

# Third Coast Marketing SALES REPRESENTATIVE AGREEMENT

## SALES REPRESENTATIVE AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

by and between \_\_\_\_\_ (the "Company") and Third Coast Marketing Holdings, LP. 5404 Creek Arbor Ct. Dallas, TX 75248 (the "Salesperson").

Whereas, Company is engaged in the business of manufacturing/distributing and wishes to have its products offered for sale in various regions of the United States, and

Whereas, Salesperson is engaged in the business of representing manufacturers/ distributors as sales agent and is compensated for such service through commissions on sales arranged for the manufacturer/ distributor, and

Whereas, Company desires to engage Salesperson and Salesperson desires to accept engagement by Company as Company's Sales Representative under the terms and conditions of this Agreement.

Therefore, for good consideration the parties agree as follows:

### **1. Products.**

The Products for which Salesperson shall act as Sales Representative are described on Schedule 1 attached to this Agreement.

### **2. Territory.**

The Territory means the accounts headquartered in the area of Texas, Oklahoma, Louisiana and Arkansas. And all U.S. Military Exchanges, including sales made to their overseas locations through purchases made by their headquarters operations. This includes AAFES, Navy Exchanges (NEXCOM), and Marine Corps and Coast Guard Exchanges.

### **3. Appointment as Sales Representative.**

Company hereby appoints Salesperson as its exclusive Sales Representative to solicit orders for the Products in the Territory. Salesperson hereby accepts the appointment and agrees to solicit orders and promote the Products, subject to the terms of this Agreement.

### **4. Orders.**

Orders for the Products received by Salesperson shall be immediately forwarded to Company. Each order solicited by Salesperson is subject to acceptance by Company, and Company may reject any order, in whole or in part for any reason, including without limitation, lack of availability of inventory or supplies or limited capacity of Company, or credit worthiness of the customer submitting the order by Salesperson accompanied by the required information, and after acceptance by Company, Company shall issue to the customer its Sales Order with the terms and conditions that will govern the sale of the Products sold.

### **5. Warranties.**

Salesperson shall not make any representations as to warranties to any customer or potential customer other than the warranty published by Company in its sales literature or Sales Order from time to time.

**6. Salesperson's Duties.** Salesperson agrees to:

- a. use its best efforts to sell and promote the sale of the Products within the Territory and to develop a volume of business of Products in the Territory;
- b. contact and solicit prospective purchasers of the Products in the Territory, make demonstrations to promote sales and promptly respond to inquiries for the purchase of the Products;
- c. devote such time as may be necessary for the purpose of soliciting or promoting the sale of the Products;
- d. maintain a sales office in the Territory;

**7. Company's Duties.** Company agrees to:

- a. establish the price, charges and terms and conditions of sale of the Products;
- b. furnish Salesperson with current price lists, terms, quantity discounts and freight charges and credit applications for customers;
- c. provide its customary literature and samples concerning the Products to Salesperson or to customers as Salesperson may from time to time request.
- d. pursue to the extent reasonable collections from customer for all orders delivered as a result of sales made by Salesperson.

**8. Commissions.**

- a. Company shall pay to Salesperson a commission on the sale of the Products solicited by Salesperson in the Territory \_\_\_\_% of the "net sales price". The "net sales price" shall mean the invoiced price of the Product sold less all returns, discounts, and freight charges.
- b. Salesperson's commission shall be earned when the customer is invoiced by Company for the Products sold. The commission shall be paid no later than the 10th of the month following invoicing by Company. Interest will begin to accrue on unpaid commissions beginning with the 30th day following invoice, at the rate of 1.5% per month. Interest will continue on the average daily unpaid balance until all commissions and accrued interest are paid and current.
- c. If overbilling results from mistakes in quantities or sales price or if any Product is returned by a customer, a proportionate amount of the commission previously earned by and paid to Salesperson with respect to the sale of such Product shall be deducted from future commissions to be earned by Salesperson.

**9. Relationship of Parties.**

Salesperson's relationship to Company in the performance of this Agreement is that of an independent contractor. The personnel performing services shall at all times be under Salesperson's exclusive control and direction and shall be employees of Salesperson and not employees of Company. Salesperson shall not have the authority to bind Company in any manner.

**10. Miscellaneous.**

Sales person shall not assign its interest under this Agreement without prior written consent of Company.

**11. Termination.**

This Agreement shall become effective upon its execution by the parties. The Agreement may be terminated by either party, with or without cause, by giving the other party ninety (90) days' written notice. An additional (30) days notice must be provided to Salesperson for each successive year of service under this contract. For example, after 13 months, (120) days notice must be provided to Salesperson. Company will pay commissions on all orders submitted by Salesperson to, and accepted by, Company prior to the date of termination in accordance with Paragraph 8.

**12. Governing Law.**

The parties agree that this Agreement shall be governed by the laws of the state in which Salesperson is located, as applicable to contracts to be performed entirely within that state.

**13. Entire Contract.**

THIS AGREEMENT CONTAINS THE ENTIRE UNDERSTANDING OF THE PARTIES AND SUPERSEDES ALL PREVIOUS VERBAL AND WRITTEN AGREEMENTS, REPRESENTATION OR WARRANTIES.

**14. Disputes.**

All disputes relating to this agreement shall be settled by arbitration in accordance with the commercial rules of the American Arbitration Association. Any arbitration shall be held in Dallas, Texas at the offices of the American Arbitration Association.

**15. Other Terms:**

Executed by the parties on the day and year first above written.

COMPANY \_\_\_\_\_

By:

\_\_\_\_\_

Title:

SALESPERSON

Third Coast Marketing Holdings, LP (dba: Third Coast Marketing)

\_\_\_\_\_

By: Stephen J. Casey  
President