

Independent Sales Representative Agreement

This Agreement is made in CALIFORNIA as of DATE _____ between PUKA CREATIONS LLC a CALIFORNIA corporation, having its principal place of business at 16840 SOUTH MAIN GARDENA CA 90248 (hereinafter called "PUKACREATIONS") and [Sales Representative's Full Legal Name and D/B/A (if different from Legal Name)]

having its principal place of business at [specify address] (hereinafter called "Representative").

- A. The company markets various [specify] products in the United States.
- B. The company desires to obtain the services of Representative, and Representative desires to provide services to the Company in accordance with the terms, conditions and covenants set forth in this Agreement. Accordingly, in consideration of the mutual covenants and undertakings set forth herein, the parties hereby agree as follows:

1. Appointment and Acceptance

- A. The Company hereby appoints Representative as one of the Company's independent sales representatives to solicit orders for those [specify] products marketed from time to time by the Company. Representative's appointment shall not be applicable to any other products marketed by the Company.
- B. Representative shall solicit orders for Company Products in the geographic territory designated on Exhibit "A" (hereinafter called "the Territory"). Representative shall not solicit orders for Company Products in any other geographic territory. The Company shall have the right, from time to time, at its sole discretion, to change the scope of the Territory. In any such instance, the Company shall issue a new Exhibit "A" to Representative reflecting such change, which shall, as of the effective date stated thereon, supersede the prior Exhibit "A". Representative acknowledges and agrees that it neither has, nor will acquire, any vested or proprietary right or interest with respect to the Territory, any Company customers in the Territory, or any Company customer lists. Representative further acknowledges and agrees that any goodwill accruing in the Territory during the term of this Agreement with respect to the Company or Company Products shall be considered the property of the Company rather than Representative.
- C. Notwithstanding anything contained herein, unless specifically authorized by the Company in writing, Representative shall not solicit orders for the Products from any O.E.M. or private label accounts, it being understood and acknowledged by Representative that the Company may solicit orders from such accounts directly (in which case they shall be considered "Reserved Factory Accounts") or may authorize other specially appointed Company sales representatives to solicit orders from such accounts. Further, the Company shall have the right, from time to time, at its sole discretion, to designate other account categories and/or specific accounts within the Territory as accounts which shall be serviced by the Company directly as Reserved Factory Accounts, or by other Company sales representatives, regardless of whether Representative previously has serviced such account categories or accounts on the Company's behalf.
- D. Representative hereby accepts its appointment hereunder.

2. Responsibilities of Representative. Representative shall satisfy the following responsibilities at all times during the term of this Agreement:

- A. Representative and its staff shall conduct themselves in a manner consistent with the high image, reputation and credibility of the Company and Company Products, and shall engage in no activities which reflect adversely on the Company or the Products.
- B. Representative shall use its best efforts to solicit orders for the Products, shall promote the sale of the Products in a diligent and aggressive manner, and shall forward all orders to the Company promptly.
- C. Representative shall maintain an office in the Territory which shall be open and staffed adequately during

normal business hours. Representative shall employ and maintain adequately trained and competent personnel in numbers sufficient to carry out and perform properly and fully all of Representative's responsibilities under this Agreement.

D. In the event that Representative becomes aware of any actual or potential claim against the Company by any person or entity, Representative shall notify the Company immediately.

E. Representative shall use its best efforts to achieve sales quotas assigned periodically by the Company to Representative. The Company shall have the right to adjust or revise any assigned sales quotas, from time to time, at its sole discretion, by written notice to Representative. Representative understands that sales volume is only one factor which will be considered by the Company in evaluating Representative's performance, and that the achievement of any sales quota(s) shall not preclude the Company from exercising its non-extension or termination rights pursuant to paragraph 14 of this Agreement.

Debits against future commissions, that Representative pay said excess amount to the Company. In such event, payment shall be made by Representative to the Company within Thirty (30) days after receipt of the Company's written demand therefore.

D. The company shall furnish Representative periodically with statements reflecting the status of Representative's commission account. If Representative has objections with respect to any such statement, whether regarding its accuracy, completeness or any other matter, Representative shall make such objection(s) known to the Company in writing within thirty (30) days after the date of the statement. ANY AND ALL OBJECTIONS AS TO WHICH WRITTEN NOTICE IS NOT RECEIVED BY THE COMPANY WITHIN THE THIRTY (30) DAY PERIOD SHALL BE DEEMED WAIVED AND ABANDONED.

3. Final Settlement Procedures

Notwithstanding anything contained in Paragraph 5, any commissions otherwise becoming earned and due to Representative as of the expiration or termination date of this Agreement, or thereafter, may be withheld by the Company and shall become due, if at all, only after a final reconciliation is performed by the Company Ninety (90) days subsequent to the expiration or termination date ("the Reconciliation Date"). In lieu of withholding the entire amount of such commissions, the Company may, at its option, withhold only that portion as the Company deems necessary for its financial protection. The Company shall debit Representative's commission account on the Reconciliation Date for the commissions allocable to any outstanding invoices applicable to customers serviced by Representative, which the Company believes are uncollectible or in jeopardy of non-payment. If the debits allocable to such invoices, together with any other debits not previously offset against commissions do not exceed the amount of any remaining commissions otherwise payable to Representative, the difference between the remaining commissions and the outstanding debits then shall be considered earned and due, and thereupon shall be paid by the Company to Representative. If all outstanding debits exceed the remaining commissions, no additional commissions shall be considered earned and due, and Representative shall be required to pay the Company the difference between such outstanding debits and the remaining commissions, upon receipt of the Company's statement therefor. After the Reconciliation Date, no additional commissions shall become earned and due to Representative, and the Company shall not be entitled to issue any additional debits against Representative's commission account.

4. Competitive Products

A. Unless authorized by the Company in writing, neither Representative nor any other entity in which Representative or any of its principals has any ownership or other financial interest, shall act, at any time during the term of this Agreement, as a sales representative for any products or product lines which are in any way similar in design, function or intended use to Company Products, or which otherwise are competitive, in the Company's sole judgment, with the Company Products.

B. In order to ensure Representative's compliance with subparagraph A. hereof, Representative shall identify, from time to time, when requested by the Company, all products or product lines other than the Company Products, for which Representative (or any other business entity in which Representative or any of its principals has any ownership or other financial interest) is acting as a sales representative. Representative, in any event, shall notify the Company in writing, whenever Representative or any such other business entity is contemplating the commencement of representation for any additional products or product line(s).

5. Product Changes

The Company shall have the right, at its sole discretion, to modify or discontinue selling any or all of the Products at any time, without incurring any liability to Representative.

6. Purchases for Resale

In the event that the Company and Representative agree that Representative shall purchase quantities of the Company's Products for resale, any such purchases shall be at such prices and upon such other terms and conditions of sale as are determined by the Company from time to time, at its sole discretion. The Company shall have the right to cease selling the Company Products to Representative at any time.

7. Submission of Ideas to the Company

In consideration for the Company's execution of this agreement, Representative agrees that any and all business ideas, materials, procedures, policies and plans (hereinafter called collectively "the ideas") as may be submitted by Representative to the Company during the term of this Agreement and which pertain directly or indirectly to the business of the Company, shall belong to and be deemed to be the property of the Company. Unless otherwise agreed expressly in writing by an officer of the Company, the Company shall not be required to compensate Representative in any manner for the ideas, regardless of whether the Company utilizes or does not utilize the ideas, in whole or in part. Representative agrees to execute any additional documents as may be necessary to effectuate these provisions.

8. Proprietary Information

All financial, engineering, sales, marketing or other information disclosed by the Company to Representative as a consequence of Representative's relationship with the Company shall be treated by Representative as the Company's trade secrets and shall not be disclosed by Representative to any other person, firm or entity, during the term of this Agreement or thereafter, without the prior written consent of the Company, except to the extent that such information is in the public domain at the time of its disclosure to Representative or thereafter becomes in the public domain through no fault of Representative.

9. Representative's Business Expenses

Representative shall bear the entire responsibility for any and all expenses incurred in connection with its business (including, but not limited to lease holding expenses, salaries, telephone and traveling expenses), and the Company shall not be obligated to pay any such expenses or to reimburse Representative therefore. The Company shall have no responsibility for the payment of withholding, Social Security or unemployment taxes, or any similar taxes or other payments, with respect to commissions earned by Representative hereunder. If, notwithstanding the provisions of this paragraph, any such taxes or payments ever are assessed against the Company, Representative shall reimburse the Company promptly for all sums paid by the Company, including any interest or penalties.

10. Duration of Agreement/Termination

A. This Agreement shall remain in effect until midnight of the last day of [specify] immediately following the date shown at the beginning of this Agreement, unless terminated sooner as provided in subparagraph,

B. or unless extended for an additional period. Any such extension shall be operative only if effectuated by a written instrument executed by both parties. NEITHER PARTY SHALL BE OBLIGATED TO EXTEND THE DURATION OF THIS AGREEMENT UPON THE EXPIRATION OF THE INITIAL TERM OR ANY SUCCEEDING TERM. Although either party may elect to provide the other with advance notice of any intention not to extend this Agreement upon its expiration, such notice shall not be required, it being understood that the notice provisions of subparagraph B apply solely to termination prior to expiration.

B. Either Representative or the Company may terminate this Agreement, at will, at any time during the initial term or any succeeding term, and such termination may be either with or without cause. If the termination is without cause, Thirty (30) days advance written notice must be provided by the terminating party to the other party. EACH PARTY ACKNOWLEDGES THAT SUCH THIRTY (30) DAY PERIOD IS ADEQUATE TO ALLOW IT TO TAKE ALL ACTIONS REQUIRED TO ADJUST ITS BUSINESS OPERATIONS IN ANTICIPATION OF TERMINATION. If the termination is for cause, no advance notice shall be required, but may be provided at the option of the terminating party. "Cause" for purposes of this paragraph shall include, but not necessarily be limited to, the following:

i) In the case of termination by Representative, cause shall exist if the Company materially breaches any provision of this Agreement.

ii) In the case of termination by the Company, cause shall exist:

a) If Representative fails to achieve any sales quota(s) assigned by the Company, fails to satisfy any of its other responsibilities provided in Paragraph 2 hereof, breaches Paragraph 7 of this Agreement, or breaches any other provision of this Agreement; or

b) If Representative is unable, by reason of illness or disability of any of its employees, to perform any of its responsibilities hereunder; or

c) If Representative sells its business or merges its business with another company, or if there is any other change in the management or control of Representative's business.

iii) Cause shall exist for termination by either party if the other party assigns or attempts to assign this Agreement, except as permitted hereunder, liquidates or terminates its business, is adjudicated a bankrupt, makes an assignment for the benefit of creditors, invokes the provisions of any law for the relief of debtors, or files or has filed against it any similar proceeding.

C. Upon any expiration or termination of this Agreement, Representative shall cease holding itself out in any fashion as a sales representative for the Company, and shall return to the Company, all sales literature, price lists, customer lists and any other documents, materials or tangible items pertaining to the Company's business, with the exception of any Company Product, which may have been purchased by Representative.

D. THIS AGREEMENT IS EXECUTED BY BOTH THE COMPANY AND REPRESENTATIVE WITH THE KNOWLEDGE THAT IT MAY BE TERMINATED OR NOT EXTENDED. NEITHER REPRESENTATIVE NOR THE COMPANY SHALL BE LIABLE TO THE OTHER FOR COMPENSATION, REIMBURSEMENT FOR INVESTMENTS OR EXPENSES, LOST PROFITS, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES OF ANY OTHER KIND OR CHARACTER, BECAUSE OF ANY EXERCISE OF ITS RIGHT TO TERMINATE THIS AGREEMENT, AS PROVIDED HEREUNDER, OR BECAUSE OF ANY ELECTION TO REFRAIN FROM EXTENDING THE DURATION OF THIS AGREEMENT UPON THE EXPIRATION OF THE INITIAL TERM OR ANY SUCCEEDING TERM.

11. Applicable Law, Forum Selection and Consent to Jurisdiction

This agreement shall be governed and construed in all respects in accordance with the laws of the state of [specify]. Any litigation instituted by Representative against the Company pertaining to any breach or termination of this Agreement, or pertaining in any other manner to this Agreement, must be filed by Representative before a court of competent jurisdiction in [specify state] and Representative hereby consents irrevocably to the jurisdiction of the [specify state] courts over its person. Service of process may be made upon Representative as provided by [specify state] law, or shall be considered effective if sent by Certified or Registered Mail, Return Receipt Requested, Postage Prepaid.

12. Miscellaneous

A. Representative may not assign, transfer or sell all or any of its rights under this Agreement (or delegate all or any of its obligations hereunder), without the prior written consent of the Company. If a sale or other transfer of Representative's business is contemplated (whether by transfer of stock, assets or otherwise), Representative shall notify the Company in writing no less than Thirty (30) days prior to effecting such transfer, but such notice shall not obligate the Company in any manner. The Company may assign this Agreement only to a parent, subsidiary or affiliated firm or to another entity in connection with the sale or other transfer of all or substantially all of its business assets. Subject to these restrictions, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and permitted assigns.

B. The waiver by either party of any of its rights or any breaches of the other party under this Agreement in a particular instance shall not be construed as a waiver of the same or different rights or breaches in subsequent instances. All remedies, rights, undertakings and obligations hereunder shall be cumulative, and none shall operate as a limitation of any other remedy, right, undertaking or obligation hereunder.

C. Representative shall maintain automobile insurance, general liability insurance, and any other insurance required by applicable laws or regulations.

D. All notices and demands of any kind which either the Company or Representative may be required or desire to serve upon the other under the terms of this Agreement shall be in writing and shall be served by personal delivery

or by mail, at the addresses set forth in this Agreement or at such other addresses as may be designated hereafter by the parties in writing. If by personal delivery, service shall be deemed complete upon such delivery. If by mail, service shall be deemed complete upon mailing.

E. The paragraph headings contained herein are for reference only and shall not be considered substantive provisions of this Agreement. The use of a singular or plural form shall include the other form, and the use of a masculine, feminine or neuter gender shall include the other genders.

F. In the event that any of the provisions of this Agreement or the application of any such provisions to the parties hereto with respect to their obligations hereunder shall be held by a court of competent jurisdiction to be unlawful or unenforceable, the remaining portions of this Agreement shall remain in full force and effect and shall not be invalidated or impaired in any manner.

G. This agreement supersedes any and all other agreements between the parties pertaining in any manner to the subject matter hereof, and contains all of the covenants and agreements between the parties with respect to said subject matter. Each party to this Agreement acknowledges that no written or oral representations, inducements promises or agreements have been made which are not embodied herein. IT IS THE INTENTION AND DESIRE OF THE PARTIES THAT THIS AGREEMENT NOT BE SUBJECT TO IMPLIED COVENANTS OF ANY KIND. Except as otherwise provided in this Agreement, this Agreement may not be amended, modified or supplemented, except by a written instrument signed by both parties hereto.

H. This Agreement has been executed in multiple counterparts, each of which shall be deemed enforceable without production of the others.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first hereinabove written.

ACCEPTED AND CONSENTED TO:

[Sales Representative's Full Legal Name] and [D.B.A (if different from Legal Name)] PUKA CREATIONS L.L.C

By:

Signature By: ROBERT PUKA
Signature

Title:

Title: OWNER

EXHIBIT "A"

FOR INDEPENDENT SALES REPRESENTATIVE AGREEMENT BETWEEN PUKA CREATIONS AND [Sales Representative's Full Legal Name and D.B.A (If Different from Legal Name)]

TERRITORY: Representative's appointment is applicable in the following geographic territory: In the state of [specify], includes the counties of [specify].

This Exhibit is effective as of [specify], and supersedes any prior Exhibits concerning the subject matter hereof.

[Sales Representative's Full Legal Name] and [D.B.A (if different from Legal Name)] PUKA CREATIONS LLC
"The Representative"

By:

Signature By: ROBERT PUKA
Signature

Title:

[Corporate officer (indicate office), Partner, Owner] Title: OWNER

EXHIBIT "B"

FOR INDEPENDENT SALES REPRESENTATIVE AGREEMENT

BETWEEN [Name of Company] AND [Sales Representative's Full Legal Name and D.B.A (If Different from Legal Name)]

COMMISSION SCHEDULE: The commission rate shall be [specify] percent of the net invoice price. This Commission Schedule is subject to modification by the Company pursuant to the provisions of Paragraph 5A of the Independent Sales Representative Agreement. This Exhibit is effective as of [specify date], and supersedes any prior Exhibits concerning the subject matter hereof. [Sales Representative's Full Legal Name] and [D.B.A (if different from Legal Name)] PUKA CREATIONS

"The Representative"

By:

Signature By: ROBERT PUKA

Signature

Title:

[Corporate officer (indicate office), Partner, Owner] Title: OWNER
