

## SALESMAN AGREEMENT AS AN INDEPENDENT CONTRACTOR

\_\_\_\_\_, (“The Company”), owns a United Community Services of America dealership and requires a written agreement with the Sales Representative. All transactions must be under the Company in order to avoid sub-dealerships which are not allowed by contract. If you agree with the following terms and conditions, please date, sign and return a copy to \_\_\_\_\_.

1. I am of legal age to enter into this agreement which becomes effective on the date received and acknowledged by \_\_\_\_\_.
2. I certify that the Social Security or Federal I.D. number listed below is my correct tax identification number.
3. Upon acceptance of the application, I will become a Sales Representative of the Company and will be eligible to participate in the selling and distribution of the Company’s products and services. I will service the accounts when the products are sold and assist in resolution of customer concerns.
4. I understand that I am an independent contractor, not an agent, employee or franchisee of the Company and will not be treated as an employee for any purposes including that of the Federal Unemployment Tax Act and Federal Insurance Contribution Act, the Social Security Act and State Unemployment Act. The company shall not maintain Workers Compensation or disability coverage. I understand and agree that I will pay all applicable Federal and State income taxes, self-employment taxes, local taxes and/or license fees which may be due because of my activities under this agreement.
5. I understand that this Agreement supersedes any and all other Agreements between the parties and is the entire agreement between the Company and me. No other additional promises, representations, guarantees or agreements of any kind shall be valid unless in writing and signed by the Company and myself.
6. The place of origin of this agreement is the State of \_\_\_\_\_ and it shall be governed in accordance with its laws. The Courts of \_\_\_\_\_ shall be the forum for the resolution of any disputes arising hereunder.
7. I agree not to use the Company’s logos, trademarks, trade names, literature or any other materials in any type of advertising without the prior written approval of the Company.
8. I understand that sales are a requirement but I am not required to purchase goods or services. Earnings are solely from commissions on products sold according to the attached schedule which can be modified from time to time. Commissions will be paid within thirty (30) days after payment of invoice is received and shall be accompanied by a Statement of Commissions.
9. Appointed Managers will be entitled to override bonuses according to a written agreement attached to this document on Sales Representatives they actively manage.
10. I indemnify and hold harmless the Company and my manager from any claims, damages, and expenses including attorney’s fees arising out of my actions or conduct in violation of this agreement.

11. I am not guaranteed any income, profit or success. I will make commissions only on products, goods and services personally sold by me. I am free to set my own hours and determine my own location and methods of selling, within the guidelines of this agreement.
12. Using sales or recruiting materials not produced by the Company or its suppliers is a breach of contract and may result in termination and end participation in any future commissions.
13. Inaccurate information supplied by me is grounds for termination of this agreement at the option of the Company who can make it void from its inception.
14. No regulatory agency ever endorses or approves any Company or compensation plan and the Company makes no claim to anyone.
15. I will make no statements, claims representations or warranties respecting the Company's products which are not contained in official Company promotional materials produced and distributed by the Company.
16. I shall make no false or misleading statements concerning the Company, affiliates or suppliers.
17. This agreement may be modified from time to time to meet legal requirements and changes in economic conditions. The Company agrees to give thirty (30) days notice of such modification.
18. I understand the Company's Policies and Procedures as well as this agreement and will adhere to them. Any violation of this agreement may result in termination of same.
19. In order to protect against unauthorized promises which cannot be fulfilled, the Company shall have the absolute right, at its discretion: (A) to refuse to accept any orders procured through the Sales Representative and to refuse to ship the goods described herein; or (B) to make any allowances or adjustments to orders and accept any returns of any shipments. The Company shall notify the Sales Representative in writing of such refusals, allowances or adjustments.
20. Restrictions on products; The Sales Representative shall sell, on behalf of the Company or when representing himself as a representative of the Company only those UCSA products and/or services as approved by the Company.
21. Expenses; The Sales Representative shall be responsible for all expenses incurred by him in performance of his duties unless otherwise set forth in writing between the parties.
22. Duration of Agreement. This agreement shall continue until terminated by either party upon sixty (60) days written notice to the other. Upon notice being Properly given to terminate, the parties shall act in a positive, professional and favorable manner towards the customers, and each other and neither shall take any actions to decrease productivity.

The Company may terminate this agreement for cause upon twenty-four (24) hour written notice to Sales Representative. For cause shall be defined as the Sales Representative acting in a manner which may cause damage to the business reputation of the company or in a manner which is in violation of local, state or federal laws or regulations.

23. Trade secrets:

- (A) With respect to the Company's special business techniques, analyses of the market, forms, software programs, list of customers, and all other information regarding manufacture or distribution of products, the Sales Representative acknowledges that all of such information:

- (1) belongs to the Company;
- (2) constitutes specialized and highly confidential information and not generally known in the industry; and
- (3) Constitutes trade secrets of the Company.

Accordingly, the Sales Representative recognizes and acknowledges that it is essential to the Company to protect the confidentiality of such trade information.

(B) The Sales Representative thus agrees to act as a trustee of such information and of any other confidential information he acquires in connection with his association with the Company. Further, as an inducement in trust and confidence for the use and sole benefit of the Company.

(C) During the term hereof, and for thirty-six (36) months thereafter, the Sales Representative shall not disclose such information to any person, firm, association, or other entity for any reason or purpose whatsoever, unless such information has already become common knowledge unless the Sales Representative is required to disclose it by judicial process.

24. Agreement not to compete; The Company has retained the Sales Representative only for the purposes set forth in this Agreement, and his relationship to the Company is that of an independent contractor. During the term hereof, the Sales Representative shall not, directly or indirectly, enter into, or in any manner take part in, any business, profession, or other endeavor which competes with the Company in the sale of such products as the Company maintains or may add to its product lines during the term of this Agreement and for six (6) months following termination of this Agreement. Within a fifty (50) mile radius of the office of the Company, the Sales Representative shall not so compete either as an employee, agent, independent contractor, owner, or otherwise.

25. Restrictive covenant:

(A) For a period of six (6) months after the expiration or termination of this Agreement for any reason, whether with or without cause, or for a period of time to the length of the Sales Representatives will not, directly or indirectly, contact any then-existing client of the Company for any purpose of selling like or similar product lines on behalf of himself or any other person, firm, company, or corporation.

(B) The parties acknowledge that they have attempted to limit the Sales Representative's right to compete only to the extent necessary to protect the Company from unfair competition. However, the parties hereby agree that, if the scope or enforceability of the restrictive covenant is in any way disputed at any time, a court or other trier of fact may modify and enforce the covenant under the circumstances existing at the time.

(C) The Sales Representative further acknowledges that: (1) in the event that his relationship with the Company terminates for any reason, he will be able to earn a livelihood without violating the foregoing restrictions; and (2) that his ability to earn a livelihood without violation of such restrictions is a material condition to his retention by the Company.

26. Warranty against prior existing restrictions. The Sales Representative represents and warrants to the Company that he is not a party to any agreement containing a non-competition clause or other restriction with respect to: (A) the services which he is required to perform hereunder; or (B) the use or disclosure of any information directly or indirectly relating to the Company's business, or the services he is required to render pursuant hereto.

27. Prohibition against assignment. The Sales Representative agrees, for himself and on behalf of his successors, heirs, executors, administrators, and any person or persons claiming under him of virtue hereof, that this Agreement and the rights, interests, and benefits hereunder cannot be assigned, transferred, or similar process. Any such attempt to do so, contrary to the terms hereof, shall be null and void and shall relieve the Company of any and all obligations or liability hereunder.
28. Severability. If any provision, paragraph, or subparagraph of this Agreement is adjudged by any court of law to be void or unenforceable, in whole or in part, such adjudication shall not be deemed to affect the validity of the remainder of the Agreement, including any other provision, paragraph is declared to be separable from every other provision, paragraph, and subparagraph and constitutes a separate and distinct covenant.
29. Rights upon termination. Upon the expiration of this Agreement for any reason, whether with or without cause, the Sales Representative shall be entitled only to accrued commissions on those contracts already signed and accepted by the Company prior to the effective date thereof. Such accrued commissions shall be paid to the Sales Representative within thirty (30) days of the Company's receipt of the applicable invoice amounts.
30. Binding effect. This Agreement shall be binding upon, and inure to the benefit of, the Company and its successor, assigns, heirs, legal representatives, executors, and administrators.
31. Headings. The headings in this Agreement are inserted for convenience only and shall not be considered in interpreting the provisions hereof.
32. Notice. All notices shall be given in writing and sent registered or certified mail, return receipt requested, and shall be addressed to:

COMPANY:

SALES REPRESENTATIVE:

33. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed an Agreement on the date and year first written above.

Sales Representative:

Company:

\_\_\_\_\_

\_\_\_\_\_

Social Security No.: \_\_\_\_\_

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

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Notary