

COMMISSION AGREEMENT

This Commission Agreement (hereinafter referred to as the “**Agreement**”) is entered into on _____, 20____ (the “**Effective Date**”), by and between _____, with an address of _____, City of _____, State of _____, _____ (hereinafter referred to as the “**Principal**”), and _____ with an address of _____, City of _____, State of _____, _____ (hereinafter referred to as the “**Agent**”) (collectively referred to as the “**Parties**”).

AGENT

- Agent is an Employee. Agent is an employee of Principal, subject to all rights, opportunities, privileges and employment laws.
- Agent is an Independent Contractor. Agent is an independent contractor, and neither Agent nor Agent's employees or contract personnel are, or shall be deemed, Principal's employees.

AUTHORIZATION

This Agreement serves as authorization for the Agent to sell goods or services on behalf of the Principal, specifically, _____ [Details of sales/services provided].

Agent agrees not to offer discounts or other incentives not currently set out via Principal's policies. Agent may present to Principal, for written approval, a discount offer or incentive at any time to be approved or rejected in Principal's sole discretion.

1. Term. (Check one)

Agent is an Employee: (Check one)

Employment is at-will. Except as set forth below, this Agreement shall begin on the Effective Date defined above and remains perpetual. The parties understand this Agreement is under a State that is an Employment At-Will State and therefore, either party can terminate this agreement at-will, according to the Severability Clause set out below.

Employment is not at-will. Except as set forth below, this Agreement shall begin on the Effective Date defined above and remains perpetual. Either party may terminate this Agreement for material breach by the other party upon 30 days prior written notice if the breaching party does not cure the breach within the 30-day notice period. Such notice shall set forth in reasonable detail the nature of the asserted breach and will remain subject to the Severability Clause set out below.



Agent is an Independent Contractor: Except as set forth below, this Agreement shall begin on the Effective Date defined above and remains perpetual. Either party may terminate this Agreement for material breach by the other party upon 30 days prior written notice if the breaching party does not cure the breach within the 30-day notice period. Such notice shall set forth in reasonable detail the nature of the asserted breach and will remain subject to the Severability Clause set out below.

2. Commission Earnings. The parties agree to the below Commission Structure. This Commission Structure may be revised at any time by the Principal, in its sole discretion, by Amending this Agreement and upon signing of the Parties thereto: (Check one)

Straight commission.

(Check one)

Fixed commission rate. The Agent shall earn _____ commission of _____ [Sales performance].

Tiered commission rate. The Agent shall earn a percentage of the profit made from each sale. The Principal calculates commission based on the profit amount of a single sale defined as follows:

Profit Range	Commission Percentage

Salary plus commission: Principal hereby offers Agent \$ _____ per hour per week per month per year. The amount will be paid to Agent: (Check one) Once a week on the _____ day of each week. Once a month on the _____ of each month. Twice a month on the _____ of each month. Other: _____.

(Check one)

Fixed commission rate. The Agent shall earn _____ commission of _____ [Sales performance].

Tiered commission rate. The Agent shall earn a percentage of the profit made from each sale. The Principal calculates commission based on the profit amount of a single sale defined as follows:



Profit Range	Commission Percentage

Territory volume commission.

(Check one)

Fixed commission rate. The Agent shall earn a commission of _____ of the profit from total sales within the Agent's assigned territory, divided equally among the number of agents in the territory. The number of Agents may vary and is calculated on the number of Territory Agents on the date the sale was closed.

Tiered commission rate. The Agent shall earn a commission of the profit from total sales within the Agent's assigned territory, divided equally among the number of agents in the territory. The number of Agents may vary and is calculated on the number of Territory Agents on the date the sale was closed.

The Principal calculates commission based on the profit amount defined as follows:

Profit Range	Commission Percentage

Gross margin commission. Principal agrees to pay to Agent the gross margin commission factoring in expenses involved with the products being sold at _____% on the margin. The commission shall be calculated using the following formula:

$$\text{Gross Margin Commission} = ((\text{Revenue} - \text{COGS}) / \text{Revenue}) \times 100 \times \text{Commission Rate}$$

Commissions shall be paid to the Agent (Check one) weekly monthly quarterly annually on:
 (Check one) Weekly. Agent will be paid on _____ [Day of the week] of every week. Monthly.



Agent will be paid on the _____ [Day of the month] of every month. Quarterly. Agent will be paid on the _____ [Month of the quarter] of every quarter. Annually. Agent will be paid on the _____ [Quarter of the year] of every year.

3. Recoverable Draw. (INITIAL if you want to include this clause. CROSS OUT if you do not.)

_____ In the event Agent's commissions do not exceed their base salary or wage, Principal agrees to extend to Agent a Recoverable Draw. The amount of any Recoverable Draw will be calculated as follows _____ [Description of how the draw is calculated]. _____% of future earned commissions will be automatically deducted from commission pay until Draw is paid in full. Draws will be reimbursed according to their date and in date order. If this Agreement is terminated in any way, by either party, said Draw(s) shall become immediately due and payable in full. This Agreement supersedes all other Draw Agreements, promissory notes or other agreement setting out the terms of the Draw.

4. Bonus Structure. (INITIAL if you want to include this clause. CROSS OUT if you do not.)

_____ In addition to commission and any other earnings available to Agent by the Principal, the Principal hereby offers to Agent a Bonus Structure as a reward and incentive to exceed any sales projections or quotas set by Principal to be paid (Check one) weekly monthly quarterly annually on: (Check one) Weekly. Agent will be paid on _____ [Day of the week] of every week. Monthly. Agent will be paid on the _____ [Day of the month] of every month. Quarterly. Agent will be paid on the _____ [Month of the quarter] of every quarter. Annually. Agent will be paid on the _____ [Quarter of the year] of every year.

by the following means: _____ [Description of bonus structure].

Principal may from time to time, restructure its Bonus Structure and put into effect on a date certain. All Bonuses due Agent will be based on the Bonus Structure in effect at the time of the close of the sale.

5. Survivability. This Survivability Clause, and all clauses hereinafter written, shall survive any expiration or termination of this Agreement.

6. Confidentiality. Agent agrees to keep confidential and not to use or disclose to any third party any non-public business information of the other party learned or disclosed in connection with Principal, its intellectual property, proprietary information and secrets.

In accordance with law, the obligation of the Agent with respect to the above shall terminate with respect to any particular portion of the confidential information, proprietary information or secrets if and when: (i) it is in the public domain at the time of its communication; (ii) it is developed independently by the receiving party without the use of any confidential information; (iii) it enters the public domain through no fault of the receiving party subsequent to the time of the disclosing party's communication to the receiving party; (iv) it is in the receiving party's possession free of any obligation of confidence at the time of the disclosing party's communication; (v) it is communicated by the disclosing party to a third party free of any obligation of confidence; or (vi) the receiving party has the disclosing party's written permission.



Each party shall provide notice to the other of any demand made upon it under lawful process to disclose or provide any of the other party's confidential information. The receiving party agrees to cooperate with the disclosing party, at the disclosing party's expense, if the disclosing party elects to seek reasonable protective arrangements or oppose such disclosure. Any confidential information disclosed pursuant to such lawful process shall continue to be confidential information.

7. Non-Competition. Agent agrees that under this Agreement and for [Number] years after the termination of this Agreement, that s/he will not give advice, lend credit, money or the Principal's reputation to any person or business entity engaged in a competing business in any geographic area in which the Principal conducts its business, whether or not for remuneration, and from having a share of any kind whatsoever in such a business, unless otherwise agreed in writing. This does not apply to share ownership of 1% or less held by Agent in any publicly-listed company.

8. Representation and Warranties. The Parties both agree and disclose that they are over the age of 18 and otherwise fully authorized to enter this Agreement.

The Parties hereby warrant that during the duration of their working relationship shall not in any way knowingly violate the rights of any third party, organization, person, business or law/governmental regulation and has, and will in the future, perform due diligence to research and know any law or governmental regulation resulting from any revision of Principal's policies and/or Agent's code of conduct.

9. Severability. If any provision of this Agreement is found to be unenforceable in any jurisdiction, the balance of this Agreement shall not be affected by the unenforceable provision, and such provision, shall, if feasible, be modified in scope so that it becomes enforceable, and an appropriate amendment shall be executed by both Parties acknowledging said unenforceable provision and modified scope.

10. Indemnification. (INITIAL if you want to include this clause. CROSS OUT if you do not.)

Agent agrees to indemnify and hold harmless the Principal, from any and all claims of any nature which arise from the performance under this Agreement and from all costs and attorney fees in connection therewith, excepting for claims arising out of the work performed under this Agreement.

11. Disputes. (INITIAL if Indemnification clause is not included. CROSS OUT if Indemnification clause is included.)

Any dispute arising from this Agreement shall be resolved through: (Check one)

- Court litigation. Disputes shall be resolved in the courts of the State of _____.
 - If either Party brings legal action to enforce its rights under this Agreement, the prevailing party will be entitled to recover from the other Party its expenses (including reasonable attorneys' fees and costs) incurred in connection with the action and any appeal.
- Binding arbitration. Binding arbitration shall be conducted in accordance with the rules of the American Arbitration Association.
- Mediation.



Mediation, then binding arbitration. If the dispute cannot be resolved through mediation, then the dispute will be resolved through binding arbitration conducted in accordance with the rules of the _____ American _____ Arbitration _____ Association.

12. Assignment. The Parties may not assign any rights or delegate any obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of _____ the _____ State _____ of _____.

14. Entire Agreement. This Agreement, together with the Statement(s) of Work(s), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior documents and agreements, and shall not be effective until accepted by an authorized representative of Principal and the Agent.

The parties have caused this Agreement to be executed by their authorized representatives, to be effective _____ on _____ the _____ Effective _____ Date.

Agent Signature

Agent Name

Principal Name

Principal Representative Signature

Principal Representative Name and Title

