

UK

# Independent Consultant Application/Agreement

Nikken UK Limited  
1 Deltic Avenue, Rooksley,  
Milton Keynes MK13 8LD  
Customer Services: 0870 444 5775  
Fax: 01908 856789  
Email: UKsupport@nikken.co.uk

**NIKKEN** Discover it. Live it.



Please complete in Black Ink and in CAPITALS

Applicant name (Last, first) Mr / Mrs / Ms / Miss / Dr / Rev

Date of birth

Co-applicant name (Last, first) Mr / Mrs / Ms / Miss / Dr / Rev

Date of birth

If you require a Company name on your ID, please fax your VAT Registration and your Company registration showing that you are the Director of the Company (no Public Limited Companies) to Nikken. Nikken will then automatically update your personal Consultant details with the Company name on the top of your Application information.

Address

Post Code

Day-time telephone

Additional telephone

Fax no.

Email address

Sponsor's name (last, first)

Sponsor ID number

Woodworth, Wayne

939275500

I hereby apply to be an independent Nikken Consultant on the terms and conditions set out in this Agreement including those terms and conditions set out overleaf. By my signature to this Agreement I confirm I have read, understood and agreed to the terms and conditions of this Agreement and the terms and conditions of the Nikken Compensation Plan and Nikken Starter Kit as amended from time to time by Nikken and which are expressly incorporated in to this Agreement. I confirm that I have received a copy of this Agreement for my records, and that I am at least 18 years of age.

**IMPORTANT:** Before signing this Agreement please read clause E overleaf which sets out the personal information which Nikken will collect from you and how we will use it.

It is illegal for a promoter or a participant in a trading scheme to persuade anyone to make a payment by promising benefits from getting others to join a scheme. Do not be misled by claims that high earnings are easily achieved. If you sign this contract you have 14 days in which to cancel and get your money back.

This section must be completed. Have you or your co-applicant previously been an Independent Nikken Consultant or participated in any Nikken Distributorship within the last 12 months?  YES  NO

If yes, please provide your previous

Consultant ID number ..... Application Date .....

Name .....

Please note that if you are registering with a different sponsor, your previous ID must have been terminated for a minimum period of twelve months

Co-applicant's Signature

Date

Sponsor's Signature

Date

*Wayne A. Woodworth*

Oct 6, 2011

Applicant's Signature

Date

Signed on behalf of NIKKEN UK Limited:

*[Signature]*

Any commissions earned will be paid directly to you. Please provide your bank details below.

Bank name

Address

Post code

Sort code

Account number

Account holders name

Cost of Starter Kit (including VAT): £40.00

Expiry Date

### Method of payment

VISA  BANK TRANSFER  MAESTRO  MASTERCARD

Nikken UK Limited, NatWest Bank Plc,  
Account Number: 82210683 Sort Code: 60-14-55

Card number/Maestro number

Cardholder's name

Cardholder's signature

\*If VAT registered, a photocopy of the registration should be attached. Proof of continuing registration should be supplied twice a year.

Please complete your VAT number here. Please be sure you have completed all sections of the form and personally signed the contract.

VAT number (if VAT registered)

.....

\*Please note Nikken UK Limited is unable to accept applications from public limited companies. If you are registering a company name or your ID, your VAT registration number must be in the company's name. Otherwise this must be your personal VAT registration number.

The original white copy of this form together with the payment for a Starter Kit should be sent to:  
**Nikken UK Limited, 1 Deltic Avenue, Rooksley, Milton Keynes, MK13 8LD**



Registered in England and Wales No 315167 Registered office: 1 Deltic Avenue, Rooksley, Milton Keynes, MK13 8LD, United Kingdom

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## IN THIS AGREEMENT ("This Agreement")

"Agreement"	shall mean the terms and conditions hereof, the Policies Booklet and the Compensation Plan as defined herein.
"Company" or "Nikken"	shall mean Nikken UK Limited of 1 Deltic Avenue, Rooksley, Milton Keynes, MK13 8LD.
"Consultant"	shall mean the person referred to overleaf.
"Policies Booklet"	shall mean the current version of the Consultant Policies Booklet issued by the Company.
"Compensation Plan"	shall mean the current version of the Compensation Plan issued by the Company.
"Products"	shall mean the wellness, nutritional and other items shown in the Company's current catalogue and any current supplements to that catalogue and such other products as the Company may market from time to time.
"Sponsor"	shall mean the sponsoring Consultant referred to overleaf.
"Starter Kit"	shall mean the kit supplied to the Consultant by his Sponsor or the Company containing the information and materials required to operate a Nikken distributorship.

Nikken is the sole promoter of this trading scheme. Under this system, transactions are affected by participants in the system as principals. The goods that are sold under this system are the Products.

The Consultant may use the Nikken name and trademark and the Product trademarks only for the purpose of his Nikken business and in accordance with the terms and for the duration of this Agreement.

### A. Obligations of the Consultant

1. The Consultant must be of legal age in the United Kingdom to enter into this Agreement.

2. The Consultant agrees:

- Only to purchase the Products from the Company. Cross-ordering, meaning that purchases from other Consultants are permitted as long as they do not primarily serve the purpose of qualification or rank advancement of a Consultant, or the relevant Up- or Downline.
- To operate the business in a lawful, ethical and moral manner, to obtain any licenses required by law, not to make any exaggerated, misleading or false claims about the Products or the Company or the Company's Compensation Plan, and not to do anything that would adversely reflect on the Company or any of its Consultants.
- Not to imply that he is an officer, employee, partner, agent or owner of the Company; the Consultant acknowledges that he is an independent Retailer operating his own business and as such cannot and shall not purport to or attempt to bind or contract on behalf of the Company in any manner or incur any liability on behalf of the Company.
- To pay all Income Tax, National Insurance contributions and Value Added Tax due in relation to his business and to keep such records as necessary to ensure the proper assessment and payment of tax. If the Consultant having been registered, becomes de-registered for VAT voluntarily or due to turnover falling below the VAT threshold applicable at the relevant time or otherwise, he shall notify Nikken in writing of the fact of such de-registration within fourteen (14) days of the de-registration taking effect.
- To keep reasonable records of all things done in relation to the promotion of sales of the Products and, at the Company's request, to make them available for inspection by, and/or provide copies, to the Company in as much as this is deemed necessary for the efficiency of this trading scheme. Inspection will be by prior appointment only.
- To report sales made to the Company in accordance with the procedure specified by the Company from time to time.
- To comply with the Company's terms and conditions and operating procedures, as set out in this Agreement, the Compensation Plan, and the Policies Booklet and with any modifications made to these documents by the Company from time to time. The Consultant acknowledges that the Policies Booklet and the Compensation Plan (including matters relating to the pricing of the Products and any discounts, commissions or bonuses) may be changed by the Company at any time by giving written notice to the Consultant of such changes, provided that the Company shall not make any changes which will affect the financial obligations of the Consultant without giving the Consultant at least 60 days written notice of such changes. The Consultant's continued engagement in selling the Products, promoting the Nikken business opportunity, or both, after notice of any revisions to this Agreement, the Policies Booklet and the Compensation Plan shall constitute his agreement to such revisions and legally binding amendment of this Agreement, Policies Booklet and the Compensation Plan (which shall together constitute the entire agreement between the parties).
- Only to use current official literature produced or approved by the Company to promote the Products or when making claims regarding its performance, and not to make any verbal claims, express or implied, regarding the Products that are not set out in such literature.
- Not to use any broadcast media advertising without the specific written approval of the Company.
- Only to use factual income representations based upon the personal experience of the Consultant and not to imply that such is guaranteed or easily achieved.
- On the sale of each Product, to provide to any purchaser of the Products a proper fully completed sales receipt form.
- Not to use any trademark of the Company without prior written approval from the Company, except for the purposes of Product identification and their use on sales order forms.
- Not to accept any payment for the introduction of a potential Consultant to the Company.
- At all times during the period of this Agreement to observe the requirements of the Direct Selling Association Codes of Practice as amended from time to time in force in any country where the Consultant is conducting his Nikken business, and comply with the provisions of all relevant statutes, regulations and other laws pertaining to this Agreement and the promotion and sale of the Products.
- Not to offer the Products for sale in any retail premises.

3. The Consultant warrants to the Company that he has the full right and authority to enter into and perform this Agreement and act as a Consultant of the Products, and that by so doing he will not be in breach of any other agreement or arrangement that he may have with any other person or entity.

4. The only financial obligations of the Consultant during the period of 12 months from the commencement date of this Agreement are to purchase the Starter Kit at a cost of £40.00, to purchase Products to satisfy orders previously received or the personal use of the Consultant his family and contacts, and if the Consultant elects to renew this Agreement, to pay an annual renewal fee of £20.00 (to include Nikken's administration and processing of the Consultant's renewal application and Nikken providing information newsletters and support throughout the following year) (such amount to be subject to revision for subsequent renewals). The Consultant has no further annual financial obligation and in particular has a free choice whether or not to purchase Products or services under this trading scheme. The Consultant may hold stocks of the Products if he so wishes, provided that such stocks are for the sole purpose of satisfying orders previously received from customers or as a basic stock available for supply to customers

and are not excessive for such purposes. The Consultant may also hold a reasonable level of stocks of information packs for sale to new Consultants sponsored by the Consultant. The Company has the right to require proof that Products ordered or previously supplied have been sold to customers before meeting any order and the Company has the right to refuse to supply the Products to the Consultant if the Consultant is in the Company's opinion, holding or seeking to hold excessive stocks, The Consultant understands that he may only order Products to the value of £200.00 including the Starter Kit during the seven day period after entering into this Agreement.

5. If any Downline Consultant of the Consultant returns any Products to the Company and obtains a refund from the Company (whether or not such refund is legally required), the Consultant will on demand pay to the Company any commissions or bonuses earned in relation to those Products in the 120 days preceding the Company's demand for repayment. The Company may set off any amount due to it from the Consultant against any sums due from it to the Consultant.

6. The Consultant agrees that whilst he is a Consultant of the Company he will not be a Consultant or participator in any other direct selling system, which markets products or services in direct competition with the Products marketed by the Company.

7. The Consultant agrees to familiarise himself with all Nikken Products and Product descriptions. The Consultant understands that the Products are not considered and are never offered or intended as medicines or medical treatments for any disease or disorder either physical or mental. Nikken Consultants are prohibited as a condition of this Agreement from participating in any diagnosis, prognosis, evaluation, treatment, description management or remedy of any disease or physical or mental disorder.

8. The Consultant, as an involved and concerned Consultant of Nikken, will provide follow-up support, encouragement and service to all his customers.

9. An individual may have only one Nikken distributorship. He may not own any other distributorship, either individually or jointly, nor may he participate as a partner, owner, stockholder, trustee, director, or associate member in more than one distributorship in any form. Nikken reserves the right to terminate any position that it believes in its sole discretion to be a surrogate for another position.

10. Members of the Consultant's immediate family (which includes spouse and minor children) may together operate as one Nikken distributorship, but may not become separate Nikken Consultants.

### B. Orders and Obligations of the Company

1. Orders shall be placed in accordance with the Company's procedures and terms (which the Company has the right to alter from time to time in its discretion) current at the time the order is accepted by the Company.

2. The Company agrees to pay the Consultant bona fide commissions and bonuses earned by the Consultant asset out in the Compensation Plan.

3. The Company agrees to supply and deliver the Products in accordance with any correctly placed order to the Consultant to the address in the United Kingdom notified to Nikken by the Consultant. Orders are subject exclusively to the general terms of sale as stated in the Policies and Procedures.

4. In the event that Nikken is required to pay VAT on any payments due to the Consultant under the Compensation Plan or otherwise Nikken reserves the right or otherwise (subject to any necessary approvals) to self bill for such sums, in which event VAT shall only be paid to the Consultant if the Consultant is registered for VAT and provides Nikken with a copy of his VAT registration certificate.

### C. Termination

1. Subject to the provisions of clause (2) below, either the Consultant or the Company may terminate this Agreement with or without cause at any time without penalty by giving 14 days written notice to the other party at the address set out in this Agreement.

Nikken may terminate this Agreement with immediate effect by notice in any of the following circumstances:

- If the Consultant breaches any provision that is incapable of remedy.
- If the Consultant makes any statement in this application which is materially inaccurate or untrue.
- If a petition for the Consultant's bankruptcy is presented to any court having jurisdiction over the Consultant, or an administration order has been made.
- If the Consultant is unable to pay Nikken any outstanding sums for more than six weeks.
- If the Consultant commits any breach of any of the provisions to this Agreement and (in the case of the breach capable of remedy) fails to remove the same within 14 days after receipt of written notice giving full particulars of the breach and requiring it to be remedied.

2. The Consultant may, by written notice to the Company, cancel this Agreement within 14 days of entering into it without penalty and in that event the Consultant may:

- Recover any money he has paid to the Company or any other participant in connection with his participation in this trading scheme; and
- Return at his own cost to the Company's address set out in this Agreement (or to such alternative address within the United Kingdom as the Company may specify) within 21 days of termination any goods which he has purchased from the Company (including the Starter Kit) during that period which he has not sold to anyone else, provided that the goods so returned are in the condition in which they were at the time of purchase; and the Company shall refund any monies paid in respect of them within 10 days of receipt of those goods; and
- Cancel any services ordered within that period from the Company and recover any money paid in respect of such services not yet supplied to him.

3. If the Consultant gives notice to terminate this Agreement after 14 days of it being entered into, or the Company gives notice to terminate this Agreement at any time, then:

- (a) The Consultant shall be released without penalty from any future contractual obligations other than to pay the price of any Products delivered to him and not returned by him in accordance with these provisions.
- (b) On termination of the Distributorship the Consultant will no longer enjoy the privileges related to commissions, bonus payments, rank, Downline, training and purchase of products at wholesale prices.
- (c) The Consultant shall have the right to return to the Company any Products (including training and promotional materials, Policies Booklets and Starter Kits) he has purchased from the Company under this trading scheme within the 90 days prior to such termination and which remain unsold provided that the Products concerned are already held by the Company or are delivered to it at the address set out in this Agreement (or to such alternative address within the United Kingdom as the Company may specify) within 21 days of such termination; and in that event the Company shall reimburse him the price (inclusive of Value Added Tax) which the Consultant paid for them less:
  - (i) In the case of any Products the condition of which has deteriorated due to an act or default on the Consultant's part an amount equal to the diminution in their value resulting from such deterioration; and less
  - (ii) a reasonable handling charge.
- (d) If the notice to terminate was given by the Company the deductions referred to in Clause 3(b) above will not be made and the Company will meet the expense of delivery to it of the Products returned;
- (e) The purchase price for the Products so returned is payable upon their delivery to the Company or if they are already held by the Company forthwith.

4. In addition, the Consultant shall have the right to return to the Company at its address as set out in this Agreement (or to such alternative address within the United Kingdom as the Company may specify) within 21 days of termination of the Agreement, any Products (including training and promotional materials, Policies Booklets and Starter Kits) that he has purchased from the Company under this trading scheme more than 90 days but within one year prior to the date of termination and which remain unsold; and if such Products are either so returned or are already held by the Company at the date of termination the Company shall reimburse the Consultant 90 per cent of the VAT-inclusive price paid by the Consultant for the purchase of those Products less an amount equal to:

- (i) Any commissions, bonuses or other benefits (in cash or in kind) received by him in respect of those Products;
- (ii) Any amounts due from him to the Company on any account; and
- (iii) A reasonable handling charge, provided that
  - (i) The Consultant has not purchased or acquired such Products in breach of this Agreement;
  - (ii) The Consultant returns such Products to the Company in an unused, commercially re-saleable condition; and
  - (iii) The Company did not clearly inform the Consultant prior to purchase that the Products were seasonal, discontinued or special promotion Products, which were not to be subject to the buy-back provisions of this paragraph 4. Should a VAT registered Consultant terminate, a tax invoice should be obtained to cover the sales of goods back to the company.

5. Any notice given under this Agreement, which is given by first class post to the address of the parties as set out in this Agreement or to such other address as shall have been notified from time to time in writing by one party to the other, shall result in the period of notice commencing to run from the day when such notice is posted.

#### D. Restrictions

1. The Consultant shall not, except as authorised or required by the Company, reveal to any person any of the trade secrets or confidential information of the Company which may come to his knowledge during the term of this Agreement, and shall keep with complete secrecy all confidential information and shall not use or attempt to use any such information in any manner which may injure or cause loss either directly or indirectly to the Company or its business, or may be likely to do so. This restriction shall continue to apply after the termination of this Agreement for one year but shall cease to apply to information or knowledge which may come into the public domain otherwise than by his fault.
2. The Consultant shall only use the Nikken name in identifying themselves as an Independent Nikken Consultant or as an Independent Consultant of Nikken Products. All business cards, letter headings, signs, etc. used by a Consultant must clearly identify the Consultant as an Independent Consultant or an Independent Consultant of Nikken Products.
3. Consultants shall not at any time use the Nikken name or any of its trademarks as part of their Distributorship names, or imply in any way that they are agents or employees of Nikken.
4. Nikken exclusively produces the only literature that is approved for use by Consultants. Duplicating marketing and promotional material is allowed at the sole discretion of Nikken, provided the material is reproduced in full and the standard of duplication is of high quality. Such reproduction cannot be for personal or corporate gain but duplication is permitted to promote the Products or the Business Opportunity. The Nikken Magazine is published for Consultants as an in-house magazine for information purposes only. Photocopies or reproductions of any article, or any part of an article, from the Nikken Magazine is not permitted and it may not be used for the promotion of product sales other than the materials clearly marked for cut-outs and use by Consultants for the promotion of sales. All Nikken literature is protected by copyright.

5. Video and /or audio recording is strictly prohibited at any Nikken meeting whatsoever.

6. Upon termination of this Agreement, the Consultant shall deliver up any samples, notes, memoranda or information concerning trade secrets or confidential information of the Company as shall be made or received by the Consultant during the course of this Agreement. The Consultant hereby acknowledges that such notes, memoranda and information are the property of the Company.

7. For a period of 90 days following the termination of this Agreement, the Consultant shall not recruit any Consultants which form part of his Downline on behalf of any direct selling business other than that operated by the Company, nor shall he accept any such Consultants as his Downline in any direct selling business conducted by him during this period; and during this

period the Consultant shall not seek to persuade any such Consultants to terminate their position with the Company, or to become less active as Consultants of the Company's Products or to sell the products of or otherwise be actively involved in any other direct selling business.

#### E. Data Protection

By signing this contract you explicitly agree that:

1. Nikken may retain and or process all personal information, including sensitive personal data, given by you to Nikken for purposes including but not limited to all legislative, regulatory and operational processes, marketing, business creation and development, management reporting and commissions payable. Nikken may record this information both manually and/or on a computer based system and or database and will be the data controller for this information. Furthermore, you agree that Nikken can retain the data after the termination of the contract. The deletion of the data will only be carried out on written request from you.
2. Nikken may disclose and transfer your personal information to other members of the Nikken group which are situated outside the European Economic Area (where this happens Nikken agrees to ensure that each receiver has agreed to the provisions of the (US Only) Safe Harbour agreement where applicable) and to other persons, e.g. agents and third parties for the purpose of Nikken's business. Both within Europe and outside Europe, all third parties will be required to agree to either the Safe Harbour (US only) agreement and or an agreement of privacy and restriction of use of such data that maybe provided and defined by the said agreement. You can request details of these agents and third parties by contacting us at the address given at the top of this form.
3. Where you are unable to remain active as a Consultant, until such time as you resume these activities or this Agreement terminates (whichever is the sooner), you agree that Nikken may retain and process information in relation to the reason for your inactivity, which would be communicated by you to Nikken, including information relating to your physical and mental health This data will be dealt with in strictest confidence and will not be passed on to any third party without your prior written permission. You can obtain from us a copy of the information which we hold about you which is subject to the Data Protection Act 1998 (for which we may make an appropriate administrative charge) and contact us at the address at the top of this form to correct any inaccuracies in your information.
4. As an independent Consultant it is your responsibility to ensure that you comply with the Data Protection Act 1998. Therefore, if a customer notifies you that they do not wish to receive marketing materials from you, you must comply with their wishes. You hereby indemnify Nikken from any liability incurred by it arising out of any breach by you of the Data Protection Act 1998.

#### F. Indemnification/Liability

1. The Consultant agrees to indemnify the Company against
  - (a) All or any sums referred to in clause A.2.d) so far as the same are or are sought to be made chargeable against the Company, and
  - (b) All actions, proceedings, claims, demands, damages, costs, expenses and liabilities whatsoever against the Company or which the Company may incur or suffer as a result of the Consultant not complying with his obligations under this Agreement.
2. a) Subject to sub-clause F.2.
  - b) The Consultant agrees that the liability of Nikken UK Limited and its officers and directors to the Consultant (whether for breach of contract, negligence, or for any other reason) for any claim including:
    - (i) Costs of substitute goods
    - (ii) Lost profits
    - (iii) Loss of business or sales
    - (iv) Costs of unsold goods
    - (v) Special, consequential, or indirect loss shall not exceed, and shall be limited to an aggregate amount equal to 100 per cent of the total amount paid by the Consultant to Nikken UK Limited for Products and services under this agreement in the 12-month period prior to the most recent event giving rise to liability. This does not affect the statutory rights of consumers or the rights of Consultants in respect of Products they have bought for their personal use.
  - c) The liability of Nikken UK Limited
    - (i) For death or personal injury caused by Nikken UK Limited negligence or
    - (ii) For Nikken UK Limited's fraudulent misrepresentation is not excluded or limited by this Agreement.

#### G. General

1. In this Agreement, unless a contrary intention appears;
  - (a) References to the masculine gender include the feminine
  - (b) Words in the singular include the plural and vice versa.
2. Failure of the Company to enforce any of the provisions of this Agreement or to fail to exercise any option to terminate shall not be construed as a waiver of such provisions and shall not affect the validity of the Agreement or any part thereof, or the right of the Company thereafter to enforce each and every provision. If any provisions of this Agreement are determined by a competent court of law to be invalid, it shall not affect the validity of the remaining terms and conditions.
3. English Law shall govern the validity, construction and performance of this Agreement, and the parties hereto hereby submit to the jurisdiction of the English Courts.
4. These Terms and Conditions, Compensation Plan and Policies Booklet (if any) shall constitute the whole agreement between the Company and the Consultant.
5. Except as otherwise stated herein this Agreement shall not be amended, modified, varied or supplemented except in writing. This also applies to any waiver to this requirement.
6. On signature of this Agreement the Consultant is appointed a Nikken Consultant commencing on the date of this Agreement. Subject to the rights of prior termination contained in this Agreement this Agreement shall continue until the next 1 January (or such other date as the Company may specify) on which date it shall be renewable for a further year, subject to the rights of prior termination set out herein and provided that the Consultant has paid the renewal fee (if any) and requested in writing an extension of this Agreement. Nikken has the right in its absolute discretion to accept or reject a renewal application.

Date \_\_\_\_\_ Applicant's Signature \_\_\_\_\_