**Sales Agency Agreement**

THIS AGREEMENT, made this \_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a corporation incorporated under the laws of the State of \_\_\_\_\_\_\_\_\_\_ (hereinafter called 'Representative'), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who lives at , in the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and state of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter called 'Salesman'), as follows:

1. EMPLOYMENT AND DUTIES.

Representative hereby employs Salesman to sell and promote the sale of the products of such companies as may be Representative's principals from time to time, and Salesman accepts the employment and agrees to sell and promote the sale of the products of such companies as may be Representative's principals from time to time. Salesman also agrees to perform such other duties relating to Representative's business as may be assigned to salesman from time to time, to devote full time to his duties and to provide Representative with such reports on his activities as Representative may from time to time request.

2. TERRITORY AND CUSTOMERS.

Salesman shall sell and promote sales to and service customers and potential customers in the following territory:

SEE ATTACHED EXHIBIT 'A' TO SALES AGREEMENT

provided, however, that the following shall be considered 'maintenance accounts' and Salesman shall receive no commissions on sales to such accounts, except such amounts as may be agreed by the parties in writing:

SEE ATTACHED EXHIBIT 'B' TO SALES AGREEMENT

3. COMPENSATION.

While this Agreement is in force, Salesman will be compensated on the following basis:

a) A commission equal to \_\_\_\_\_\_% of net commissions received by Representative from its principals as a result of sales procured by Salesman, provided, however, that such commissions are payable only if and upon Representative's receipt of payment by its principals.

b) Anything herein to the contrary notwithstanding, if sales are made to customers in Salesman's territory and shipped to another salesman's territory or if sales to customers in another salesman's territory are shipped to customers in Salesman's territory, Representative shall have the right to determine if Salesman is to be paid any commission on such transactions, and how much.

c) 'Net Commissions' shall mean commissions which Representative actually receives from its principals, less any chargebacks, debits or other allowances granted by Representative's principals or by Representative.

d) Commissions will be paid once a month to Salesman on or before the \_\_\_\_ day of the calendar month following the month in which commissions were paid to Representative by its principals.

4. TAXES.

Salesman is employed by Representative as an independent contractor which shall be designated on Salesman's federal income tax forms. In accordance with the independent contractor status, Representative will not be responsible for withholding income tax, payment of social security or federal unemployment tax (FUTA) from Salesman's commissions or employment as an agent of Representative or which arise from Salesman's status as an agent of Representative. Salesman is solely responsible for filing and payment of all federal and state income taxes and self-employment taxes earned on commissions.

5. ACCEPTANCE OF ORDER AND TERMS OF SALE.

Salesman will sell only at prices and upon terms of sale authorized by Representative's principals, and the right is reserved by Representative's principals from time to time to change, alter, or amend prices and other terms and conditions of sale. All orders obtained by Salesman are subject to acceptance or rejection by Representative's principals at their home offices and to the approval of their credit departments. Salesman is not authorized to contract on behalf of Representative, or any of its principals, or to make any collections of funds.

6. EXPENSES.

Salesman shall pay all expenses of his activities whatsoever, including travel, entertainment, stationery supplies, business cards and other expenses incurred as a result of Salesman's performance of this agreement.

7. AUTOMOBILE.

Salesman will use his own automobile in performing his duties pursuant to this Agreement, carry liability insurance with at least a minimum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ coverage. Representative will be named as an additional insured in such insurance policy and Salesman agrees to deposit with Representative the original or duplicate original of such policy. Should Salesman elect to cancel policy, Salesman agrees to give Representative ten (10) days prior written notice of its intention to cancel insurance.

8. TERM AND TERMINATION.

This Agreement shall be effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 19\_\_, and shall continue for a term of one year. This agreement may be extended for additional one year terms if agreed to in writing by the parties at least twenty-eight (28) days prior to the anniversary date of the agreement. The agreement may be terminated in any one of the following ways:

a) By Representative, upon \_\_\_\_\_\_\_\_\_\_ days' written notice in the event of Salesman's unreasonable or repeated failure to perform as agreed;

b) By either party at any time by not less than thirty (30) days' written notice to the other;

c) By mutual agreement;

d) Upon Salesman's death;

e) By Representative, upon \_\_\_\_\_\_\_\_\_ days' written notice in the event Salesman is disabled for a period in excess of thirty (30) days at any one time, and in the sole judgment of Representative, is unable to perform his duties pursuant to this Agreement.

9. OBLIGATIONS UPON TERMINATION.

In the event of termination of this Agreement for any reason whatsoever:

a) Salesman will, prior to the effective date of termination, furnish Representative with a list of every customer and prospective customer in his territory, and every project upon which he has been working, the list to include company name, name of project engineer, buyer, and principal and product involved.

b) Salesman will actively work on closing all orders and report to Representative on all transactions and calls up to the effective date of termination.

c) Salesman will, prior to the effective date of termination, return to Representative all demonstration equipment, samples, literature, catalogs, correspondence, and all other property belonging to Representative, if any, in good condition and repair, ordinary wear and tear excepted.

d) Representative will pay final compensation to Salesman in accordance with Provision 3 hereof for a period of \_\_\_\_\_\_\_\_\_\_\_\_ days following the effective date of termination, provided, however, that such final compensation will be paid only on orders dated and received on or before the effective date of termination. In no event will compensation be paid on orders dated after the effective date of termination, or on orders for which commissions are paid to Representative by its principal after sixty (60) days following the effective date of termination.

10. RESTRICTIONS ON COMPETITION.

In view of the fact that the Representative has made known to Salesman his customer lists and prospects in the territory, Representative services for its principals, has placed Salesman in contact with Representative's customers, and has furnished Salesman with other confidential information regarding Representative's business, Salesman agrees that in the event of termination of his employment for any reason whatsoever he will not during the term of this agreement or for a period of one (1) year after the effective date of termination of his employment, either directly or indirectly:

a) Act as sales representative for or be employed by a sales representative who represents a principal that was represented by Representative as of the effective date of termination of employment, or during the one (1) year period preceding such date;

b) Be employed by a principal represented by Representative as of the effective date of termination of employment or within the one (1) year period preceding such date;

c) Solicit any of those customers or prospective customers upon whom the Representative, Salesman or any of its employees may have called during the one (1) year period preceding the effective date of termination of employment for the sale to them of products directly competitive with products Representative has been offering to such customers or prospective customers for Representative's principals as of the effective date of termination of employment or within the one (1) year period preceding such date;

d) Solicit any employee to leave the employ of Representative.

e) Act as a representative or salesman for any products which directly compete with products Representative has been offering to customers or prospective customers during the term of this agreement or one (1) year following termination of the agreement.

Salesman acknowledges that compliance with this provision is necessary to protect the goodwill and other proprietary interests of Representative, and a breach thereof will result in irreparable and continuing damage to Representative for which there will be no adequate remedy at law. In the event of any breach of the covenants contained in this provision, Representative will be entitled to injunctive and such other relief, including award of damages as may be proper.

Salesman agrees that any confidential information disclosed or made available to Salesman by the Representative or its customers, prospective customers or principals in the course of his employment shall at no time be disclosed to others (except in the performance of his duties for Representative) or availed of by him for his own benefit or the benefit of others without the prior written consent of Representative. Upon termination of his employment with Representative, all documents, records, notebooks and other papers containing confidential information of Representative, including copies thereof then in Salesman's possession or control, whether prepared by him or others, will be returned to Representative.

11. INDEPENDENT CONTRACTOR.

Salesman is appointed as an agent of Representative to sell and promote the sale of products of Representative's principals. Salesman is not an employee of Representative and therefore, is solely responsible for all matters relating to Salesman's actions.

12. NOTICES.

All notices shall be in writing and served in person or by registered or certified mail, addressed to either party at the party's principal place of business or residence, as the case may be. The postmark shall be deemed the date notice is given.

13. ENTIRE UNDERSTANDING.

This Agreement contains the entire understanding of the parties, and shall supersede any other oral or written agreements, and it shall inure to the benefit of the Representative's successors and assigns. It may not be modified in any way without the written consent of both parties. Nothing herein shall be construed to constitute Salesman as a partner or a joint venture, or to authorize Salesman to bind Representative or its principals in any respect.

14. CONSTRUCTION OF AGREEMENT.

This Agreement shall be construed according to the laws of the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

15. DISPUTES AND ARBITRATION.

The parties agree that any disputes or questions arising hereunder, including the construction or application of this Agreement, shall be settled by arbitration in accordance with the rules of the American Arbitration Association then in force. If the parties cannot agree upon an arbitrator within ten (10) days after demand by either of them, either or both parties may request the American Arbitration Association to name a panel of five (5) arbitrators. The Salesman shall strike the names of two (2) on the list; the Representative shall then strike two (2) names, and the remaining name shall be the arbitrator. The decision of the arbitrator shall be final and binding upon the parties, both as to law and to fact, and shall not be appealable to any court in any jurisdiction. The expenses of the arbitrator shall be shared equally by the parties, unless the arbitrator determines that the expenses shall be otherwise assessed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written, in multiple counterparts, each of which shall be considered an original.

Representative

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Salesman

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EXHIBIT TO SALES AGREEMENT

This Exhibit is made part of and except as otherwise noted below, incorporates by reference all provisions set forth in a Sales Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ('Representative') and who lives at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ('Salesman'); and is included so as to define the territory in which and customers to whom Salesman may see, promote and sell the products of Representative's principals:

Representative

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Salesman

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_