
COMMISSIONAIRE AGREEMENT

BETWEEN

[full legal name entity 1]

AND

[full legal name entity 2]

DATED

[date, year]

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NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, PRINCIPAL AND COMMISSIONAIRE AGREE AS FOLLOWS:

Article 1 Definitions

1. For the purpose of this Agreement, the following terms shall have the meaning assigned to them below unless the context requires otherwise:
 - a) Affiliated Company means any corporation or other entity which is controlled by, or under common control with, the indicated Party thereto.
 - b) Annual Forecast means a written report of Commissionaire to Principal specifying the information set forth in article 3.3.
 - c) Bank Account means an account established with a bank designated by the Principal which shall be in the name of the Commissionaire for receipt of Customer payments.
 - d) Commissions means the compensation owed by Principal to Commissionaire pursuant to this Agreement.
 - e) Confidential Information means any information disclosed by one Party to the other Party pursuant to this Agreement which is written, graphic, machine readable, or in other tangible form and is marked "Confidential," "Company Secret," or disclosed under such circumstances which indicate that information is confidential. Confidential Information may also include secret and confidential oral information disclosed by one Party to the other Party pursuant to this Agreement.
 - f) Customer means any customers to which Commissionaire sells Products on behalf of Principal pursuant to this Agreement.
 - g) Customer Specifications means any and all requirements, directions, criteria, procedures and other specifications established by Principal and furnished to Commissionaire from time to time concerning the selection of customers to which Commissionaire is authorized to market the Products and terms for the sale of Products on credit. The Customer Specifications may specifically identify some, all or none of the customers.
 - h) Duties shall mean all customs payments, excise taxes and other governmental levies on imports, but excluding value added taxes.
 - i) Effective Date means the date first hereinabove written.
 - j) Gross Sale shall mean gross sale price as reported on the invoice to the Customer.
 - k) Intellectual Property Rights means the Trademarks and other intellectual property rights covering or associated with the Products.

Article 4 Title and Storage

1. Title to the Products shall remain with Principal until such time as the Products are delivered to the Customer. Commissionaire shall not acquire title to any Products.
2. Until assumed by Customers, Principal shall bear all risk of loss arising from the sale, transportation, storage, handling or other use of Products from any cause whatsoever other than any loss solely resulting from the gross negligence or willful misconduct of Commissionaire. Without limiting the generality of the foregoing, Principal shall bear all risk of loss relating to delinquencies, defaults and insolvencies of Customers and third-party claims relating to the Products and sales thereof and shall be solely liable for defective products. Principal shall indemnify and hold Commissionaire harmless as provided in Section 11.1 below.
3. Principal shall arrange for the safe and secure storage of the Products pending delivery of the Products to Customers.
4. Principal shall arrange and procure local transportation of the Products to Customers within the Territory.
5. If Products are to be imported or exported, Principal shall be responsible for all actions necessary to obtain clearance to import or export the Products.

Article 5 Customer Invoicing, Payments, Credit, and Defaults

1. Principal shall invoice Customers with respect to Product sales in the name of Commissionaire. The invoiced amounts shall include value added tax, if required.
2. Commissionaire shall require Customers to remit payments for Products to the Bank Account. All Customer payments remitted to the Bank Account shall be deemed held in trust for account of the Principal. Immediately upon receipt of Customer payments in the Bank Account, or at such other times as Principal shall direct, Commissionaire shall remit such funds to the Principal. All risks with regard to exchange rates of foreign currencies will be borne by Principal.
3. Commissionaire shall be responsible for approving credit terms applicable to sales to Customers within the Customer Specifications and conducting customer credit checks on an as needed basis as determined by Commissionaire.
4. Commissionaire shall notify Principal promptly in the event of non-payment, default or other material breach by any Customer. In the event of a non-payment, default or other material breach by any Customer, Commissionaire shall enforce all legal rights and remedies against such Customer, including but not limited to Commissionaire taking any and all legal action to recover full payment from such customer and any damages resulting from the non-payment. Any sums recovered by Commissionaire shall be immediately remitted to Principal. Commissionaire shall immediately stop delivery of Products to a Customer if Commissionaire learns of any non-payment, default or other material breach by such Customer.

Article 8 Records and Reporting Requirements

1. Commissionaire shall maintain such records and accounts as are requested by Principal relating to the performance of Commissionaire's obligations under this Agreement. Principal shall have access to Commissionaire's premises for inspection during normal business hours. Commissionaire shall also comply with all other reporting requirements imposed by Principal under this Agreement.
2. Commissionaire agrees to permit an auditor appointed by Principal to inspect the Commissionaire's records upon reasonable notice during normal and customary working hours.

Article 9 Intellectual Property Rights

Commissionaire shall use all Intellectual Property Rights made available to Commissionaire by the Principal solely in accordance with the terms and conditions and within the scope of this Agreement. All Intellectual Property Rights made available to Commissionaire during the term of this Agreement and as developed during the term of this Agreement, are and shall remain the property of Principal and shall be returned, or its use discontinued, upon termination of the Agreement.

Article 10 Quality Control

In order to ensure that the Commissionaire shall sell the Products within the scope of this Agreement and in accordance with the quality standards of Principal, Principal shall have the right, at its option, sole cost, expense, and upon reasonable notice to the Commissionaire, to visit Commissionaire's offices during regular business hours to observe and assist in quality control.

Article 11 Limitations of Liability

1. Principal shall indemnify, defend and hold Commissionaire harmless against any and all claims, demands, suits, losses, damages and liabilities, including without limitation interest and reasonable attorney's fees arising out of, relating to, or resulting from its activities undertaken pursuant to this Agreement, unless such claims, demands, suits, losses, damages and liabilities are based on Commissionaire's gross negligence or willful misconduct.
2. Commissionaire, in order to be eligible to receive an indemnity pursuant to Section 11.1, shall give to Principal the earliest possible notice in writing of any claim being made or action threatened or brought against Principal in respect of the activities as Commissionaire under this Agreement which comes to Commissionaire's notice.
3. Commissionaire shall not act in a manner that is prejudicial to the rights or obligations of Principal without Principal's prior consent. The Commissionaire shall, at Principal's reasonable request and expense, assist in or conduct any litigation that may ensue with respect to a claim against Principal or any claim Principal may make, threaten, or

[email address]

[email address]

or to such other address or addresses as either Party may, from time to time, designate as to itself.

Article 18 Applicable Law - Dispute Settlement

1. This Agreement shall be governed by and construed in accordance with and subject to the laws of [country].
2. Any dispute, controversy or claim arising under, out of, or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall, if possible, be finally settled amicably by negotiation between Principal and the Commissionaire. If such dispute, controversy or claim cannot be amicably settled, then the dispute, controversy or claim shall be brought exclusively before the courts in [country].

Article 19 Miscellaneous

1. Nothing contained in this Agreement shall be construed to:
 - a. give either Party the power to direct and control the day-to-day activities of the other;
 - b. constitute the Parties as partners, joint venture partners, co-owners or otherwise as participants in a joint or common undertaking;
 - c. constitute Commissionaire to be an agent within the meaning of [country's] law or the equivalent mandatory provisions of public order with respect to commercial agents in the laws of [country].
 - d. allow Commissionaire to create or assume obligations on behalf of Principal except as provided herein.
2. In entering into this Agreement, the Parties recognize that it is practically impossible to make provisions for every contingency which may arise during the validity of this Agreement. Accordingly, the Parties hereby state and acknowledge their mutual intent that this Agreement shall be enforced and implemented between them with fairness and without detriment to either Party's interest, and that if, in the course of performing the obligations and duties as set forth in this Agreement, substantial hardship or unfairness is anticipated by or has occurred to either Party, the Parties shall use their best commercial endeavors to agree upon such action as may be necessary to rectify or remove the causes thereof, and, if deemed necessary, compensate for disadvantages suffered.
3. The failure of either Party to enforce at any time an Article or part thereof of this Agreement, or the failure to require at any time performance by the other Party of an Article or a portion thereof of this Agreement, shall in no way constitute present or

APPENDIX B - Territory

The Territory in which Commissionaire is allowed to conduct the sale of the Products consists of:

- [country 1]
- [country 2]
- etc.

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