

SALES REPRESENTATIVE AGREEMENT

This Agreement (the "Agreement") is made and effective as of _____, 20____ ("Effective Date") by and between XXXXXXXX (dba XXXXXXXX), an (State) [LLC, Corporation, Partnership, ect] (the "Representative") and _____, a _____ corporation (the "Company"). The Representative and the Company may be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

- A. WHEREAS, the Company is engaged in the manufacturing, marketing, and sale of the Products (as defined and listed in Exhibit A); and
- B. WHEREAS, the Company wishes to engage the Representative as an independent sales representative of the Products for the Company on the terms and conditions set forth below; and
- C. WHEREAS, the Representative wishes to market and sell the Products in accordance with the terms of this Agreement; and
- D. WHEREAS, each Party is duly authorized and capable of entering into this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals and the mutual covenants, agreements, representations, and warranties contained in this Agreement, the Parties agree as follows:

1. PURPOSE AND APPOINTMENT. The Company hereby appoints the Representative as a sales representative to market and sell the Company's Products in the territory indicated in Section 5. The Company and Representative understand and acknowledge that this is an exclusive appointment.
2. TERM. This Agreement is effective as of the Effective Date, and will continue for an indefinite term commencing on the Effective Date, and continuing until it is terminated by one or both of the parties. This Agreement may be amended only in writing and upon the mutual consent of the parties hereto. This Agreement may be assigned only upon the prior written consent thereto.
3. CONFIDENTIAL INFORMATION. The Representative agrees, during the Term and thereafter, to hold in strictest confidence, and not to use for any reason beside to benefit the Company, or to disclose to any person, firm, or corporation without Company's prior written authorization, any of Company's Confidential Information. "Confidential Information" means any of Company's proprietary information, technical data, trade secrets, or know-how, including, but not limited to, research, product plans, products, or other business information disclosed to the Representative by the Company, either directly or indirectly. The Representative may use the Confidential Information to the extent necessary for negotiations, discussions, and consultations with Company personnel or authorized representatives.
4. NATURE OF RELATIONSHIP. Nothing in this Agreement will be construed as creating a joint venture, partnership, agency, employer/employee, or similar relationship between the Parties. The Representative's relationship to the Company is that of an independent contractor. The Representative will have no authority to bind the Company to any contractual terms. Nothing in this Agreement will create any obligation between a Party and a third party.
5. TERRITORY. During the Term, the Representative will use Representative's best efforts to sell the Products in the following geographical area (the "Territory"): See Exhibit D (Territory)

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6. CUSTOMERS. The Representative's sales and promotional efforts will be directed toward the following classes of persons and/or entities: Any new or prospective customers except for named house accounts listed in Exhibit B. A Design Registration described in Section 8a below, and Exhibit C to be completed and approved by the Company for accounts in "Secondary Territory" as described in Exhibit D (Territory). Note – No Design Registration required for accounts in the assigned "Primary Territory" (see Exhibit D).

7. SALE PRICE OF PRODUCTS. The Company will determine all prices and terms of sale for the Products. The Company will notify the Representative of any price changes for the Products.

From time-to-time Company may expand its product offering with new products. Before such products are automatically included into this Agreement, Company will ascertain if it is in the best interest of both parties to include these new products into this Agreement.

8. COMPENSATION.

(a) Commission.

DIRECT CUSTOMERS

If the end customer places Purchase Orders directly with The Company, the Representative will receive a commission on Product sales in the Primary Territory and in the Secondary Territory if sales were made to customers with an approved Design Registration form (attached hereto as Exhibit C) by Representative during the Term. Representative will receive 7 percent (7%) of the Net Amount owed to Company by the customer. "Net Amount" is the sales price of the sold product as listed on the invoice, less any charges for handling, freight, sales, use, value added, or similar taxes, import or export taxes or levies taxes, C.O.D. charges, insurance, customs duties, trade discounts, and/or any other governmental or administrative fees or charges.

DISTRIBUTION CUSTOMERS (POS – Point of Sales)

If the end customer places POs with a distribution partner, the Representative will receive a commission on Product sales in the Primary Territory and in the Secondary Territory if sales were made to customers with an approved Design Registration form (attached hereto as Exhibit C) by Representative during the Term. Representative will receive 5 percent (5%) of the Net Amount owed to Distributor by the customer. "Net Amount" is the sales price of the sold product as listed on the invoice, less any charges for handling, freight, sales, use, value added, or similar taxes, import or export taxes or levies taxes, C.O.D. charges, insurance, customs duties, trade discounts, and/or any other governmental or administrative fees or charges.

(b) Timing of Payment. Commissions will be paid to the Representative within forty-five (45) days of the Company's receipt of payment from the customer and will be based on the amounts received. For example, if payments from a customer to the Company will be made in installments, payments to the Representative by the Company will also be made in installments.

(c) Offsets and Charge-Backs. In calculating the commission due to the Representative, the Company may proportionally offset any credits, cancellations, refunds, allowances, and returns to or by

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customers from revenues on which Representative has already been paid commissions under this Agreement; provided, however, that in no event will the offset exceed the commission received by Representative for the respective customer order.

(d) No Commissions in Certain Circumstances. Notwithstanding the foregoing, no commission will be payable to the Representative under the following circumstances: (i) if prohibited under applicable government law, regulation, or policy; (ii) on any sales outside of the Territory, unless otherwise agreed in writing by the Company; (iii) on any sales to Existing Customers, unless otherwise agreed in writing by the Company; or (iv) on any sale of Products to a customer occurring after the expiration or termination of the Term.

(e) No Other Compensation. The compensation set out above is the Representative's sole compensation under this Agreement.

(f) If this Agreement is terminated by the Company, the Primary Territory is reduced by the Company, or removal of Design Registered customer in Secondary Territory then Representative shall continue to receive Commission on products shipped into the Territory(s), as herein provided, for a period of time after the date of termination, or the date the Territory is reduced, as determined by the following schedule:

| Length of time Representative has been a sales representative for the Company | Added period after effective date of termination, reduction in Primary Territory, or removal of Design Registered customer in Secondary Territory |
|--|--|
| Less than two years | 60 days |
| Two to four years | 120 days |
| Four to five years | 180 days |
| More than five years | 240 days |

(g) Split Commission. There may be instances where more than one territory may be involved in consummating the sale of a product by reason of a customer's relocation, multiple facilities or central buying policies, or other reasons established by the customer. In such cases the commission earned shall be divided among the territories in the following manner:

- Maximum 80% shall be credited to the Representative in whose Territory the product is engineered and specifications prepared;
- Maximum 10% shall be credited to the Representative in whose Territory the order is executed;
- Maximum 10% shall be credited to the Representative into whose Territory the product is shipped.
- In the event no Manufacturers Representative exists in the Territory where the order is executed or shipped that percentage of the commission will be credited to the Representative in whose Territory the product is engineered and specifications prepared.

(h) Expenses. Any expenses incurred by the Representative in the performance of this Agreement are the Representative's sole responsibility.

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(i) Taxes. The Representative is solely responsible for payment of all income tax, social security tax, employment-related tax, or other tax incurred as a result of the performance of services by the Representative under this Agreement and for all obligations, reports, and timely notifications relating to such taxes. The Company has no obligation to pay or withhold any sums for such taxes.

(j) Documents provided by Company. Company to provide Representative copies of all correspondence with customers in the Territory, including, without limitation, drawings, acknowledgments, letters, quotations, leads, inquiries, invoices, and past due notices. Electronic form is acceptable, these should be provided in a timely manner. Commission Statements are also provided monthly when commissions are paid. With each commission payment made to Representative, the COMPANY will provide a detailed commission statement reconciling the payment then being made. With respect to each shipment listed in the commission statement.

9. NO CONFLICT OF INTEREST. The Representative hereby warrants to the Company that Representative does not currently represent or promote any lines or products that compete with the Products. During the Term, the Representative must not represent, promote, or otherwise try to sell in the Territory any lines or products that, compete with the Products.

10. REPRESENTATIVE'S REPRESENTATIONS AND WARRANTIES. The Representative agrees to: (a) devote such time, energy, and skill on a regular and consistent basis as is necessary to sell and promote the sale of the Company's Products and services in the Territory during the Term of this Agreement; (b) assist in finalizing agreements and purchase orders with each customer, in form and substance satisfactory to the Company, for such customer's purchase of the Products; (c) accurately represent and state Company policies to all potential and present customers; (d) promptly inform the Company of all sales and orders; (e) maintain contact with the Company via telephone, e-mail, or other agreed on means of communication with reasonable frequency to discuss sales activity within the Territory; (f) disclose any problems concerning customers (including Existing Customers) to the Company; and (g) perform such other sales-related services with respect to the customers as the Company may reasonably require.

11. COMPANY'S REPRESENTATIONS AND WARRANTIES. The Company hereby represents and warrants as follows: (a) Company will provide the Representative, at no cost, with materials relating to the Products for use in selling and marketing the Products; (b) Company will prepare samples for potential customers, as reasonably requested by the Representative; provided, however, the Representative has provided the Company with sufficient notice of this request; (c) Company will provide the Representative with current information as to improvements, upgrades, or other changes in the Products; and (d) Company will make timely payments of commissions earned under this Agreement.

12. TERMINATION. This Agreement may be terminated by either Party upon sixty (60) days written notice to the other Party, subject to the table in 8(f). The Agreement may be terminated immediately if any of the following events occur:

(i) either Party becomes the subject of a bankruptcy proceeding, receivership, insolvency, or similar situation, which is not dismissed within ninety (90) days after being initiated;

(ii) breach of Section 3 of this Agreement;

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(iii) a Party fails to cure its material breach of this Agreement, other than a breach of Section 3, within thirty (30) days of receiving written notice of such breach and opportunity to cure; or

(iv) this Agreement, or the actions of either Party, is found to be in violation of any law, other than a technical violation that is curable and cured within thirty (30) days after receipt of written notice of such violation from the non-violating Party.

13. RETURN OF PROPERTY. The Representative agrees to return to the Company, all Products, Samples, or Models, and other materials obtained by the Representative during its representation of the Company.

14. INDEMNIFICATION.

(a) Of Company by Representative. The Representative will indemnify and hold the Company free and harmless of and from any and all claims, damages, or lawsuits arising as a result of negligent, intentional, or other acts of the Representative, its employees, or its agents.

(b) Of Representative by Company: The Company shall be solely responsible for the design, development, supply, production and performance of its products and the protection of its patents, trademarks and trade names. The Company shall hold Representative harmless from and shall indemnify Representative for all liability, loss, costs, expenses or damages, including court costs and reasonable attorneys' fees, howsoever caused by any products (whether or not defective), services or any act or omission of Company, including but not limited to, any injury (whether to body, property or personal or business character or reputation) sustained by any person or to property, and for infringement of any patent or trademark rights or other rights of third parties, and for any violation of municipal, state, or federal Laws or regulations governing the products or services or their sale, which may result from the sale or distribution of the products by Company in which Representative was involved in the fulfillment of this Agreement. This includes the failure of the Company to provide any products to a customer that has properly ordered through the Representative

15. USE OF TRADEMARKS. The Representative understands and acknowledges the Company's right, title, and interest in and to all service marks, trademarks, and trade names. Effective as of the termination of this Agreement, the Representative will cease to use all of the Company's service marks, trademarks, and trade names.

16. ASSIGNMENT. The rights and the duties of the Representative under this Agreement are personal, and may be assigned and/or delegated with written consent of the Company.

17. SUCCESSORS AND ASSIGNS. All references in this Agreement to the Parties, both individually and collectively, includes, as applicable, a reference to their respective successors and assigns. The provisions of this Agreement will be binding on and inure to the benefit of the successors and assigns of the Parties.

18. NO IMPLIED WAIVER. The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, will not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under

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this Agreement will constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

19. NOTICE. All notices given under any provision of this Agreement must be provided in writing and delivered to the other party. Notice will be deemed effective (i) on the day it was sent, in the case of electronic mail; (ii) two days after being sent, in the case of delivery through Federal Express or another recognized overnight carrier; or (iii) five days after being deposited in the mail, in the case of delivery through U.S. Mail.

20. GOVERNING LAW AND ATTORNEYS' FEES. This Agreement will be construed and interpreted in accordance with and governed by the laws of the State of Illinois, without giving effect to the conflict of law rules thereof. This Agreement will be deemed made and entered into in Cook County, which will be the exclusive venue for any action relating to this Agreement. Parties agree to submit any dispute arising out of, referring to, or relating to this Agreement in this jurisdiction. The prevailing party may recover its costs of any action from the non-prevailing party, including but not limited to attorney's fees.

21. SOLICIT, HIRE, RETAIN AN EMPLOYEE OF THE REPRESENTATIVE. The Company shall not, at any time during the term of this Agreement or one (1) year period after termination, directly or indirectly, either alone or as a partner or joint venture, solicit, hire, retain or otherwise engage or go into business with any individual who is or was an employee of the Representative.

22. COUNTERPARTS/ELECTRONIC SIGNATURES. This Agreement may be executed in one or more counterparts, each of which is deemed an original but all of which will constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium has the same force and effect as an original signature.

23. SEVERABILITY. In the event that any provision is determined to be illegal or unenforceable, such determination will not affect the validity of the remaining provisions hereof, all of which will remain in full force and effect. Moreover, in the event any restrictive covenant in this Contract is found to be invalid or unlawful as a result of the scope of the restrictive covenant, the Buyer and Seller agree that the restrictive covenant will be amended and read in such a manner that the scope is as broad as legally permissible.

24. ENTIRE AGREEMENT. This Agreement constitutes the final, complete, and exclusive statement of the agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.

(Signature page to follow.)

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IN WITNESS WHEREOF, the Parties have read and understand the foregoing, and agree to the same.

THE COMPANY:

By: _____

Date: _____

Name: _____

Title: _____

THE REPRESENTATIVE:

XXXXXXX

By: _____

Date: _____

Name: XXXXX XXX

Title: XXXXXX

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EXHIBIT A: Products

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EXHIBIT B: Existing Customers

None

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Exhibit C: Design Registration Form

| | |
|--------------------------------|-------------------|
| Rep Company Name | |
| Date | |
| Account Name | |
| Project or Program Name | |
| Description of Application | <hr/> <hr/> <hr/> |
| Product(s) under consideration | |

Company Internal:

Registration Reviewed by: _____ Accept / Reject

If rejected, reason: _____

Date: _____

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Exhibit D: Territory

Primary Territory – NO DESIGN REGISTRATION REQUIRED

X Commission on Accounts in this territory, X% on Distribution POS

Secondary Territory – DESIGN REGISTRATION REQUIRED

X% Commission on Accounts in this territory, X% on Distribution POS