[Marketing/Business/Management] Consulting Agreement

- This is one of our most requested sample contract templates.
- You are a consultant and need an agreement – this is it.
- Some of this agreement also, provides for a consultant being hired to find others to provide selling, marketing and other services for the client.
- The first part of the Memorandum should be completed and distributed to the other party along with a copy of the Consulting Agreement.

Date: **[Month, Day, Year]**

To: **[Name of other party]**

From: **[Owner/Founder]**

[Company]

Subject: **[Marketing/Business/Management] Consulting Agreement**

Attached is a "[Marketing/Business/Management] Consulting" Agreement in order to clearly establish the terms and conditions by which the Consultant will [locate and retain third parties to conduct the Client's promotional, marketing and sales functions].

I believe that it embodies everything we discussed.

Please read the agreement carefully.

We recommend that you also have it reviewed by your own qualified legal counsel.

Time is of the essence.

Please sign and return it to me asap.

Thank you very much!

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From JIAN

NOTICE:

We wish we could provide an agreement that was tailored *exactly* to your business. While this is not always possible, we feel that we've come very close and that this document provides you with the head-start that you need to get your deal moving. Nevertheless, we must make this disclaimer:

- **Do Not Use This Agreement 'As-Is.'**
- **This Agreement Is Not Legal Advice.**
- **Read it Thoroughly and Make All Appropriate Changes to Fit Your Requirements.**
- **You Should Have this Agreement Reviewed and Approved by a Qualified Attorney at Law Before Using It.**
- **JIAN Accepts No Liability for the Effectiveness of This Document For Your Purposes.**

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Editing Your Sample Contract

Since this entire agreement is formatted in Word, you can edit it like any other Word document. You can jump from variable to variable by clicking the above ←→ green arrows (JIAN Menu) which will take you forward / backward and highlight the entire sample text identified within the "[ ]" brackets – simply edit / type-over with your information.

To make sure your have filled in all the variables, use Word's 'FIND' function to locate any "[ ]" which may contain an unedited variable.

- Click the icon in the JIAN menu above to turn the expert comments on/off.
- Upon completion, delete any unnecessary blank lines that remain.
- You may format this document any way you like.
- Delete this page.

[Marketing/Business/Management] Consulting Agreement

This is a standard introductory paragraph that lists the parties to the Agreement and the date the Agreement is being entered into. You need to enter the date of the Agreement, the names of the parties, the specific type of organization, and their addresses.

Effective Date	**[Date]**
Between	**[Client]** ("Client")
a	[State] [Corporation / Partnership / Sole Proprietorship / Resident],
located at	[Address]
and	**[Company Legal Name]**, ("[Company]" or "Consultant")
a	[State] [Corporation / Partnership / Sole Proprietorship / Resident]
located at	[Address]
	[City], [State] [Zip Code]

Summary

The following section defines the purposes of the Agreement: The Client wishes to retain third parties to promote, market, and sell its products. The Consultant will act as an intermediary, finding the third parties to provide these services.

- Consultant is engaged in the business of [obtaining/developing promotional, marketing, and selling services for various businesses].
- Client is in the business of [providing management / marketing consulting services… what do you do?].
- Client desires to retain the Consultant to [obtain individuals and business entities to promote, market and sell the Client's products] specifically listed and described in Exhibit A.

In consideration for the mutual promises, covenants, and Agreements made below, the parties, intending to be legally bound, agree as follows:

1. [Non-]Exclusive Right to Solicit / Services

You need to decide whether the Client is granting the Consultant the exclusive or non-exclusive right to provide his/her services. If the Agreement is exclusive, the Client can still use other Consultants or third parties if it lists those parties on Exhibit B. (Note that if this is a non-exclusive arrangement, you should delete Section 1.2, and there is no need to include Exhibit B).

To the extent that it is applicable, an Independent Sales Representative Agreement will be executed by each party providing selling services to the Client. A copy of that Agreement, included in this product should be marked Exhibit A and attached to this Agreement. While a version of the Sales Representative Agreement does not have to be executed by the Consultant and the Client (unless the Consultant is providing sales services), the sections of the Sales Representative Agreement

dealing with compensation (Section 5 below and Exhibit C) should be carefully reviewed and adjusted by the parties since those portions are binding on both parties to this Agreement.

1.1 Subject to the provisions of Section 1.2, the Client grants to the Consultant the (non-)exclusive right to [develop materials / solicit individuals and other business entities] to provide the Client with [management / promotional / selling / marketing] services for the Client's products according to the terms and conditions of the Independent Sales Representative Agreement, attached as Exhibit D.

Also, following this Agreement is Exhibit B. It should list any Consultants, sellers, marketers, or promotional companies or individuals who either currently provide or may provide selling, marketing or promotional services to the Client now or at any time in the future. To the extent that an individual or entity is not included in the list, the Client will have to pay the Consultant his or her fee, the same as if the Consultant had retained the services of that third party.

1.2 The Client reserves the right to solicit those individuals and business entities defined in Exhibit B to provide the Client with promotional, selling and marketing services for the Client's products. The Consultant will not receive any fees for the services provided by those entities.

2. Trademarks & Trade Names

Section 2 states that while the Consultant may use the Client's trade names and trademarks, he has no ownership or proprietary rights to them.

Client reserves all rights to the trade names and trademarks and to any other commercial symbols that it may adopt or use from time-to-time.

3. Independent Contractor

Section 3 sets forth the relationship between the Consultant and the Client. The Consultant is not an employee of the Client and cannot bind the Client to a contract unless the Client first agrees in writing. The Consultant is responsible for all of his or her expenses and staffing, and may work with other Clients so long as the products of those Clients do not compete with those of the Client.

The Consultant is not an employee of the Client for any purpose whatsoever, but is an independent contractor. The Client is interested only in the results obtained by the Consultant, that shall have sole control of the manner and means of performing under this Agreement. The Client shall not have the right to require the Consultant to do anything that would jeopardize the relationship of independent contractor between the Client and the Consultant. All expenses and disbursements incurred by the Consultant in connection with this Agreement shall be born wholly and completely by the Consultant.

The Consultant does not have, nor shall the Consultant hold itself out as having any right, power or authority to create any contract or obligation, either express or implied, on behalf of, or binding upon the Client, unless the Client shall consent to that in writing. The Consultant shall have the right to appoint and shall be solely responsible for the Consultant's own solicitation force, employees, agents and representatives, who shall be at the Consultant's own risk, expense and supervision and shall not have any claim against the Client for compensation or reimbursement.

The Consultant may represent other products that do not compete directly or indirectly with products covered by this Agreement and may exercise the Consultant's own discretion in obtaining promotional, selling and marketing services, hiring personnel and otherwise complying with the terms of this Agreement.

4. Acceptance

Section 4 describes what happens after the Consultant finds a third party to provide services for the Client. The Client is the sole decision maker as to whether or not to retain the services of that party. If the Client elects to retain that party, an Independent Sales Representative Agreement will be executed.

[Individuals, Partnerships, Corporations and other business entities solicited by the Consultant to provide printing, promotional, selling and marketing services] for the Client shall be submitted to and subject to acceptance by the Client. Only the Client may decide, in its sole discretion, whether to [accept or reject any individual or entity solicited] by the Consultant. The Client's acceptance is expressly conditioned upon such individual or entity executing an Independent Sales Representative Agreement.

5. Fees & Commissions

You may want to set a monthly fee here or use an hourly rate per the project as described in Exhibit A

5.1 **Fee.** The Client shall pay the Consultant an [hourly rate of $[000] per hour / fee of $[0,000] per month] payable in bi/weekly installments per the details described more fully in Exhibit A.

Oftentimes, companies may tie a portion of the Consultant's compensation to the performance of the company or a division within the company. This provides incentive for the Consultant to accomplish the company's goals. In the following section, the Consultant is given a certain percentage of the annual profits of the company or a division of the company. You should insert the appropriate percentage and name the applicable profit center. (e.g., the Company, Product X Division, Product Y Division.)

5.2 **Bonus.** In addition to the consulting fee provided for above, Client shall pay to the Consultant a sum equal to [x]% percent of the net profits of the [Company / Product X Division] as shown in the Client's year-end statement of income as determined in the sole judgment of the Client's chief financial officer. The incentive compensation payable to the Consultant under this section shall be prorated for any partial fiscal year that occurs during the term. The incentive compensation shall be prorated and paid to the Consultant at the end of the fiscal year.

This is an interesting option to grant the consultant some stock in your company – they really need to be working with you for a long term to make this worthwhile for both of you. It's also a good way to preserve your cash.

5.3 **Stock Options.** Consultant will be granted options to purchase [xxx] shares of Company stock according to the provisions of the [Company] Stock Option Plan.

If the Consultant's fee is calculated based on the Independent Sales Representative Agreement and Appendix C. You may wish to review that Agreement and Appendix C.

In determining the percentage below, remember that any amounts paid to third parties pursuant to an Independent Sales Representative Agreement, are deducted. In other words, if the Consultant gets 30% and there are $1,000 in invoices and no adjustments for returns where the Representative gets 20% of the net invoice, the Consultant would get $100 (30% of 1,000 ($300) less 20% of 1,000 ($200) = $100. In other words, the Consultant gets the amount set below less the amount the Sales Representative gets. You can just delete this section if it does not apply to your situation.

5.4 **Commission.** The Client shall pay the Consultant a commission equal to the difference between [x]% of the net amount of the Client's invoices to purchasers as determined according to Exhibit D, and the actual fee or fees paid pursuant to Section 5 of the Independent Sales Representative Agreement to any entity providing promotional, selling or marketing services to the Client. The Consultant's commission shall be considered earned and payable on the same date as the actual fee or fees become payable to the individual or entity performing the services under Section 5 of the Independent Consultant Agreement.

The Consultant will get reimbursed for any other "extraordinary" amounts agreed to in advance in writing.

5.5 **Expenses**. Despite anything to the contrary contained in this Agreement, the Client shall reimburse the Consultant for those certain extraordinary travel and any other expenses incurred by the Consultant

and agreed upon by the Client and the Consultant prior to the Consultant incurring such expenses.

6. Best Efforts

- Section 6 is a standard section especially if the Agreement is exclusive.

The Consultant shall use its best efforts to [develop / obtain promotional, selling and marketing services] for the Client and to solicit individuals, Partnerships, Corporations and other business entities to perform such services for the Client.

7. Term & Termination

- Section 7 sets the term of the Agreement. At the end of the term, the parties are free to re-negotiate the terms, though there is no guarantee that the contract will be renewed. If it is not renewed, the Contractor still receives commissions to the extent that any of the entities secured by it are providing services to the Client.
- The term can be anything from a month to a number of years; however, as a rule, the parties should give enough time to be able to do a good job but not too much time that they are locked in for too long.

The term of this Agreement shall be for a period of [x years / month(s)] from the Effective Date first written above. At the end of the term, it is the intent of the parties to re-negotiate this Agreement; however, if a new contract is not entered into, the Contractor shall continue to receive any commissions owed pursuant to Section 5, except as provided below in Section 8.

8. Misrepresentation

- Section 8 lets the Client out of his contract with the Consultant in the event that the Client does something grossly negligent or misrepresents itself.

In the event the Consultant, at any time during its association with the Client, shall be guilty of gross negligence, intentional misconduct or intentional misrepresentation, such negligence, misconduct or misrepresentation shall be deemed an immediate breach of this Agreement. Upon such breach, or any other breach of this Agreement by the Consultant, this Agreement shall terminate immediately upon written notice by the Client, and the Consultant shall not be entitled to claim any compensation for damages for, in respect of, or by reason of such termination.

9. Proprietary Information

- This is a standard non-disclosure provision where both parties agree that any confidential information disclosed to the other is the property of the disclosing party and such information, in addition to the terms of this Agreement, may not be disclosed to third parties. The exception to this is when the disclosing party can prove that it already had the information, or the information becomes available to the general public. This non-disclosure requirement continues to be effective even upon or after termination of this Agreement.

The customers, business, products, technology, business connections, customer lists, procedures, operations, techniques and other aspects of the business of the Client are established at great expense and protected as confidential information and trade secrets and provide the Client with a substantial competitive advantage of selling its products. The Consultant shall have access to, and be entrusted with, trade secrets, confidential information and proprietary information, and the Client would suffer great loss and injury if the Consultant would disclose this information or use it to compete with the Client. Consequently, the Consultant agrees that during its relationship with the Client, and from then on, it will not, within the geographic territory encompassed by the business of the Client at the termination of that relationship, directly or indirectly, either individually or as an employee, agent, partner, shareholder, or in any other capacity, use or disclose, or cause to be used or disclosed, any trade secret, confidential

information or proprietary information acquired by the Consultant during its relationship with the Client.

10. Indemnification

- Section 10 is written for the benefit of the Client where the Consultant agrees to pay all costs and judgments for any actions taken against the Client due to any (in)action by the Consultant.

The Consultant agrees to defend, indemnify, and hold the Client harmless from any and all liabilities, losses, costs, damages, penalties and any other expenses including attorneys fees arising directly or indirectly, either from the Consultant's acts or omissions or the Consultant's breach of any obligation imposed or sought to be imposed by or according to this Agreement. The Client shall not be liable to the Consultant, or to anyone who may claim any right due to a relationship with the Consultant, for any acts or omissions by the Consultant in the performance of this Agreement or on the part of the employees or agents of the Consultant. The Consultant shall indemnify and hold the Client free and harmless from any obligation, cost claim, judgment, attorneys, fees, and attachments arising from, growing out of, or in any way connected with the services rendered to the Client under the terms of this Agreement.

11. General Provisions

- The General Provisions that follow are fairly standard. These provisions enhance the balance of the Agreement by defining c[illegible]n common issues such as notice, assignment, legal remedies, waiver, and attorney fees, etc..
- You may or may not want to make this deal public – at least limit that event by this agreement and work out if/how/when you want to do that later.

11.1 **Publicity**. Neither party will make any public announcement or issue any press release concerning the terms of this Agreement without the prior approval of both parties.

- Make it clear that you will not try to hire away each others employees. If you do or it happens then there is compensation built-in and you can avoid further legal proceedings.

11.2 **Non-Solicitation.** Neither party shall solicit for employment or hire the other's current or future employees, either directly or indirectly, during the Term of this Agreement, without obtaining the other's prior written approval. Should an employee change employment from one party to the other, the new employer shall pay the old employer a fee equivalent to Twenty Percent (20%) of the employee's new compensation, annualized for the first year.

- You must decide which state governs this Agreement and where any legal action would be taken. Generally, it is your (company's) state of residence.

11.3 **Governing Law & Jurisdiction**. This agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of [State], without reference to conflict of law principles. The parties hereby expressly consent to the jurisdiction and venue of the federal and state courts within the state of [State]. Each party hereby irrevocably consents to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to such party at its address set forth in the preamble of this Agreement, such service to become effective thirty (30) days after such mailing.

- This Agreement is intended to be the only Agreement, and that no other documents or communications are binding. Therefore, it is very important to make sure that everything [Company] and [Client] have agreed to is included in this Agreement. Otherwise, it is as if it was not agreed to.

11.4 **Entire Agreement.** This Agreement, including the attached exhibits, constitutes the entire Agreement between both parties concerning this transaction, and replaces all previous communications, representations, understandings, and Agreements, whether verbal or written between the parties to this Agreement or their representatives. No representations or statements of any kind made by either party,

that are not expressly stated in this Agreement, shall be binding on such parties.

Any changes to this Agreement must be in writing and signed by the party against whom that writing is to be used.

11.5 **All Amendments in Writing.** No waiver, amendment or modification of any provisions of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom such waiver, amendment or modification is sought to be enforced. Furthermore, no provisions in either party's purchase orders, or in any other business forms employed by either party will supersede the terms and conditions of this Agreement.

All notices between the parties must be in writing and either delivered in person or by certified or registered mail, return receipt requested.

11.6 **Notices.** Any notice required or permitted by this Agreement shall be deemed given if sent by registered mail, postage prepaid with return receipt requested, addressed to the other party at the address set forth in the preamble of this Agreement or at such other address for which such party gives notice hereunder. Delivery shall be deemed effective three (3) days after deposit with postal authorities.

In the event of a lawsuit or any legal proceeding involving this Agreement, the losing party will have to pay the winning party his or her costs and expenses, including reasonable attorney fees.

11.7 **Costs of Legal Action.** In the event any action is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs of enforcement including, without limitation, attorneys' fees and court costs.

Legal remedies, i.e., money damages, may not be sufficient; therefore, both parties agree to equitable remedies such as an injunction where the breaching party would be required to do or not to do something.

11.8 **Inadequate Legal Remedy.** Both parties understand and acknowledge that violation of their respective covenants and Agreements may cause the other irreparable harm and damage, that may not be recovered at law, and each agrees that the other's remedies for breach may be in equity by way of injunctive relief, as well as for damages and any other relief available to the non-breaching party, whether in law or in equity.

Assuming the parties wish to use Arbitration in the event of a dispute, the following section should be included. You take your chances with an arbitrator, but it keeps legal costs down and keeps you out of a drawn out legal process.

11.9 **Arbitration.** Any dispute relating to the interpretation or performance of this Agreement shall be resolved at the request of either party through binding arbitration. Arbitration shall be conducted in [County], [State] in accordance with the then-existing rules of the American Arbitration Association. Judgment upon any award by the arbitrators may be entered by any state or federal court having jurisdiction. Both parties intend that this Agreement to arbitrate be irrevocable.

Merely delaying to bring an action that one party has a right to bring does not cause that party to lose or waive his right to pursue that action.

11.10 **Delay is Not a Waiver.** No failure or delay by either party in exercising any right, power or remedy under this Agreement, except as specifically provided in this Agreement, shall operate as a waiver of any such right, power or remedy.

Neither party will be blamed if there is a problem resulting from something beyond its control, such as an earthquake, flood, war.

11.11 **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of any Act of God, strike, fire, flood, governmental acts, orders or restrictions, Internet system unavailability, system malfunctions or any other reason where

failure to perform is beyond the reasonable control and not caused by the negligence of the non-performing party (a "Force Majeure Event"), the party who has been so affected shall give notice immediately to the other party and shall use its reasonable best efforts to resume performance. Failure to meet due dates resulting from a Force Majeure Event shall extend such due dates for a reasonable period. However, if the period of nonperformance exceeds sixty (60) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate this Agreement effective immediately upon such notice or at such later date as is therein specified.

- This section limits the ability of either party to transfer any of its rights or delegate any of its duties to third parties.
- You want to make sure that you can sell your business along with all of the relationships you have developed along the way. (Often these relationships can add tremendous value to your business and you want to make sure that all of your agreements can be transferred to the new owners.) I wouldn't want to seek (let alone pay for) permission to sell my company.
- Generally, neither party may assign their respective rights to a third party; however, with the possible exception of assignment to a successor corporation or partnership, either party may transfer its rights or obligations under this Agreement without the approval of the other party. This Agreement would be binding on the party.
- However, you may want to limit each other's ability to pass along this deal to another possibly unknown and possibly unfriendly entity. The second paragraph prevents unauthorized transfer of responsibilities…
- CHOOSE one or the other of these two following paragraphs.

11.12 **Assignability & Binding Effect**. Except as expressly set forth within this Agreement, neither party may transfer or assign, directly or indirectly, this Agreement or its rights and obligations hereunder without the express written permission of the other party, not to be unreasonably withheld; provided, however, that both parties shall have the right to assign or otherwise transfer this Agreement to any parent, subsidiary, affiliated entity or pursuant to any merger, consolidation or reorganization, provided that all such assignees and transferees agree in writing to be bound by the terms of this Agreement prior to such assignment or transfer. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

- This paragraph DOES NOT ALLOW either party to transfer its rights to a successor company without prior approval.

11.13 **Non-Assignability & Binding Effect**. Except as otherwise provided for within this Agreement, neither party may assign any of its rights or delegate any of its obligations under this Agreement to any third party without the express written permission of the other. Any such assignment is deemed null and void.

- If any part of this Agreement is unenforceable or invalid, the balance of the Agreement should still be enforced. Basically, ignore any sections that are invalid.

11.14 **Severability.** If any provisions of this Agreement are held by a court of competent jurisdiction to be invalid under any applicable statute or rule of law, they are to that extent to be deemed omitted and the remaining provisions of this Agreement shall remain in full force and effect.

- The headings of the various sections are meant to explain or otherwise give meaning to those sections; they are for convenience only.

11.15 **Cumulative Rights.** Any specific right or remedy provided in this Agreement will not be exclusive but will be cumulative upon all other rights and remedies described in this section and allowed under applicable law.

11.16 **Headings.** The titles and headings of the various sections and sections in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Agreement.

Every copy shall be just as valid as the original.

11.17 **Counterparts.** This Agreement may be executed in multiple counterparts, any one of which will be considered an original, but all of which will constitute one and the same instrument.

Even after the termination of the Agreement, the parties may still have certain responsibilities such as keeping information confidential.

11.18 **Survival of Certain Provisions.** The warranties and the indemnification and confidentiality obligations set forth in the Agreement shall survive the termination of the Agreement by either party for any reason.

Understood, Agreed & Approved

We have carefully reviewed this contract and agree to and accept all of its terms and conditions. We are executing this Agreement as of the Effective Date above.

[Company]	**Client**
_____	_____
[Owner/Founder]	[Client Name]
_____	_____
Title	Title

Exhibit A

Project Description

Project Title: **[xxx]**

This project description is issued under and subject to all of the terms and conditions of the [Marketing/Business/Management] Consulting Agreement by and between [Client] and [Company].

Services to be performed and results to be achieved.
[Company] will provide the following services to Client in support of the development of [xxx].com website (working name):

Some consulting projects you can nail down to a specific deliverable with a fixed price, others; however, may not be so clear cut – you'll need to trust the consultant and pay close attention as to whether they are delivering what you want on an ONGOING basis.

- Assess product line and prioritize development
- Develop a full-color 4-page brochure describing [product]
- Rewrite the copy on the [Company] website
- Research and develop stories to use for Speeches/Training/Motivation
- Research e-mail lists (newsletters, member highlights, marketing tips, motivational quotes, etc.
- Attend teleconference meetings with [Client] for discussion and strategy relative to project direction and strategy.
- Consult on the creation of a [xxx]

Primary Contact

For questions of clarity and continuity throughout the project, [Client]'s primary point of contact will be [Client Name] available at [Telephone #] or [Client email address]

Payment Schedule and Invoice Date

- [Company] will invoice [Client] based on actual hours applied to the project.
- Fees based upon 150-200 hours at $00 per hour with the total amount not to exceed $00,000.

[Company] agrees to provide the following to [Client]:

- Content
- Timely feedback and direction throughout the development process
- Authorship recognition on the website

Start Date	**[Date]**
Estimated Completion Date	**[Date]**

Understood & Agreed

Client	**[Company]**
[Client name]	[Owner/Founder]
Title	Title
Date	Date

Exhibit B

List those individuals, partnerships, corporations and other individuals (if any) who are currently or who may provide the Client with promotional, selling and marketing services.

Others providing similar services

- Xxx
- Xxx
- xxx

Exhibit C

Attach a copy of the Independent Sales Representative Agreement.

Exhibit D

Consultant's Commission Compensation

If applicable…

1. The Consultant's compensation for sales made under this Agreement shall be as follows: The Consultant shall be entitled to a total commission for each individual sale of the Products arranged solely through the Representative equal to [x]% percent of the net invoice of each sale. The Consultant shall be paid a pro rata portion of each partial or total payment(s) made by a customer on any individual sale equal to the applicable commission percentage provided above, times the product of the ratio of the net invoice price to the total purchase price of the Products being sold, times the actual payment(s) being made, which said commission payment(s) shall be payable to the Consultant within the next calendar month following any such partial or total payment(s) made by the customer up to the maximum total commission for each individual sale provided above.

The term "net invoice price" shall mean the total invoice price that the sale is invoiced to the customer, but excluding shipping and mailing costs, taxes, insurance, any allowances or discounts granted to the customer and all charges for installation or instruction.

2. There shall be deducted from any sums due the Consultant:

2.1 An amount equal to commissions previously paid or credited to the Consultant on sales where all or substantially all of the consideration relating to that has since been returned to the customer or in the event only a portion of such consideration has since been returned to the customer or allowances have been credited to the customer by the Company, the pro rata amount of previously paid or credited commissions on such returns or allowances.

2.2 A pro rata amount of commissions previously paid or credited to the Consultant on sales where less than the total purchase price of the Products is ultimately paid by the customer, whether by reason of the customers bankruptcy, insolvency or for any other reason whatsoever, in the Company's judgment, renders the account uncollectible in whole or in part, in which event, if any sums are later realized upon the uncollectible account, the Company will pay the Consultant the percentage of commission applicable to the amount of the actual collection.

3. When an order received by the Company through the Consultant has been influenced by another of the Company's sales representatives, or the Product is to be delivered outside of the Consultant's business area, the Company may, in its sole discretion, but shall not be required to, designate a commission split between the Consultant and any one or more other authorized sales representative(s), as the case may be. Any such commission split may be discussed with the sales representatives involved, but the Company shall make any decision in its own sole discretion, and any such decision shall be final.