**SALES REPRESENTATIVE AGREEMENT**

This Sales Representative Agreement (“Agreement”) is made as of Click or tap here to enter text. by and between Advantus, Corp., a Florida corporation with its principal place of business at 12276 San Jose Blvd., Ste. 618, Jacksonville, FL 32223 (“Company”) and Click or tap here to enter text., a Click or tap here to enter text. Click or tap here to enter text. with its principal place of business located atClick or tap here to enter text. (“Representative”).

WHEREAS, Company markets and sells the products identified on **Exhibit A** (collectively, the “Products”); and

WHEREAS, Company sells or desires to sell the Products to the customer(s) identified on **Exhibit B [and their affiliates]** (collectively, the “Applicable Customers”);

WHEREAS, Company desires Representative to act, and Representative desires to act, as an authorized representative of Company for the solicitation of sales of Products to the Applicable Customers during the “Representative Period” (as defined below).

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. **Appointment.** Company hereby appoints Representative as its non-exclusive representative for the solicitation of sales of Products to the Applicable Customers for the Representative Period. Representative hereby accepts such appointment and agrees to represent Company at all times in good faith and in a professional manner, and to use Representative’s best efforts to solicit sales and obtain orders for purchase of Products by Applicable Customers.
2. **Representative’s Duties.** Representative’s duties shall include:
   1. Soliciting orders for Products from Applicable Customers;
   2. Advising Company on methods of optimizing sales of Products;
   3. Advising Applicable Customers of the price, terms and conditions of sales of Products in accordance with the instructions of Company;
   4. Making regular sales calls or solicitations upon Applicable Customers, and any other calls or solicitations as Company may, from time to time, reasonably direct;
   5. Forwarding to Company all orders for Products received by Representative; and
   6. Consulting with and furnishing any and all information to Company regarding Applicable Customers’ requirements, complaints, problems, and other matters which may affect sales of Products, including without limitation disclosing any communications from the customer, whether in writing or verbal.
3. **Terms and Conditions of Sales.** Representative shall solicit sales of Products only in accordance with the provisions of this Agreement and in accordance with the instructions of Company. Company expressly reserves the right, without prior notice, at any time and from time to time, in its sole discretion, to add, modify, or discontinue Products, and to change their prices and terms of sale, which shall amend Exhibit A. Additionally, on advance notice to Representative, Company may revise Exhibit B, which will change the customers that are Applicable Customers.
4. **Commission.** Subject to the performance by Representative of Representative’s obligations under this Agreement, and Representative’s compliance with this Agreement, Representative shall be paid a commission in accordance with **Exhibit C**, attached hereto and made a part hereof.

1. **Representative Period**. The “Representative Period” commences on the date first above set forth and continues until terminated by either party for any reason on thirty (30) days written notice. Neither party shall be under any obligation to renew or extend. Notwithstanding the foregoing, Company may terminate the Representative Period immediately upon written notice in the event Representative engages in any of the following acts: (i) falsifies any business record; (ii) misrepresents any fact to Company or to any actual or potential customer; (iii) commits an illegal act constituting a felony or involving a crime of moral turpitude; (iv) engages in any illegal, deceptive, or unethical business practices; or (v) breaches of Section 7, 8, 9, 10 or 11 of this Agreement.
2. **Return of Company Items**. Representative shall, at any time upon request by Company and, in any event, upon termination of the Representative Period, immediately return to Company all equipment and other items that belong to Company and any and all documents and other items (e.g., hard drives, thumb drives, magnetic media, etc.) that belong to Company or contain information related in any way to Company or Company's businesses, including without limitation Confidential Business Information (as defined below). Representative acknowledges that all such documents and items are now and will always remain the exclusive and confidential property of Company.
3. **Confidential Business Information**.
   1. Acknowledgment. Representative recog­nizes and acknowledges that the confidential and/or propri­etary information of Company (col­lectively, "Confidential Business Information") belongs to Company and includes but is not limited to the following:
      1. All information that is a trade secret under applicable trade secret or other law;
      2. All information concerning product specifications, know-how, formulae, compositions, processes, designs, sketches, drawings, inventions, ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, customer lists, current and anticipated customer requirements, price lists, customer pricing, market studies and business plans as well as proposals and presentations to customers, including those to the Applicable Customers;
      3. All information concerning the business and affairs of Company including financial projections and budgets, pricing, pricing models, customer terms, direct import models, direct import terms, direct import pricing, general pricing discount structure, customer specific pricing, customer specific programs, any and all rebates and allowances, historical, current and projected sales, business plans, strategic plans, marketing and advertising plans, publications, current and prospective client, customer, supplier, vendor and agent lists, files, contacts and locations, contracts, the names and backgrounds of key personnel, however documented; and
      4. All proposals, notes, analyses, compilations, studies, summaries and other material prepared by Company, or representative at the request of, or on behalf of Company.
   2. Confidential Business Information. Confidential Business Information does not include information that:
4. was known to Representative free of any confidentiality obligation prior to receipt of such information from Company;
5. is or becomes publicly available by means other than unauthorized disclosure;
6. is developed by or on behalf of the Representative independent of any Confidential Business Information furnished under this Agreement; or
7. is received from a third party whose disclosure does not violate any confidentiality obligation owed, directly or indirectly to the other party to this Agreement or its affiliates.
   1. Third Party Information. Confidential Business Information also includes proprietary or confidential information that is disclosed to Representative by any third party, such as an Applicable Customer, who may disclose such information to Representative in connection with the Representative representing Company.
   2. Limitation. If any information that Company deems to be a trade secret or deems to be confidential or proprietary is found by a court of competent jurisdiction not to be a trade secret for purposes of this Agreement, such information shall still be considered Confidential Business Information for purposes of this Agreement.
   3. Non-Disclosure. Representative shall not disclos­e any Confidential Business Information for any reason whatsoever to any person, firm, corporation, association or other entity for any reason or purpose whatsoever, other than to Company.
   4. Non-Use. Representative shall not use the Confidential Business Information for any purpose other than providing services to Company.
   5. Duty to Protect. Representative shall protect the Confidential Business Information from unauthorized use or disclosure.
   6. Representative’s Employees and Other Individuals. Representative shall limit access to Confidential Business Information to only those individuals that are employees or independent contractors that are agents of Representative that have a need for it in order to assist Representative in representing the Company. Furthermore, with respect to the Confidential Business Information, Representative shall cause those individuals to comply with the following requirements (“Individual Representative Requirements”): (i) not use it for any purpose other than providing services to Company; and (ii) protect it from unauthorized use or disclosure. It is acknowledged that the Representative may engage individual(s) to represent the Company for purposes of assisting Representative in Representative’s duties set forth in Section 1 of this Agreement. In advance of an individual representing the Company or being provided any Confidential Business Information by the Representative (whether the individual is an employee of Representative, an employee of another company, and independent contractor or none of the above) the Representative shall deliver to Company a notice identifying that individual and the Company may require that the individual sign an agreement with Company with covenants and obligations of the type set forth in this Section with which the individual is required to comply. The Representative is liable for damages to the Company for any failure of those individuals, whether during or after employment, to comply with the Individual Representative Requirements.
   7. Remedies. In the event of a breach or threat­ened breach by Representative of the provisions of this Section 7, the parties agree that the resulting damage may be irreparable or impossible of ascertainment and that Company shall be entitled to an injunction restraining Representative from dis­closing, in whole or in part, Confidential Business Information, or from rendering any services to any person, firm, corporation, association or other entity to whom any Confidential Business Information, in whole or in part, has been disclosed or is threatened to be disclosed. Nothing herein shall be construed as prohib­iting Company from pursuing any other remedies available to Company for such breach or threatened breach, includ­ing the recovery of damages from Representative.
8. **Confidential Business Information - Admissions**. Representative admits that the Confidential Business Information is a valuable, special, and unique asset of Company that gives Company advantage over its actual and potential competitors, and Representative further admits and agrees that:
   1. Company has implemented such practices and measures as are reasonably necessary to pre­serve and to protect the confidentiality of the Confidential Business Information;
   2. Representative has access to the Confi­dential Business Information;
   3. Representative has been instructed about, and knows and understands the value and importance of, the Confidential Business Informa­tion;
   4. Unauthorized disclosure or unauthorized use of the Confidential Business Information would irreparably injure Company; and
   5. The identity and particular needs of Company's customers are not generally known and documents and information regarding Company's pricing, costs and the identity and specialized requirements of Company's customers are Confidential Business Information.
9. **Confidential Business Information - Proprietary Interest**. Representative understands and agrees that all such Confidential Business Information is and shall remain, at all times, the sole property of Company; and that Representative obtains no proprietary interest in any Confidential Business Information developed or acquired in the course of Representative providing services to Company.
10. **Representative’s Covenants**.
    1. Company Customer Area. The “Company Customer Area” includes each of the following: (i) any geographical area(s) for which Representative is appointed to represent Company; and (ii) any additional geographical area(s) where Representative may procure orders for Company.
    2. Non-Compete. The Representative hereby covenants and agrees that, during the Representative Period and for a period of twenty-four (24) months thereafter, Representative will **not**, directly or indirectly, for Representative or any other persons, firms or corporations, either as principal, partner, agent, employee, officer, director, shareholder or in any other capacity, in the Company Customer Area, conduct, operate, finance or become engaged or interested in a business which competes with the Business of Company (as hereinafter defined).
    3. Business of Company. For purposes of this Agreement, the “Business of Company” shall be (i) any business line, product line or activity of Company with respect to which the Representative is appointed to represent Company, consults with Company or is paid compensation by Company; and (ii) any other business line or activity of Company with respect to which Representative receives Confidential Business Information.
    4. Enforcement of Company Assignee or Successor. Any assignee or successor of Company may enforce and is expressly authorized to enforce the provisions of this Section 10.
11. **Customers, Employees, Representative(s)**. The Representative covenants and agrees that during the Representative Period by Company and for twenty-four (24) months thereafter, that the Representative will **not**, directly or indirectly, for Representative or any other persons, firms, corporations or other entity, either as principal, subcontractor, partner, agent, employee, officer, director, shareholder or in any other capacity:
12. solicit or attempt to solicit any of the customers and patrons now hereafter served by Company to purchase from any person or entity other than Company products or services that compete with those of Company.
13. with respect to products or services that are sold by Company or that compete with those of Company, solicit or attempt to solicit in the Company Customer Area any “Company Prospect”, and for this purpose “Company Prospect” means any person or entity that Representative contacts during the period that Representative represents Company for the purpose of securing same as a customer or patron of Company. (However, solicitations solely on behalf of Company are permitted.);
14. cause or attempt to cause any of the Applicable Customers to cease being a customer of Company, or to reduce purchases from Company, or in any way interfere with the relationship between any Applicable Customer and Company;
15. cause or attempt to cause any of the customers of Company to cease being a customer of Company, or to reduce purchases from Company, or in any way interfere with the relationship between any customer and Company;
16. induce or attempt to induce any of the employees of Company to leave his or her employ;
17. induce or attempt to induce any of the other Representative(s) of Company to cease representing Company or to commence contracting for a competitor of Company;
18. in any way interfere with the relationship of Company and any employee of Company or any other Representative of Company; or
19. induce any supplier, licensee or business relation of Company to cease doing business with Company, reduce its level of business with Company or in any way interfere with the relationship between Company and any supplier, licensee or business relation.

Representative hereby acknowledges that Company, in reliance on this Agreement will be conveying and entrusting Representative with Confidential Business Information.

Any assignee or successor of Company may enforce and is expressly authorized to enforce the provisions of this Section 11.

In the event of a breach by Representative of any covenant set forth in this Section 11, the twenty-four (24) month period for all covenants in those clauses will be extended by the period of the duration of the breach.

1. **Referrals**. During the one (1) year period after termination or expiration of the Representative Period, any then-current customers and prospective customers of Company who contact Representative regarding the Products shall be referred directly to Company.
2. **Trademarks.** In performing Representative’s duties under this Agreement, Representative may use and display those trademarks, brand names and product names of Company (collectively, “Company’s Marks”) in connection with the sale of Products during the Representative Period. No use or display of Company’s Marks shall give Representative any interest in Company’s Marks. Representative hereby acknowledges that all Company’s Marks are and shall remain the exclusive property of Company.
3. **Relationship of the Parties.**
   1. No Binding Authority. Nothing contained in this Agreement shall be construed to make Representative an employee, agent, legal representative, partner or joint venture of Company, nor shall either party have any authority to bind the other in any respect, it being intended that each shall remain an independent contractor responsible for its own actions.
   2. Independent Contractor. It is the intention of the parties and acknowledged by the parties that neither the Representative nor any of the employees or agents of Representative shall be deemed to be the servants or employees of Company for any purpose whatsoever. Representative agrees that Representative is and shall be an independent contractor and shall not take any actions contrary to that status. Representative is responsible to Company merely for the results to be accomplished and not for the means and methods for accomplishing the results.
   3. Expenses. Representative shall be responsible for all of Representative’s expenses in connection with the performance of Representative’s duties under this Agreement.
4. **Indemnity.** Each party agrees to indemnify, defend and hold harmless the other party and its officers, directors, employees and agents from and against any and all liabilities, damages, costs, or expenses (including, but not limited to, court costs and reasonable attorneys’ fees) arising out of, or resulting from any breach of this Agreement for which it is responsible. Company shall be entitled to set-off against any compensation payment otherwise owed to Representative for any damages incurred by Company pursuant to a breach by Representative of its obligations under this Agreement.
5. **Notices.** Any notices required or permitted under this Agreement shall be given to the addressee in writing at the address shown above or at such other address as either party may by written notice to the other party have designated. Any such notice shall be deemed given three (3) business days after deposit in the U.S. Mail for registered or certified delivery, postage prepaid, or, if earlier, upon actual receipt.
6. **Assignment.** Representative may not assign or subcontract the whole or any part of this Agreement without Company’s written consent, which may be withheld in Company’s sole discretion. This Agreement shall inure to the benefit of and be binding on successors and assigns of Company. Any assignee or successor of Company may and is expressly authorized to enforce the provisions of this Agreement.
7. **Compliance with Laws.** Representative hereby agrees to comply with all applicable laws in the performance of Representative’s duties under this Agreement.
8. **Audit Rights.** Representative shall keep and maintain complete and accurate records relating to Representative’s use and sale of the Products. Company or its representatives may, no more than once a calendar quarter, examine and audit the Representative’s books and records to verify compliance with the terms and conditions of this Agreement.
9. **Default and Remedies**. Representative acknowledges that a breach by Representative will cause such damage to Company as may be irreparable or impossible of ascertainment, and Representative agrees that Company will, as a matter of course, be entitled to an injunction issued out of any court of competent jurisdiction restraining such violation or any further violations by Representative, and such rights to injunction shall be cumulative and in addition to any other remedies which Company may have under the provisions of this Agreement. Nothing herein shall be construed as in any way limiting the rights of Company to enforce this Agreement or to avail itself of any remedies available to it in law, equity or otherwise.
10. **Severability/No Waiver of Rights**.
    1. Severability. It is the intention of the parties hereto that the provisions of this Agreement shall be construed as severable as to section, paragraph, sentence, clause, phrase, time, area, and restricted activity and that if any section, paragraph, sentence or phrase hereof be deemed too broad in scope as to time, area or restricted activity, then the section, paragraph, sentence, clause, phrase, period of time, geographical area or restricted activity shall be reduced to such scope as is reasonable and enforceable, and this Agreement shall be construed as if it had originally been drawn in such reduced form, to the end that the restraints hereby imposed may be enforced by injunction.
    2. No Waiver/This Agreement. If in one or more instances either party fails to insist that the other party perform any of the terms of this Agreement, such failure shall not be construed as a waiver or estoppel by such party of any past, present, or future right granted under this Agreement and the obligations of both parties under this Agreement shall continue in full force and effect.
    3. No Waiver/Agreements with Others. If Company does not attempt to enforce any covenants or obligations of other employees or other parties similar to those obligating Representative set forth herein, that shall not operate as a waiver or estoppel of any covenants set forth herein.
11. WAIVER OF JURY TRIAL. EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER GROUNDED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A JUDGE OF A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT THAT PARTY MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
12. **Miscellaneous.** 
    1. Attorneys' Fees. If any legal action, arbitration proceeding or similar proceeding is brought for the enforcement or interpretation of this Agreement or any of its provisions, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees in addition to any other relief which may be granted. This shall apply without limitation to any appeals or remands.
    2. Construction. The parties have discussed and reviewed the content of this Agreement. Both parties had the opportunity to consult counsel prior to executing this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by both Representative and Company and no presumption or burden of proof shall arise favoring or disfavoring either by virtue of the authorship of any of the provisions of this Agreement.
    3. Jurisdiction, Venue and Service of Process. The parties agree that the courts of the State of Florida and the federal courts of the United States located in the State of Florida shall have exclusive jurisdiction over any dispute, claim or controversy which may arise involving this Agreement or its subject matter. The parties waive any defense of lack of personal jurisdiction that any of them may have otherwise had to an action brought in Florida. The parties agree that exclusive venue shall lie solely in the appropriate federal or state court located in Duval County, Florida. Notwithstanding the foregoing, the jurisdiction and venue provisions shall not prohibit a party from commencing an action in any court with otherwise appropriate jurisdiction for the purpose of enforcing this choice of forum provision, and bringing such an action shall not serve to waive such party’s rights under the choice of forum provision. The parties irrevocably submit and consent to the above jurisdiction and chosen venue and except as provided herein waive any right they may have to bring or maintain an action in any other jurisdiction or venue or seek any change of jurisdiction or venue or that such venue is inconvenient. The parties agree that service of process in any proceeding in any such court may be effected by Certified Mail at the addresses in this Agreement.

* 1. Entire Agreement. This instrument contains the entire agreement of the parties and supersedes any prior understanding, agreements, or representations by or between the parties, written or oral. It may not be changed orally or by any pattern of conduct of either party, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

IN WITNESS WHEREOF, the parties hereto have signed, or have duly caused to be signed, this Agreement as of the date first above written.

**“COMPANY” “REPRESENTATIVE”**

ADVANTUS, CORP., a Florida corporation Click or tap here to enter text.

By: Click or tap here to enter text. By: Click or tap here to enter text.

Name: Click or tap here to enter text. Print name: Click or tap here to enter text.

Title: Click or tap here to enter text. Title: Click or tap here to enter text.

**EXHIBIT A**

**DESCRIPTION OF PRODUCTS**

Click or tap here to enter text.

**EXHIBIT B**

**APPLICABLE CUSTOMERS**

Click or tap here to enter text.

**EXHIBIT C**

**COMMISSION**

Click or tap here to enter text.

1. GENERAL. Commissions under the Sales Representative Agreement are subject to and determined in accordance with the provisions of this Exhibit.

1. DEFINITIONS. Certain terms are defined as follows:
   1. “Applicable %” means Click or tap here to enter text. %.

* 1. “Net Sales Proceeds” means the payments actually received and collected by the Company, after reducing those for any amounts paid or reserved by the Company for any direct or indirect payments, discounts, rebates or refunds to customers or affiliates of customers, including without limitation those relating to: product returns, product marketing, catalog placement, merchandising floor plans or advertising or plan-o-gram arrangements.

1. COMMISSION. The commission equals the product of the Applicable % multiplied by the Net Sales Proceeds from orders for the Products submitted by Representative for the Applicable Customers. The calculations for the commission shall be computed by Company and shall be final, unless clearly incorrect.
2. ACCEPTANCE AND REJECTION OF SALES. Commissions shall only be based on those sales to Applicable Customers that are accepted, invoiced, and collected by Company during the Representative Period, and shall be subject to returns which may be accepted by Company in its sole discretion. Company may reject any sales in its sole discretion.
3. PROCURING CAUSE. The Company has the right to determine whether Representative is the first to submit an order with respect to a particular Applicable Customer and in no event shall any commissions be due and owing to Representative if Company reasonably determines that Company itself, or a third party on behalf of Company previously contacted and established a relationship with such Applicable Customer, even if information provided by Representative assists Company in consummating a transaction with such Applicable Customer.
4. PAYMENT OF COMMISSION. Company shall pay any earned commissions to Representative no later than thirty (30) days after the end of the month during which Company collects or receives payment in full of the applicable invoiced amount for such customer. Notwithstanding the foregoing, Company may deduct from any commissions due and payable to Representative an amount equal to any commission previously paid or credited to Representative for any Products returned to Company.
5. END OF REPRESENTATIVE PERIOD. Within sixty (60) days of the end of the Representative Period, the Company shall calculate and pay any commissions previously earned and unpaid with respect to the Representative Period. The commission is not payable for Products shipped after the end of the Representative Period. No other commissions shall be earned or paid.