 3. Scope of IMAP Policy

To the maximum extent permitted by law, this IMAP Policy applies to all current Zendex Products advertised for sale on the Internet by Distributors. Zendex may, from time to time and at its sole discretion, allow special promotions that are exempt from this Policy.

For purposes of this Policy, "Internet Advertising" means advertising or otherwise promoting the Product(s) in any and all internet media, including without limitation, any and all methods which uses the hypertext transfer protocol ("http") or any internal link to a web based shopping cart, internet coupons, automated emailers, websites, email newsletters, and email solicitation. Price advertising displayed in response to automatic website features such as "click for price," "click-through" banner ads, automated "bounce-back" pricing e-mails, "mouseover" displays, pre-formatted e-mail, instant messages, or similar "automatic" price advertising, including advertising generated in response to placement of any Zendex Product into an internet "Shopping Cart," clicking on a "Check-out" website link, or similar act, are all considered to be communications initiated by the Distributor (rather than by the customer) and constitute "internet advertising" that violates this IMAP Policy if it includes below IMAP pricing. Actual prices charged to customers may be provided by telephone, email responses and product purchase confirmation web pages or communications, and such communications shall not be considered "internet advertising" under this policy.

Use of e-commerce services, including but not limited to, Google Shopping, Price Grabber and NexTag that result in advertised pricing below IMAP is also covered by this Policy and is not permitted. The Distributor is responsible for monitoring and eliminating such pricing. Distributors that fail to do so are subject to penalties.

The Policy does not prohibit any Distributor from providing below IMAP quotations on an individual basis in response to a specific request for quotation by individual customers; provided such response is not automated and is given by person-to-person communication. "Person-to person communication" means verbal and non-automated communications with a customer by telephone, e-mail, in person or in the Distributor's store. Distributors may indicate on their websites that customers may contact the Distributor directly for a price quotation. However, advertised inducements suggesting that prices below IMAP are or may be available violate the Policy. Examples of such inducements include, but are not limited to, the following:

- » "For best prices on this product, visit our store."
- » "Call (or email) us for lowest prices."
- » "This price too low to advertise"
- » "Click here (or mouseover) for best price."

#### 4. Administration of IMAP Policy

This is a unilateral policy and it will be administered and enforced by Zendex in its sole discretion.

“Unilateral” shall mean one-sided, independent and/or by itself. In the context of Zendex’s IMAP Policy, this means there is no agreement, side agreement, or any mutual decision between any Distributor to resell, market, and/or advertise at any price. Each Distributor must independently and unilaterally set its own pricing.

The IMAP for any Zendex Product will be determined by Zendex and communicated to Distributors by Zendex in writing. No external complaints or reports concerning this Policy are solicited by Zendex, nor will any such external complaints or reports be used by Zendex as a basis for enforcement of the Policy. No employee or representative of Zendex will discuss or negotiate this Policy with individual Distributors, other than to advise Distributors regarding the administration of the Policy. Questions regarding the Policy should be directed to the administrator of the Zendex IMAP Policy via the manner described in the below section regarding communication.

Zendex may engage in monitoring of advertised prices of Zendex Products to which this Policy applies, either directly or via the use of third parties. Third parties retained by Zendex may engage in monitoring of Distributor internet advertisements, but not limited to, review of internet advertised prices.

#### 5. Policy Violations

If Zendex verifies that a Distributor is engaging in internet advertising of Zendex Products below the IMAP, selling Zendex Products to any other person or entity which engages in internet advertising the Products at a net price less than the IMAP, or is otherwise violating this Policy, Zendex, in its sole discretion, may impose the following penalties:

- » First Violation: Zendex will issue a written notice of violation to the Distributor and will give the Distributor an opportunity to remove from the internet any advertising that violates this policy.
- » Second Violation: Zendex will issue a second written notice of violation and the Distributor’s right to purchase Zendex Products will automatically be suspended for a period of sixty (60) days after the date of the second notice.
- » Third Violation: Zendex will issue a third written notice of violation and, at Zendex’s discretion, the Distributor’s right to purchase Zendex Products will automatically be suspended for a period to be determined by Zendex.

Separate violations will be deemed to have occurred if a violation continues after Zendex has issued a notice of violation to a Distributor (e.g. the same offending advertisement runs on multiple occasions or in different media). The preceding enforcement measures are necessary, reasonable, and appropriate to protect Zendex’s reputation and the integrity of its products.

**Intentional Violations**  
Intentional failure to abide by this IMAP Policy will result in sanctions imposed by Zendex at its sole discretion. Zendex does not intend to do business with Distributors who degrade the image of Zendex and Zendex Products. In the event of an intentional violation, Zendex may choose to, but need not provide prior notice or issue warnings before terminating a Distributor’s right to sell Zendex Products or taking any other action under this IMAP Policy.

## 6. Other Violations

The following practices will also be treated as violations of the policy, on the basis that they violate the spirit of the Policy and may be used to circumvent the Policy:

- » The use of any rebate, discount, coupon, promotion, giveaway or incentive in any internet advertising by a Distributor when the cumulative effect is to reduce the advertised price of any Zendex Product below its IMAP.
- » The use of "click on," or "click through" buttons on a website, or any similar buttons or automated price quotation transmission feature to provide automatic price quotations at below the IMAP for any Zendex Products.
- » Any activity which Zendex determines, in its sole discretion, is designed or intended to circumvent the intent of this IMAP Policy.

## 7. Use of Trademarks or Copyrighted Materials by Distributors

Advertisements for Zendex Products, whether using any Zendex trademarks, trade dress, Product image(s) and/or copyrights (collectively "Intellectual Property") are specifically prohibited without Zendex's prior written approval.

Zendex values its Intellectual Property. Advertisements containing prices below Zendex's IMAP will result in diminishing, diluting or weakening the value of such Intellectual Property. Accordingly, any Distributor who violates this Policy shall not be authorized to sell or advertise Zendex Products and shall be restricted from using the Intellectual Property and any materials derived from such Intellectual Property of Zendex.

Notification of restriction shall come via a Cease and Desist letter. In conjunction, Zendex shall let it be known that the selling of Zendex products during the period in which the Distributor is restricted from using Zendex's Intellectual Property shall void any and all Zendex Product warranties for such products.

**Use of Trademarks or Copyrighted Materials by Customers of Distributors**

Distributors shall not sell or otherwise transfer Zendex Products to any person or entity for resale without Zendex's prior written authorization. If authorized to do so, the Distributor shall be responsible for each non-consumer reseller's adherence to this policy, and will be held accountable for any violations of this Policy by resellers and sub-distributors. It is the Distributor's sole responsibility to provide a copy of this policy to each such non-consumer reseller and sub-distributor.

Zendex product warranties do not apply to products purchased through unauthorized distributors, resellers, or sub-distributors.

Zendex reserves the right to revoke a Distributor's right to distribute Zendex Products should any reseller or sub-distributor be unable or refuse to adhere to this policy or routinely abuse this Policy.

## 8. Enforcement

Zendex will act on this Policy when deemed necessary. In enforcing this Policy, Zendex will act at all times unilaterally, and will neither solicit, consider nor agree to any recommendation, request or demand of any other person. All matters of interpretation and application of the terms of this Policy and all matters concerning enforcement of this Policy shall remain within the sole and unilateral authority and discretion of Zendex.

## 9. Confidentiality

The contents of this Policy are the sole property of Zendex and may not be copied, reprinted, reproduced or otherwise distributed without the express written consent of Zendex.

## 10. Governing Law

This Policy shall be construed in accordance with, and governed by, the laws of the state of Connecticut.

## 11. No Agreement

This IMAP does not constitute an agreement between Zendex and any Distributor. Compliance with this IMAP does not evidence any kind of agreement between the Distributor and Zendex.

## 12. Communications

Zendex representatives and employees are strictly prohibited from discussing the Policy with any Distributor or from seeking or accepting any assurances of any distributor's compliance with the Policy. All inquiries regarding the Policy should be directed in writing to:

**Zendex Tool Corporation**

**Attn: IMAP Administrator**

**4 Larson Drive**

**Danbury, CT 06810**

*Phone: 1-800-446-5257*

*E-mail: [support@zendextool.com](mailto:support@zendextool.com)*

No Representative or employee of Zendex has the authority to speak to or modify the terms and conditions of this Policy. This Policy may only be modified in writing and the only authorized communication regarding the Policy will be through the above-referenced address or e-mail address. Zendex does not and will not discuss the business dealings of any Distributor with any other Distributor. Zendex does not seek and will not accept any complaints or comments about the internet advertising or pricing policies of any other Distributor. Zendex reserves the right to change or discontinue the Policy at any time, and no Distributor has the right to rely on the continued existence of the Policy or Zendex's enforcement of the Policy. Zendex reserves the right to choose the Distributor with which it will do business and reserves the right to accept or reject any purchase order from any Distributor at any time.

*This policy is also available on our website:*

[zendextool.com/authorized-distributor-center/distributor-imap-policy/](http://zendextool.com/authorized-distributor-center/distributor-imap-policy/)

