



MONUMENT BUILDERS OF NORTH AMERICA

Code of Good Practice

I. INTRODUCTION

The establishment and maintenance of public confidence in the skill, honesty and integrity of the profession of monument building is fundamental to the future success of the monument industry.

Special responsibilities of sensitivity, dignity, and reliability are imposed upon the profession of monument building.

As a result, the Monument Builders of North America, as the trade association of the industry, seeks to work closely with all other segments of the memorial industry and cemeteries to protect the interest of the public. To do so, members of the association subscribing to this Code give notice that they clearly recognize the vital public need to preserve and encourage fair and equitable competition and fair trade practices among all who are engaged in the sale of memorials to the public.

THEREFORE, the Monument Builders of North America and its members have adopted this Code of Good Practice for the monument building industry. The public will know that those who subscribe to this Code are those in the monument industry who are sincerely concerned with the protection and interests of those who come in contact with the industry.

II. DEFINITIONS

As used in this Code of Good Practice, the following terms shall be defined as follows:

1. **Consumer** – “Consumer” means any person, firm, or corporation who purchases, attempts to purchase, or seeks information regarding the purchase or acquisition of a monument or related service and who does not intend to resell such monument of service.
2. **MBNA Retail Members** – “MBNA Retail Members” shall be those monument builders who have, in writing, subscribed to this Code of Good Practice and who have agreed to conduct their businesses in accordance with it.
3. **Monument or Memorial** – “Monument” or “Memorial” includes any type or form of a complete metal or stone memorialization or other monument for installation in a cemetery or at a gravesite.
4. **Monument Builder** – “Monument Builder” includes any person, firm, or corporation who, among other things, at retail, sells or otherwise provides any type or form of permanent marker, memorialization, or other monument for installation in a cemetery or at a gravesite.
5. **Pre-Need Sale** – “Pre-Need Sale” shall be any sale made wherein the purchase is made prior to the death of the person for whom the purchase is made.
6. **Warranty** – “Warranty” includes any written or oral statement as to performance of any product or service to be provided by the monument builder to the consumer which is made with the intent or purpose to induce the consumer to purchase from or do business with the monument builder, and for which, if there is a breach, the monument builder will provide remedy.

III. THE CODE OF GOOD PRACTICE

1. **Financial Stability** – The MBNA retail member, subscribing to this Code, shall maintain the financial stability of the member’s firm so as to give meaning and dependability to the firm’s representations and warranties.
2. **Inspection of Product** – The MBNA retail member, subscribing to this Code, shall provide the consumer with the adequate opportunity to inspect the product or a reasonable facsimile or sample prior to sale.

3. **Standards of Quality and Workmanship** – Standards of quality and workmanship shall be consistent with the facsimile or sample shown and express representations made prior to sale.
4. **Misrepresentation** – The MBNA retail member, subscribing to this Code, shall avoid exaggeration or misrepresentations concerning the specific qualities of the services or products shown or furnished by the member.
5. **Description** – The oral or written description of the product shall include sufficient information for the consumer to easily comprehend quality differences as related to cost and other relevant factors so the consumer may make an intelligent and knowing choice among the memorialization options available to the consumer.
6. **Contract** – The contract between the MBNA retail member, subscribing to this Code, and the consumer shall provide the specific terms agreed upon between the parties and the contracts shall be in clear and understandable terms, and shall include a description of the finished product adequate for the consumer to have as clear an idea as possible of the design, lettering, dimensions, finish, and other materials of the memorial. The contract shall also include all terms of warranty, if any, agreed upon by the parties and the parties’ agreement on remedies for breach of contract.
7. **Warranty** – Any warranty given by the MBNA retail member, subscribing to this Code, shall be clear and specific as to the extent, scope, and source of the warranty, and shall disclose the specific defects or risks covered and those against which no warranty is given, consistent with the applicable federal, state, or local laws.
8. **Solicitation** – All solicitation or negotiations with consumers by the MBNA retail member, subscribing to this Code, shall be undertaken with the utmost discretion and good taste, and with the thorough knowledge and understanding on the part of the MBNA retail member, subscribing to this Code, of the possible emotional stress of the consumer.
9. **Sales** – The MBNA retail member, subscribing to this Code, shall sell only those products or services and provide only those warranties which are within the scope and skill, training and abilities of the MBNA retail member subscribing to this Code. The member shall also consider in discussion with the consumers the availability to the member of necessary skills and services available from others in the memorial industry.
10. **Advertising** – All advertising material used by the MBNA retail member, subscribing to this Code, shall comply with the same standards, ethical considerations, truthfulness and full disclosure, including any advertising of price appropriate under the circumstances, as are required by the Code of Good Practice.
11. **Pricing** – The prices of all services offered by the MBNA retail member, subscribing to this Code, shall be readily available to the consumer. The consumer shall not be required to purchase collateral products or services as a condition of purchasing the memorial or as a condition of receiving benefit of a special price. Where related products or services are to be sold with the product, the price of each service and of the product shall be stated separately.

12. **Pre-Need Sales** – The rules of this Code of Good Practice shall apply to all pre-need sales by the MBNA retail member, subscribing to this Code. However, members may recognize that pre-need sales may be undertaken with the knowledge that the emotional state of the consumer will involve less stress than in other situations.
13. **Fee Splitting with Others, Including Cemeteries and Funeral Directors** – MBNA members, subscribing to this Code, shall disclose to the consumer, prior to sale, all arrangements for splitting of fees with cemetery superintendents, funeral directors, etc., where such person performs no service to or for either the consumer and the costs of the consumer.
14. **Continuing Education** – MBNA retail members, subscribing to this Code, shall recognize their obligations to stay abreast of technical, commercial, and other developments in the monument industry by participation in trade seminars and other appropriate educational and improvement programs.
15. **Operating on the Property of Others** – When operating on the property of others, MBNA retail members, subscribing to this Code, shall always exercise due care for the protection of that property and the safety and welfare of others on the property.

**SUBSCRIPTION AGREEMENT
Code of Good Practice**

Agreement entered into this _____ day of _____, by and between the (“MONUMENT BUILDERS OF NORTH AMERICA”) a not for profit corporation, (“MBNA”) and the company whose name appears at the end of this agreement, (“MBNA MEMBER”).

It is agreed:

1. MBNA has promulgated a “Code of Good Practice” attached hereto as Exhibit A and made a part of this Agreement, with which MBNA member shall comply in all respects.
2. From the date of this Agreement and thereafter, MBNA member, its employees, agents and others acting on its behalf shall adhere to and subscribe to the Code of Good Practice.
3. In the event it is called to the attention of MBNA that there may be a violation of the Code of Good Practice, on this Agreement by MBNA member, or its officers, directors, employees, agents of others acting on its behalf, MBNA shall give notice of such to MBNA member. MBNA member shall promptly respond to MBNA as to any such complaint and shall cooperate in all respects with such rules as MBNA may from time to time adopt.
4. MBNA member, as a result of being a subscribing member to the Code of Good Practice, but only so long as this Agreement is in force and effect, may so state and hold out to the public that MBNA member has and is a subscriber to the Code of Good Practice, in accordance with such rules as may from time to time be adopted by MBNA.
5. In the event a violation of this Agreement is found, MBNA member shall honor any decision made by MBNA or its representatives relative to such violation, including supervision, or termination of all rights and privileges provided under this Agreement; and if so required, MBNA member, its officers, directors, employees, agents and others acting on its behalf shall cease and desist from holding itself out as a subscribing member and shall return all material to MBNA which relate in any way to MBNA member’s subscribing to the Code of Good Practice.

6. MBNA member shall hold harmless and indemnify MBNA, its officers, directors, employees, agents and others acting on its behalf from any and all liabilities, claims, or judgments, including attorney’s fees and costs which may occur or arise as the result of any act or omission on the part of MBNA member relative to this agreement and that no complaint or other action shall be led or commenced by MBNA member, its officers, directors, employees, agents and others acting on its behalf relative in any way to this Agreement, including but not limited to the suspension or cessation of all rights and or privileges of MBNA member pursuant to this Agreement.
7. MBNA member agrees that MBNA may amend the terms and conditions to this Agreement, including Exhibit A, from time to time. If MBNA member does not agree to such amendment, MBNA member shall be required to give written notice to MBNA within 30 days after notice of the amendment is given MBNA member, and this Agreement upon such notice from MBNA member shall be deemed terminated, and MBNA member shall cease and desist from holding itself out as a subscribing member to the Code of Good Practice, and shall return all materials to MBNA, which relate in any way to MBNA member’s subscribing to this Agreement.
8. In the event it is necessary for MBNA to enforce this Agreement against MBNA member, MBNA member shall reimburse and/or pay all of MBNA’s expenses incurred therein, including but not limited to attorney’s fees and costs.
9. This agreement has been executed in Dayton, Ohio, and shall be governed by Ohio Law.

IN WITNESS WHEREOF the parties entered into this Agreement on the date first written above.

MONUMENT BUILDERS OF NORTH AMERICA, a not for profit organization.

By

Kimberly A. Fantaci, Executive Vice President

Applicant Company

Signature of Company Principal

Print name of Company Principal