

# Independent Contractor Agreement for Direct Salesperson

This Agreement is made between \_\_\_\_\_ ("Client"), with a principal place of business at \_\_\_\_\_, and \_\_\_\_\_ ("Contractor"), with a principal place of business at \_\_\_\_\_.

## 1. Services to Be Performed

Contractor agrees to sell the following product or merchandise for Client:

\_\_\_\_\_

*[Optional: Check if applicable]*

☐ Contractor will seek sales of the product in the homes of various individuals. *[End option.]*

## 2. Compensation

In consideration for the services to be performed by Contractor, Client agrees to pay Contractor a commission on completed sales as follows: \_\_\_\_\_

Contractor acknowledges that no other compensation is payable by Client and that all of Contractor's compensation will depend on sales made by Contractor. None of Contractor's compensation will be based on the number of hours worked by Contractor.

*[Optional Clause: Check and complete if applicable]*

## ☐ 3. Late Fees

If Client is late paying Contractor, Contractor's damages will be difficult to measure. As a reasonable estimate of the damages Contractor will sustain, and as liquidated damages and not as a penalty, Client agrees to pay Contractor an additional \_\_\_\_\_% per month interest charge on the amount owed.

*[End Optional Clause]*

## 4. Expenses

*[Choose Alternative A or B]*

☐ ALTERNATIVE A

Contractor will be responsible for all expenses incurred while performing services under this Agreement. This includes license fees, memberships, and dues; automobile and other travel expenses; meals and entertainment; insurance premiums; and all salary, expenses, and other compensation paid to employees or contract personnel the Contractor hires to complete the work under this Agreement.

☐ **ALTERNATIVE B**

Client will reimburse Contractor for the following expenses that are directly attributable to work performed under this Agreement: \_\_\_\_\_

Contractor will submit an itemized statement of Contractor's expenses. Client will pay Contractor within 30 days after receipt of each statement.

*[Optional Clause: Check if applicable]*

☐ **8. Materials**

Contractor will furnish all materials and equipment used to provide the services required by this Agreement.

*[End Optional Clause]*

**6. Term of Agreement**

This agreement will become effective when signed by both parties and will terminate on the earliest of:

- the date Contractor completes the services required by this Agreement
- 
- the date a party terminates the Agreement as provided below.

**7. Terminating the Agreement**

*[Choose Alternative A or B.]*

☐ **ALTERNATIVE A**

With reasonable cause, either party may terminate this Agreement effective immediately by giving written notice of cause for termination.

Reasonable cause includes:

- a material violation of this Agreement, or
- nonpayment of Contractor's compensation after 30 days' written demand for payment.

Contractor will be entitled to full payment of all commissions earned on orders received by Client prior to the effective date of termination.

#### ☐ ALTERNATIVE B

Either party may terminate this Agreement at any time by giving \_\_\_\_\_, and without notice of termination, Contractor will be entitled to full payment of all commissions earned on orders received by Client prior to the effective date of termination.

#### **B. Independent Contractor Status**

Contractor is an independent contractor, not Client's employee. Contractor's employees or contract personnel are not Client's employees. Contractor and Client agree to the following rights consistent with an independent contractor relationship.

*[Check all that apply.]*

☐ Contractor has the right to perform services for others during the term of this Agreement.

☐ Contractor will have no obligation to perform any services other than the sale of the product described here.

☐ Contractor has the sole right to control and direct the means, manner, and method by which the services required by this Agreement will be performed. Consistent with this freedom from Client's control, Contractor:

- ☐ does not have to pursue or report on leads furnished by Client
- ☐ is not required to attend sales meetings organized by Client
- ☐ does not have to obtain Client's preapproval for orders, and
- ☐ will adopt and carry out Contractor's own sales strategy.

[ ] Subject to any restrictions on Contractor's sales territory contained in this Agreement, Contractor has the right to perform the services required by this Agreement at any location or time.

[ ] Contractor has the right to hire assistants as subcontractors or to use employees to provide the services required by this Agreement, except that Client may supply Contractor with sales forms.

[ ] Contractor or Contractor's employees or contract personnel will perform the services required by this Agreement; Client will not hire, supervise, or pay any assistants to help Contractor.

[ ] Neither Contractor nor Contractor's employees or contract personnel will receive any training from Client in the skills necessary to perform the services required by this Agreement.

[ ] Client will not require Contractor or Contractor's employees or contract personnel to devote full time to performing the services required by this Agreement.

## **8. Local, State, and Federal Taxes**

Contractor will pay all income taxes and FICA (Social Security and Medicare taxes) incurred while performing services under this Agreement. Client will not:

- withhold FICA from Contractor's payments or make FICA payments on Contractor's behalf;
- make state or federal unemployment compensation contributions on Contractor's behalf; or
- withhold state or federal income tax from Contractor's payments.

The payments specified in Clauses 2 and 4 here do not include taxes. If Contractor is required to pay any federal, state, or local sales, use, property, or value added taxes based on the services provided under this Agreement, the taxes will be separately billed to Client. Client will be responsible for paying any interest or penalties incurred due to late payment or nonpayment of any taxes by Client.

## **10. Exclusive Agreement**

This Agreement (including any attached exhibits) is the entire Agreement between Contractor and Client.

*[Optional Clause: Check if applicable.]*

**[ ] 11. Confidentiality**

During the term of this Agreement and for        *[choose one: months/years]*        afterward, Contractor will use reasonable care to prevent the unauthorized use or dissemination of Client's confidential information. Reasonable care means at least the same degree of care Contractor uses to protect its own confidential information from unauthorized disclosure. Confidential information is limited to information clearly marked as confidential, or disclosed orally and summarized and identified as confidential in a writing delivered to Contractor within 15 days of disclosure.

Confidential information does not include information that:

- Contractor knew before Client disclosed it
- Is or becomes public knowledge through no fault of Contractor
- Contractor obtains from someone other than Client who owes no duty of confidentiality to Client, or
- Contractor independently develops.

**12. Binding Dispute**

*[Choose Alternative A, B, or C, and any desired optional clauses.]*

**[ ] ALTERNATIVE A**

If a dispute arises under this Agreement, any party may take the matter to court.

*[Optional: Check if applicable.]*

**[ ]** If any court action is necessary to enforce this Agreement, the prevailing party will be entitled to reasonable attorney fees, costs, and expenses in addition to any other relief to which the party may be entitled. *[End option.]*

**[ ] ALTERNATIVE B**

If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in \_\_\_\_*[list city or county where mediation will occur]*\_\_\_\_. Any costs and fees other than attorney fees associated with the mediation will be shared equally by the parties. If the dispute is not resolved within 30 days after it is referred to the mediator, any party may take the matter to court.

*[Optional: Check if applicable]*

☐ If any court action is necessary to enforce this Agreement, the prevailing party will be entitled to reasonable attorney fees, costs, and expenses in addition to any other relief to which the party may be entitled. *[End option]*

☐ **ALTERNATIVE C**

If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in \_\_\_\_*[list city or county where mediation will occur]*\_\_\_\_. Any costs and fees other than attorney fees associated with the mediation will be shared equally by the parties. If a problem irretrievably arises at a mutually satisfactory resolution through mediation, the parties agree to submit the dispute to a mutually agreed-upon arbitrator in \_\_\_\_*[list city or county where arbitration will occur]*\_\_\_\_. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

**13. Notices**

All notices and other communications in connection with this Agreement will be in writing and will be considered given as follows:

- when delivered personally to the recipient's address as stated on this Agreement;
- three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement; or
- when sent by fax or electronic mail, such notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail or the recipient delivers a written confirmation of receipt.

**14. No Partnership**

This Agreement does not create a partnership relationship. Contractor does not have authority to enter into contracts on Client's behalf.

**15. Applicable Law**

This Agreement will be governed by the laws of the state of \_\_\_\_\_

*[Optional Clause: Check if applicable]*

**16. Assignment and Delegation**

Either Contractor or Client may assign its rights and may delegate its duties under this Agreement.

*[End Optional Clause]*

**Signatures**

Client \_\_\_\_\_  
*[Name of Client]*

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

Signature

Typed or Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Contractor \_\_\_\_\_  
*[Name of Contractor]*

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

Signature

Typed or Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Employer ID Number: \_\_\_\_\_

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