

Canadian Association of Wholesale Sales Representatives  
**MEMORANDUM OF AGREEMENT**

AGREEMENT BETWEEN:

\_\_\_\_\_ Referred to below as the "Company"

AND

\_\_\_\_\_ Referred to below as the "Sales Representative"

**I. TERRITORY**

Effective on \_\_\_\_\_ the Company agrees to hire the Sales Representative as its only agent for the territory set out below (the "Territory"):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ii. SALES REPRESENTATIVE'S OBLIGATION**

The Sales Representative agrees to work the said Territory diligently and faithfully.

**III. COMMISSIONS**

The Company agrees to pay to the Sales Representative as compensation for the Sales Representative's services commission calculated as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Commissions shall be paid to the Sales Representative on the gross amount of sales made, shipped and/or distributed into the Territory whether or not the orders for such sales are obtained by the Sales Representative personally, or are received or obtained by the Company from any other source, or are taken by the Company at its place of business or are secured in any other manner whatsoever.

All commissions are due and payable to the Sales Representative on the 15th day of the month following the month in which the goods are shipped.

**IV. SALES RECORDS**

On or before the 15th day of each month the Company will give to the Sales Representative a detailed monthly statement setting out particulars of all sales made and shipped within the Sales Representative's Territory for the previous month and will provide the Sales Representative with copies of all invoices relating to all goods sold and shipped within the Territory during the previous month.

Within 10 days of being asked to do so the Company will allow the Sales Representative to inspect all books and records relating to the Sales Representative's orders, sales or commissions and will allow the Sales Representative to have copies of all such records at his or her expense.

**V. SHIPMENT AND CREDIT**

If orders are not shipped by reason of the Company's fault, error or negligence the Sales Representative still receives commission as set out in this Agreement.

The Company may reasonably accept or reject any order obtained by the Sales Representative and no commission is payable on such rejected orders unless goods are actually shipped. The Company guarantees to pay to the Sales Representative commission on a minimum of 85% of accepted orders whether shipped or not. An order is considered accepted unless the Company notifies the Sales Representative in writing within \_\_\_\_\_ days of having received the order that the order has been rejected. If the credit status of an account deteriorates the Company acting reasonably has the right to reject an order beyond the said time period so long as the Sales Representative is notified of this in writing within \_\_\_\_\_ days of the rejection.

The Company has the right to grant credit and establish credit terms. If, therefore, an account fails to fulfill those terms whether by reason of late payment, non-payment, bankruptcy, insolvency or otherwise, the Company still remains liable to pay the commissions due to the Sales Representative in connection with that account.

**VI. SAMPLES**

The Company agrees to provide to the Sales Representative all necessary samples, hangers and other paraphernalia which after they have served their purpose shall be returned to the Company by the Sales Representative. The Sales Representative is liable to the Company for any such samples, hangers or paraphernalia not returned to the Company unless the same had been stolen, destroyed or damaged through no fault of the Sales Representative.

Within 45 days of the termination of the selling season the Sales Representative shall either return the samples to the Company or purchase the said samples at 50% of their wholesale cost.

The Company agrees at its expense to fully insure all samples at all times.

(OVER)

**VII. TERMINATION**

Either party may terminate this Agreement by providing to the other written notice of intent to terminate or, if termination is initiated by the Company, compensation in lieu of notice.

*Notice - Notice of intent to terminate* shall be not less than 60 days for every twelve-month period or portion thereof that the Sales Representative has represented the Company pursuant to this or any other agreement prior to the giving of the notice to a maximum of 12 months.

**Payment in Lieu of Notice** - If the Company elects to compensate the Sales Representative in lieu of notice, such compensation shall be calculated by multiplying one-sixth of the Sales Representative's *average annual commissions* times the total number of years, not to exceed six, that the Sales Representative represented the Company.

**Calculation of Average Annual Commissions** - If the Sales Representative has represented the Company, pursuant to this or any other agreement, for a period of less than three years from the date of the giving of notice, average annual commissions shall be calculated by dividing the total commissions earned by the Sales Representative during the period he/she has represented the Company by the number of months the Sales Representative has represented the Company and then multiplying that number by 12.

If the Sales Representative has represented the Company, pursuant to this or any other agreement, for a period of three or more years, average annual commissions shall be calculated by dividing by three the total commissions earned by the Sales Representative for the three-year period prior to the date of the giving of notice.

Compensation in lieu of notice shall be paid upon the giving of the notice. In the event of the termination of this Agreement The Sales Representative shall be paid commissions on all orders written prior to the termination even though the may not be shipped until after the termination date.

**VIII. ARBITRATION**

The parties agree to submit to binding arbitration any dispute between them arising out of this Agreement. Such arbitration shall be in accordance with the laws of the jurisdiction of the province where the Sales Representative lives.

**IX. TRADE SHOWS/MARKETS**

The parties acknowledge that the Sales Representative is a member in good standing of the Canadian Association of Wholesale Sales Representatives and is subject to its policies, rules and regulations.

**X. WHOLE AGREEMENT**

This Agreement represents the whole Agreement between the parties and all prior agreements are rendered null and void by this Agreement. This Agreement is binding upon the heirs, administrators, successors and assigns of the parties. Failure to strictly enforce any provision of this Agreement shall not preclude either party from subsequent enforcement of any of the provisions of this Agreement.

**XI. JURISDICTION**

This Agreement shall be governed by the laws of the province where the Sales Representative lives.

**XII. ENGLISH LANGUAGE**

The parties acknowledge that they have requested and agree that this Agreement and all documents, notices, correspondence and legal proceedings arising therefrom shall be in the English language only.

**XIII. NOTICE**

Any notice required by this Agreement shall be deemed to be given if sent by registered mail to the addresses on this Agreement or to any such other addresses as the parties may be notified in writing from time to time.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Witness (Print Name)

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Print Name and Title of Signing Officer

\_\_\_\_\_  
Witness (Signature)

\_\_\_\_\_  
Per:  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Witness (Print Name)

\_\_\_\_\_  
Name of Sales Representative

\_\_\_\_\_  
Witness (Signature)

\_\_\_\_\_  
Per:  
Signature

\_\_\_\_\_  
Address