

## Agreement Between Sales Representative and Magazine to Sell Advertising

Agreement made on the \_\_\_\_\_ (*date*), between \_\_\_\_\_  
(*Name of Sales Representative*) of \_\_\_\_\_  
\_\_\_\_\_ (*street address, city, county, state, zip code*), referred  
to herein as **Sales Representative**, and \_\_\_\_\_ (*Name of Employer*), a  
corporation organized and existing under the laws of the state of \_\_\_\_\_, with its  
principal office located at \_\_\_\_\_  
\_\_\_\_\_ (*street address, city, county, state, zip code*), referred to herein as  
**Company**.

Whereas, *Company* is engaged in the magazine publishing business, and in the sale of  
magazines; and

Whereas, the trade area set forth in **Section 1** of this Agreement has been solicited by  
*Company* through its sales representatives and through advertising media and a large,  
valuable, and extensive trade has been established and maintained at great expense to  
*Company*; and

Whereas, *Company* has a substantial number of customers in the trade area set forth in  
**Section 1** of this Agreement, and the names of these customers are within the knowledge of  
*Company* and are of great value to *Company*; and

Whereas, *Sales Representative* desires to enter into this Agreement with *Company*;

Now, therefore, for and in consideration of the mutual covenants contained in this  
agreement, and other good and valuable consideration, the receipt and sufficiency of which is  
hereby acknowledged, the parties agree as follows:

### 1. Employment of Sales Representative

By this agreement, *Company* employs *Sales Representative* to represent it and to sell  
advertising for its magazines in the following territory: (*description of territory*) \_\_\_\_\_

\_\_\_\_\_ ,  
and such other territories on which both parties may agree in writing and which subsequent  
Agreements shall be incorporated in and made a part of this Agreement and, provided further,  
that such other territories are within the following area: (*description of area*) \_\_\_\_\_

### 2. Sales Representative's Best Efforts

*Sales Representative* shall devote his best efforts to selling advertising of *Company* in  
the territory as described in **Section 1**.

### 3. Covering Territory

*Sales Representative* shall travel in and cover the territory assigned to him personally  
and regularly, in accordance with the instructions of the \_\_\_\_\_ (*name of  
office*) of *Company*.

### 4. Sales Subject to Acceptance

All sales made by *Sales Representative* shall be made subject to acceptance by

Company at its home office at \_\_\_\_\_  
\_\_\_\_\_ (address of home office), and  
all contracts for the sales of advertising for *Company's* shall be executed by a duly authorized  
officer of *Company*.

**5. Price Changes**

*Company* reserves the right at any time to fix or change list prices, terms of sale,  
advances, and the rate of commission to be paid on any and all advertisements.

**6. Commission**

A. *Company* shall pay *Sales Representative* a \_\_\_\_\_% commission on the net  
selling price of all advertising for *Company* on orders received and accepted by  
*Company* under the terms of this Agreement.

B. It is mutually agreed that such commission to be in accordance with  
*Company's* published commission schedule in force at the time of *Company's*  
acceptance of the order.

**7. Customer's Failure to Pay Account**

A. In the event of nonpayment of a customer's account resulting in a loss to  
*Company*, *Sales Representative* shall be credited with a sum equal to his commission  
rate or percentage on the unpaid balance owing by the customer.

B. If any customer's account becomes \_\_\_\_\_ (number) days in arrears, *Sales  
Representative* shall be credited with a sum equal to his commission rate or percentage  
on the unpaid balance of the account and such commission debit shall be suspended,  
subject to being reinstated at any time such customer pays his account in full.

**8. Statement of Shipments**

*Company* shall furnish *Sales Representative* a periodic statement showing shipments  
made to customers in *Sales Representative's* territory, and all payments and other items  
credited to *Sales Representative's* account during such period.

**9. Unfilled Orders**

*Company* shall not be liable to *Sales Representative* for any delay or failure in filling  
orders, nor for filling orders with defective goods, but agrees to use its best efforts to  
have perfect goods sent out to all customers.

**10. Drawing Account**

Although commissions shall not be due and payable to *Sales Representative* until a  
customer has paid his or her or its account in full, *Company* shall credit *Sales  
Representative* with a drawing account of \$\_\_\_\_\_ per week, which shall be charged  
against *Sales Representative's* commissions; but *Company* shall in no way be obligated  
to pay *Sales Representative's* advance credit except at its discretion, and provided that  
*Sales Representative* has no overdraft on his account, or has retained no collection in  
excess of such further drawing allowance. Any such advances made by *Company* to  
*Sales Representative*, whether withdrawals against commission or otherwise, shall be  
considered as loans to *Sales Representative* to be repaid to *Company* on demand.

**11. Cash Collected by Sales Representative**

A. Cash collected by *Sales Representative* from customers for cash sales or for any

other collection authorized by *Company* shall be immediately remitted to *Company* by *Sales Representative*.

B. All checks made payable to *Company* shall be forwarded directly to *Company*, and if a check for an amount owing to *Company* shall be made to the order of *Sales Representative*, he shall endorse it to the order of *Company* and send it to *Company* at once.

**12. Termination Pay**

If this contract with *Sales Representative* shall terminate under the provisions of **Section 18** of this Agreement, *Company* shall pay *Sales Representative* \_\_\_\_\_% of the commissions to be paid as provided in **Section 6** on orders received and accepted by *Company* under the terms of the Agreement, but shipped and delivered after the date of termination; however, no commission shall be paid on orders where delivery is not requested within a period of \_\_\_\_\_ (**number**) days after termination of this Agreement. The remaining \_\_\_\_\_% of such commission shall be retained by *Company* for expenses incident to maintaining and servicing the above-described territory.

**13. Commission on Retirement, Illness, or Death**

If the employment of *Sales Representative* shall terminate by reason of protracted illness, retirement at or after age \_\_\_\_\_, *Company* shall pay *Sales Representative* \_\_\_\_\_% of the commissions on orders received and accepted under the terms of this Agreement.

**14. Relationship of the Parties**

*Sales Representative* is an independent contractor and is not an employee, partner, or joint venturer of *Company*. *Company* shall determine the services to be provided by *Sales Representative*, but *Sales Representative* shall determine the legal means by which it accomplishes the services in accordance with this Contract. *Company* is not responsible for withholding, and shall not withhold or deduct from the commissions FICA or taxes of any kind, unless such withholding becomes legally required. *Sales Representative* is not entitled to receive the benefits which employees of *Company* and is not entitled to receive and shall not be entitled to workers compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit sharing, or Social Security on account of his services to *Company*.

B. *Sales Representative* shall be responsible for acquiring and paying for any required workers compensation for himself or his employees and for any benefits of his employees including medical insurance, life insurance, paid vacations, paid holidays, pension, or profit sharing. *Sales Representative* shall be responsible for income tax and social security withholding and unemployment compensation for his employees.

C. *Sales Representative* agrees that during the period that he is retained as a *Sales Representative* by the *Company*, *Sales Representative* shall not, without the *Company's* express prior written consent, engage the sale of magazine advertising form himself or any company engaged in the sale or marketing of magazines within the territory described in **Section 1** above. However, *Sales Representative* is free to sale advertising in said territory for any other type company whether it be newspapers, television or any other type of publication or media.

**15. Expenses**

A. *Sales Representative* shall be entitled to reimbursement for such expenses as shall be determined by the director of sales in accordance with the established custom of *Company*, as the same may be determined from time to time by the sales department of *Company*, it being understood that advances will be interpreted as provided in **Section 10** of this Agreement.

B. *Sales Representative* shall not have the right to retain attorneys or counsel or to incur other legal expenses in the name of or on behalf of *Company*.

**16. Auto Insurance**

*Sales Representative*, before engaging in his duties under this Agreement, shall first cause to be issued to him liability insurance on his automobile that will give absolute protection for *Company* against any loss or damage to life or property that may be caused by any automobile accident in which *Sales Representative* is involved. Such indemnity policy to insure *Company* for such time or times as *Sales Representative's* automobile may be used on the business of *Company*.

**17. Home Office Visit**

*Sales Representative* shall visit the home office of *Company* at least \_\_\_\_\_ (number) once each year, at a time set by *Company*, and the expenses for such trip shall be borne by *Company*.

**18. Termination**

This Agreement may be terminated by either party on \_\_\_\_\_ (number) days' written notice to the other party at the above-listed address of the party, with or without cause; provided that *Company* may at any time terminate the employment of *Sales Representative*, without notice and without liability for expenses incident to termination, for reasons of employee's absence without notice, neglect of duty, or disrespectful behavior. Termination of employment under this Agreement shall be controlled and governed by the terms of **Sections 21-24** of this Agreement.

**19. Return of Equipment on Termination**

On termination of this Agreement by either party, all sales manuals, price lists, customer account lists, and copies of invoices and mailing lists shall be promptly returned to *Company* by *Sales Representative*.

**20. Severability**

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. If any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

**21. No Waiver**

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

**22. Governing Law**

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of \_\_\_\_\_.

**23. Notices**

Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth at the beginning of this Agreement.

**24. Attorney's Fees**

In the event that any lawsuit is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees.

**25. Mandatory Arbitration**

Any dispute under this Agreement shall be required to be resolved by binding arbitration of the parties hereto. If the parties cannot agree on an arbitrator, each party shall select one arbitrator and both arbitrators shall then select a third. The third party so selected shall arbitrate said dispute. The arbitration shall be governed by the rules of the American Arbitration Association then in force and effect.

**26. Entire Agreement**

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party to the extent incorporated in this Agreement.

**27. Modification of Agreement**

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

**28. Assignment of Rights**

The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

**29.** In this contract, any reference to a party includes that party's heirs, executors, administrators, successors and assigns, singular includes plural and masculine includes feminine.

WITNESS our signatures as of the day and date first above stated.

\_\_\_\_\_  
**(Name of Company)**

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

\_\_\_\_\_  
**(Printed name & Office in Corporation)**

\_\_\_\_\_  
**(Signature of Officer)**

\_\_\_\_\_  
**(Printed name)**

\_\_\_\_\_  
**(Signature of Salesperson)**