

# NUTRISYSTEM, INC.

## CODE OF CONDUCT

### I. Background - Administration

The reputation and integrity of Nutrisystem, Inc. (the “*Company*”) is a valuable asset that is vital to the Company’s success. Each Company employee, including each of the Company’s officers, and each Company director is responsible for conducting the Company’s business in a manner that demonstrates a commitment to the highest standards of integrity. This Code of Conduct (this “*Code*”), which applies to all directors, officers and employees of the Company (collectively referred to as “*Employees*”), has been adopted to help Employees meet these standards. Specifically, the purposes of this Code are:

- to encourage among Employees a culture of honesty, accountability and mutual respect,
- to provide guidance to help Employees to recognize and deal with ethical issues, and
- to provide mechanisms for Employees to report unethical conduct.

While this Code is designed to provide helpful guidelines, it is not intended to address every specific situation. Nevertheless, in every instance, we require that Employees act honestly, fairly and with a view towards “doing the right thing.” Therefore, dishonest or unethical conduct or conduct that is illegal will constitute a violation of this Code, regardless of whether such conduct is specifically referenced in this Code.

Our Board of Directors (the “*Board*”) is ultimately responsible for the implementation of the Code of Conduct. The Board has designated the Company’s Chief Financial Officer to be the compliance officer (the “*Compliance Officer*”) for the implementation and administration of the Code. Employees should feel free to direct questions concerning this Code to the Compliance Officer.

### II. Overview

It is the policy of the Company: (a) to comply with all applicable governmental laws, rules and regulations; (b) to expect that all Employees at all times observe honest and ethical conduct in the performance of Company’s related responsibilities, including the avoidance of conflicts of interest; (c) to expect all Employees to treat others with dignity, including other Employees, shareholders, customers and vendors; and (d) to encourage and support internal disclosure of any violation of this policy for appropriate action.

The Code of Conduct governs the business-related conduct of all Employees, including, but not limited to the Company’s Chief Executive Officer, Chief Financial Officer and all other officers of the Company. The Code only applies to directors insofar as it relates to their roles as directors.

### III. **Compliance With Law**

A variety of laws apply to the Company and its operations. Employees are expected to comply with all such laws, as well as rules and regulations adopted under such laws. Examples of criminal violations under these laws include:

- stealing, embezzling or misapplying corporate or bank funds,
- using threats, physical force or other unauthorized means to collect money,
- making false entries in the books and records of the Company, or engaging in any conduct that results in the making of such false entries,
- making a payment for an expressed purpose on the Company's behalf to an individual who intends to use it for a different purpose,
- utilizing Company funds or other assets or services to make a political contribution or expenditure, and
- making payments, whether corporate or personal, of cash or other items of value that are intended to influence the judgment or actions of political candidates, government officials or businesses in connection with any Company activities.

The Company must and will report all suspected criminal violations to the appropriate authorities for possible prosecution, and will investigate, address and report, as appropriate, non-criminal violations.

### IV. **Conflicts of Interest**

Employees are expected to make or participate in business decisions and actions in the course of their employment with the Company based on the best interests of the Company as a whole, and not based on personal relationships or benefits. A conflict of interest, which can occur or appear to occur in a wide variety of situations, can compromise the business ethics of Employees. Generally speaking, a conflict of interest occurs when the personal interest of Employees or members of their immediate family interferes with, or has the potential to interfere with, the interests or business of the Company. For example, a conflict of interest may occur where an Employee or a family member receives a gift, a unique advantage or an improper personal benefit as a result of the Employee's position at the Company. A conflict of interest could make it difficult for such person to perform corporate duties objectively and effectively because they are involved in a competing interest. The following is a discussion of certain common areas that raise conflict of interest issues. However, a conflict of interest can occur in a variety of situations. You must be alert to recognize any situation that may raise conflict of interest issues and must disclose to the Compliance Officer any material transaction or relationship that reasonably could be expected to give rise to actual or apparent conflicts of interest with the Company.

Outside Activities/Employment – Any outside activity must not significantly encroach on the time and attention Employees devote to their corporate duties and should not adversely affect the quality or quantity of their work. In addition, Employees may not make use of corporate equipment, facilities or supplies, or imply (without Company approval) Company sponsorship or support of any outside activity, and under no circumstances are Employees permitted to take for themselves or their family members business opportunities that are discovered or made available by virtue of their positions at the Company. Moreover, Employees may not perform services for or, except as noted in the following paragraph, have a financial interest in any entity that is, or to such person's knowledge may become, a vendor, customer or competitor of the Company. Employees are required to notify the Company if they take part in any outside employment.

Employees who have a passive investment in over five percent of the total outstanding shares of an entity that is listed on a national or international exchange, or quoted on NASDAQ, the OTC Bulletin Board or a similar quotation service should promptly disclose this fact to the Chairman of the Board of Directors. The Chairman shall refer such matter to the full Board of Directors or an appropriately authorized committee of the Board for consideration of potential conflicts of interest.

Directors of the Company may include persons of diversified business interests who may seek business relationships with the Company or who may be associated with, or have business or financial interests in, corporations or other business entities which, from time to time, have business dealings with the Company or which may compete with the Company. These relationships and interests are not prohibited. However, any Company director who has such an actual or potential conflict of interest should promptly disclose the relevant facts to the Chairman of the Board of Directors. The Chairman shall refer such matter to the full Board of Directors or an appropriately authorized committee of the Board for consideration and appropriate disposition.

Civic/Political Activities – Employees are encouraged to participate in civic, charitable or political activities so long as such participation does not encroach on the time and attention they are expected to devote to their Company-related duties.

Inventions, Books and Publications – Employees must receive written permission from the Compliance Officer before developing, outside of the Company, any products, software or intellectual property that may be related to the Company's current or potential business.

Gifts – Employees and members of their families must not give or receive valuable gifts (including gifts or equipment or money, discounts or favored personal treatment) to or from any person associated with the Company's vendors or customers. Acceptance of a gift in the nature of a memento, such as a conference gift or other inconsequential gift valued at less than one hundred dollars (\$100), is permitted. Engaging in normal occasional business related entertainment, such as meals or use of sporting, theatrical or other public event tickets is permissible with the understanding that it is expected

Employees will exercise sound judgment in reliance on this exception so as to avoid any situation that may otherwise be subject to question.

Loans to Directors and Employees – The Company will not make loans or extend credit guarantees to or for the personal benefit of directors and officers except as permitted by law and the listing standards of any exchange or quotation system on which the Company’s Common Stock is listed. Loans or guarantees may be extended to other Employees only with the Company’s approval.

Insider Trading – Employees are prohibited from trading in securities while in possession of material inside information. Among other things, trading while in possession of material inside information can subject the person to criminal or civil penalties. The Company’s Insider Trading Policy Statement is incorporated by reference into this Code.

#### V. Fair Dealing

Employees should deal fairly and in good faith with the Company’s other Employees, customers, suppliers, regulators, business partners and others. Employees may not take unfair advantage of anyone through manipulation, misrepresentation, inappropriate threats, fraud, abuse of confidential information or other related conduct.

#### VI. Proper Use of Company Assets

Company assets, including facilities, materials, supplies, time, information, intellectual property, software, and other assets owned or leased by the Company, or that are otherwise in the Company’s possession, may be used only for legitimate business purposes. The personal use of the Company’s assets without the Company’s approval is prohibited.

#### VII. Delegation of Authority

Employees, and particularly each of the Company’s officers and other managerial Employees (“*Senior Employees*”), must exercise due care to ensure that any delegation of authority is reasonable and appropriate in scope, and includes appropriate monitoring.

#### VIII. Handling Confidential Information

Employees should observe the confidentiality of information that they acquire by virtue of their affiliation with or employment by the Company, including information concerning customers, vendors, competitors and other Employees, except where disclosure is approved by the Company or otherwise legally mandated. Of special sensitivity is financial information, which should under all circumstances be considered confidential except where its disclosure is approved by the Company, or after two full business days following its disclosure in a press release or a report filed with the Securities and Exchange Commission. In addition, Employees must safeguard proprietary information, which includes information that is not generally known to the

public and has commercial value in the Company's business. Proprietary information includes, among other things, software programs, source and object codes, trade secrets, ideas, techniques, inventions (whether patentable or not) and other information relating to designs, algorithms and research. It also includes information relating to marketing, pricing, customers, and terms of compensation for Employees. The obligation to preserve proprietary information continues even after employment ends.

#### **IX. Public Disclosures**

As a public company, the Company must ensure that its filings and submissions with the Securities and Exchange Commission and public communications generally provide full, fair, timely, accurate and understandable disclosure. Employees engaged in the preparation of these filings, submissions and communications ("**Public Disclosure Personnel**") must endeavor to ensure that the Company's filings, submissions, and communications meet these objectives. Depending on their duties and responsibilities, other Employees may be called upon to provide information to assure that the Company's reports are complete, fair and understandable. Employees are expected to take this responsibility very seriously. If requested by Public Disclosure Personnel to provide information for use in such filings, submissions or communications, Employees will provide, as promptly as practicable, accurate, understandable and complete information on a timely basis.

#### **X. Special Ethics Guidelines for Employees with Financial Reporting Responsibilities**

The Finance Department bears a special responsibility for promoting integrity throughout the organization, with responsibilities to Company shareholders. The Chief Executive Officer and Finance Department personnel have a special role both to adhere to these principles themselves and also to ensure that a culture exists throughout the Company as a whole that ensures the fair and timely reporting of the Company's financial results and condition, as well as other information required by Securities and Exchange Commission regulations.

Because of this special role, the Chief Executive Officer and all members of the Company's Finance Department are bound by the following Financial Officer Code of Ethics.

The Chief Executive Officer and each member of the Finance Department will:

- Act with honesty and integrity, avoiding actual or apparent conflicts of interest in personal and professional relationships.
- Provide to the Company's other Employees, consultants and advisors who are engaged in filing reports and documents with the Securities and Exchange Commission ("**SEC Reports**") or in disseminating other public communications such as press releases, information that is accurate, complete, relevant, timely and understandable.

- Endeavor to ensure full, fair, timely, accurate and understandable disclosure in SEC Reports.
- Comply with laws, rules and regulations of federal, state and local governments, and appropriate self-regulatory organizations.
- Act in good faith, responsibly, with due care, competence and diligence, without misrepresenting material facts or allowing one's independent judgment to be subordinated.
- Respect the confidentiality of information acquired in the course of one's work except when authorized or otherwise legally obligated to disclose.
- Refrain from using confidential information acquired in the course of employment for personal advantage.
- Proactively promote and be an example of ethical behavior as a responsible partner among peers in the work environment.
- Achieve responsible use of and control over all assets and resources employed or entrusted.
- Record or participate in the recording of entries in the Company's books and records that are accurate to the best of his or her knowledge.
- Promptly report to the Compliance Officer and/or the Chairman of the Audit Committee of the Board of Directors any conduct that he or she believes to be a violation of law or business ethics or of any provision of the Code of Conduct, including any transaction or relationship that reasonably could be expected to give rise to such a conflict.

Violations of this Financial Officer Code of Ethics, including failures to report potential violations by others, will be viewed as a severe disciplinary matter that may result in personnel action, including termination of employment. If you believe that a violation of the Financial Officer Code of Ethics has occurred, please contact the Chief Executive Officer. You may also contact the Chairman of the Audit Committee of the Board of Directors.

It is against Company policy to retaliate against any Employee for good faith reporting of violations of this Code.

## XI. **Report of Violations**

### Administration – General Policy Regarding Report of Violations

Employees who observe, learn of, or, in good faith, suspect a violation of the Code must immediately report the violation to the Compliance Officer; alternatively, violations may be reported to the Chairman of the Audit Committee of the Board of Directors.

Employees who report violations or suspected violations in good faith will not be subject to retaliation of any kind. Reported violations will be investigated and addressed promptly and will be treated confidentially to the extent possible. A violation of the Code of Conduct may result in disciplinary action, which may include termination of employment.

## Complaint Procedure

- Notification of Complaint – Employees who observe, learn of or, in good faith, suspect a violation of the Code must report the violation immediately to the Compliance Officer, or to the Chairman of the Audit Committee of the Board of Directors. Whenever practical, the complaint should be made in writing. It is unacceptable to submit a complaint knowing it is false.
- Investigation – Reports of violations will be investigated under the supervision of the Compliance Officer. Company Employees are expected to cooperate in the investigation of reported violations.
- Confidentiality – Except as may be required by law or the requirements of the resulting investigation, the Compliance Officer and others conducting the investigation shall not disclose the identity of anyone who reports a suspected violation if anonymity is requested.
- Protection Against Retaliation – Retaliation in any form against an individual who reports an alleged violation of this Code of Conduct, even if the report is mistaken, may itself be a violation of law and is a serious violation of this Code of Conduct. Any alleged act of retaliation must be reported immediately to the Compliance Officer. If determined to have in fact occurred, any act of retaliation will result in appropriate disciplinary action, which may include termination of employment.

## XII. Waivers

Requests for a waiver of a provision of the Code of Conduct must be submitted in writing to the Compliance Officer for appropriate review, and an executive officer, the Board of Directors or an appropriate Board committee will decide the outcome. For conduct involving directors and executive officers, only the Board of Directors or the Audit Committee of the Board has the authority to waive a provision of the Code. The Audit Committee must review and approve any “related party” transaction as defined in Item 404(a) of Regulation S-K, promulgated by the Securities and Exchange Commission, before it is consummated. In the event of an approved waiver involving the conduct of a director or executive officer, appropriate and prompt disclosure must be made to the Company’s shareholders as required by Securities and Exchange Commission or other regulation or by applicable listing standards of the principal exchange or interdealer quotation system on which the Company’s Common Stock is listed.

Statements in the Code of Conduct to the effect that certain actions may be taken only with “Company’s approval” will be interpreted to mean that appropriate officers or members of the Board of Directors must give prior written approval before the proposed action may be undertaken.

### XIII. **Compliance**

**Adherence to Code; Disciplinary Action** – Employees have a responsibility to understand and follow this Code of Conduct. In addition, all Company Employees are expected to perform their work with honesty and integrity in all areas not specifically addressed in this Policy. A violation of this policy may result in appropriate disciplinary action, including the possible termination from employment with the Company.

**Communications; Annual Certification** – The Company strongly encourages dialogue among Employees and their supervisors to make everyone aware of situations that give rise to ethical questions and to articulate acceptable ways of handling those situations. In addition, each Senior Employee of the Company has an obligation to annually certify that he or she has read and reviewed this Code of Conduct, and all Employees must certify that they have read this Code of Conduct and to the best of their knowledge are in compliance with all its provisions. Forms of these certifications are attached to this Code as Appendices I and II.

**Responsibility of Senior Employees** – All Senior Employees will be responsible for the enforcement of, and compliance with, this Code of Conduct, including necessary distribution to assure Employees knowledge and compliance. Directors and Senior Employees are expected to promote honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships. Senior Employees may be disciplined if they condone misconduct, do not report misconduct, do not take reasonable measures to detect misconduct, or do not demonstrate the appropriate leadership to insure compliance.

### XIV. **Related Policies**

This Code of Conduct should be read in conjunction with the Company's other policy statements, including Nutrisystem, Inc. Employee Policy Manual and the Whistleblower Policy to follow.

#### **Whistleblower Policy**

In order to comply with the Sarbanes-Oxley Act of 2002 regulations and to ensure that no corporate or personal misconduct goes undetected, we have implemented a whistleblower hotline. Any Employee can use the hotline to report instances of accounting irregularities, securities violations, fraud, embezzlement, theft, discrimination, harassment, vandalism, substance abuse, violence or threats, unsafe working conditions or other misconduct – in short any illegal or unethical behavior that can happen in a workplace.

An Employee can submit a report via the intranet, by phone or by going to the website of our outside service, EthicsPoint. Reports can be submitted **anonymously and confidentially**. Reports are submitted to EthicsPoint, which catalogs them and forwards the report to a senior manager at the Company, our in-house General Counsel, our outside

attorney or the Nutrisystem board member who is the Chairman of the Audit Committee of the Board of Directors. Who gets the report depends on the content. If a report names one of the reviewers, that named person does not get access to report. We intend to respond to each report as quickly as possible.

We are very committed to operating this business in accordance with high ethical standards and standards of respect for Employees and customers. This policy is one way to ensure that we follow through on that commitment.

The Whistleblower Policy attached contains the details of the reporting system. You can call Denise Bergner (x5303) or David Clark (x5302) if you have any questions.

### **Procedure for Reporting a Violation**

With this hotline reporting system, Employees can either file a report on the internet at [www.ethicspoint.com](http://www.ethicspoint.com) and follow step by step instructions provided or by telephone at 1-866-294-8675 (toll free) and speak to a trained operator regarding any suspected wrongdoing or problem 24 hours a day, 7 days a week, 365 days a year. There is also a link to the EthicsPoint website on the Company's intranet.

Once a report is filed, it is assigned a unique case number. An email is sent by EthicsPoint to the designated Company official(s) for response. However, the Company official will not know who sent the message unless the reporter chooses to supply his or her name. The Company has designated the Chairman of the Audit Committee of the Board of Directors, its Chief Financial Officer, its in-house General Counsel, its Director of Legal Administration, its Human Resources Manager, and its outside counsel to investigate reports filed with EthicsPoint in as prompt and thorough manner as is reasonably possible. The Company will take appropriate and prompt corrective action as warranted.

Any case filed involving an accounting or financial matter; or fraud and theft issue will be handled by the Chief Financial Officer and reviewed by the Chairman of the Audit Committee of the Board of Directors.

Any case filed in connection with harassment and inappropriate behavior, threats & violence or workplace safety will be handled by Human Resources and reviewed by the Chief Financial Officer of the Company.

Any case filed, pertaining to a matter other than an accounting or human resources issue, will be handled by the Company's in-house General Counsel and its Director of Legal Administration and, if appropriate, reviewed by the Company's designated outside counsel.

The Chairman of the Audit Committee of the Board of Directors can review any report unless they are named in the report. Should the Chairman of the Audit Committee be

named in any report, that report would be handled by the Company's in-house General Counsel and its designated outside counsel for action.

As promptly as is practical a response from the designated Company official will be posted on the EthicsPoint website and associated with that case number. The person that made that report can use a password and the case number to access the response using the EthicsPoint website or by phoning EthicsPoint.

This whistleblower process is not intended to replace direct communications in the workplace. If they think it is appropriate, Employees should feel free to speak to their immediate supervisor, departmental head or a representative of the Human Resources Department about any job related concern.

For any questions regarding this hotline reporting system, please contact a representative in the Human Resource Department. Employees may also visit EthicsPoint at its website at [www.ethicspoint.com](http://www.ethicspoint.com) or go to the Company's intranet site and click on the EthicsPoint logo.