



Coaches Reseller Agreement

To become a Couponizer Coach and receive program benefits:

- () Read the Coaches Reseller Agreement (CRA) in its entirety and sign where indicated.
- () Mail completed, signed CRA and fee to:

THE COUPONIZER COMPANY

2350 Gladstone Place
Cumming, GA 30041

Voice: 770-378-6694
Fax: 770-887-8275

The Couponizer Company

Coaches Reseller Agreement

THIS AGREEMENT is made by and between THE COUPONIZER COMPANY (hereinafter referred to as "TCC") and the undersigned individual (hereinafter referred to as the "Coach").

WHEREAS, the Coach desires to become a member of TCC's independent sales force, which will be composed of a group of independent contractors who enter into agreements with TCC pursuant to which they become authorized to resell products invented by TCC; and

WHEREAS, TCC desires to have the Coach become a reseller by entering into this Agreement;

NOW, THEREFORE, in consideration of the premises, the mutual promises and covenants in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, TCC and the Coach agree, intending to be legally bound, as follows:

I. Rules & Regulations

The Coach hereby agrees to abide by the terms and conditions set forth in this Agreement. In addition, the Coach understands that TCC has the right to promulgate and will promulgate and publish additional rules and requirements, called the "Coaches Reseller Agreement Rules and Guidelines," governing, among other matters, the Coach's relationship with TCC, compensation, and the selling of the Products in connection with this Agreement. Coach agrees to abide by the Coaches Reseller Agreement Rules and Guidelines, as the same may be amended by TCC from time to time in its sole discretion. The Coaches Reseller Agreement Rules and Guidelines, as amended from time to time, are expressly incorporated herein by this reference as a material part of this Agreement.

II. Coach's Obligations

A. The Coach promises that he/she will do the following:

1. Use his/her best efforts to sell and promote the sale of TCC Products.
2. Preserve the good name and reputation of TCC and not do anything that will damage or potentially harm the name, good will, or reputation of TCC.
3. Comply with and keep apprised of all rules and guidelines, as amended, set forth in the Coaches Reseller Agreement Rules and Guidelines.
4. Participate in the training that will be provided by TCC.
5. Upon receipt of the signed Coaches Reseller Agreement, all Coaches are required to order a minimum of one case (24 units) or \$240 in Couponizer merchandise per quarter from the Coach's Corner wholesale order page. Minimums kick in the quarter following when you purchased your Couponizer Coach Start-Up Kit.

B. The Coach understands and acknowledges that TCC is in the business of assisting its reseller members to provide TCC Products to the consuming public and that this business is a valuable asset of TCC. The Coach agrees that TCC owns all rights in and to the following: (i) the name, "The Couponizer Company," (ii) the identities of and all lists of the reseller members, and (iii) the identities of and all lists of the Customers of TCC, which constitute property owned solely by TCC. Coach agrees that Coach shall have no proprietary interest in, or ownership of any Customers, other Coaches of TCC, or the Products. TCC shall have an exclusive proprietary interest in, or ownership, of all Customers, contractual relationships with other Coaches, wholesale vendors, coupon partners, and affiliate relationships.

C. Coach agrees that the Coach is not an employee of TCC. Instead, the Coach's relationship with TCC is that of an independent contractor. Nothing in this Agreement shall be construed to create between the parties any agency relationship, employment relationship, guarantee of employment, partnership, joint venture, franchise, or ownership or membership interest in or with TCC. The Coach shall have no authority, except as expressly provided herein, to bind the TCC, it being the intention that with respect to each other the parties are independent and responsible individually for his/her/its own actions. Subject to all applicable local, state and federal laws and regulations, the Agreement and the Coaches Reseller Agreement Guidelines and Rules, the Coach shall conduct and control his/her business activities, work hours, selection of Customers, office location and sales methods. The Coach shall be responsible for paying any and all federal, state, city or other taxes that may become payable with respect to any compensation the Coach may receive under the terms of this Agreement.

D. Coach shall pay all expenses relating to the performance of the Coach's duties under this Agreement. Coach shall be solely responsible for all of his/her expenses, including but not limited to travel, entertainment, office, signs, telephone, education, business cards, invitations, and training materials, etc. and shall receive no remuneration or reimbursement of any nature whatsoever other than the commissions referred to herein. TCC shall not provide any facilities, furniture, or equipment to the Coach. Coach shall provide his/her own office, telephone, supplies, transportation, and all other facilities which Coach may deem necessary.

E. Coach shall maintain an accurate and current file of all commission statements and other records and correspondence received from TCC and notify TCC in writing within thirty (30) days of TCC mailing such statements, records and correspondence, if any of them is inconsistent with Coach's records or, in the opinion of the Coach, is inaccurate. As to any statements, records or correspondence furnished by or on behalf of TCC to Coach, if Coach does not furnish TCC with written objections or corrections within thirty (30) days of mailing by TCC, then Coach shall be deemed to have approved such statements, records and correspondence as to any matter not objected to or corrected, to have waived any claims pertaining thereto, and to have affirmatively released TCC from liability and responsibility for all matters contained therein.

F. Coach shall not use sales material of any kind which has not been approved in writing by TCC for use of Product sales, including but not limited to any type of form letter or correspondence. Without the prior written approval of TCC, Coach shall not use any form of media, including but not limited to radio, newspaper, television, letters, business cards, letterhead, or photocopies, to promote sales.

G. All activities conducted by Coach under this Agreement shall be conducted in accordance with all applicable laws. Coach shall immediately advise TCC of any action or fact whatsoever which comes to Coach's knowledge which may possibly constitute a violation of any applicable laws with respect to TCC.

H. Coach shall not take, undertake or engage, directly or indirectly, in any Prohibited Actions.

I. Coach shall not violate the Covenants.

J. Confidential Information.

1. **Definitions.** **Proprietary Information** means collectively and without regard to form, third party information which either party has agreed to treat as confidential, and Confidential Information and Trade Secrets, as defined as follows: (i.) **Confidential Information** means any information that is valuable to the disclosing party or its owner and not generally known by the public, and any information defined as a Trade Secret which is found by a court of competent jurisdiction not

to rise to the level of a Trade Secret. (ii.) **Trade Secrets** means information, without regard to form, including, but not limited to, technical or nontechnical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, discoveries, developments, designs, financial data, financial plans, product plans, marketing plans, technical documentation and specifications, or lists of actual or potential customers or suppliers which: (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

2. Covenants. Misappropriation, unauthorized use, and/or disclosure of Proprietary Information would cause of the owner thereof ("Owner") irreparable harm. The other party ("Recipient") recognizes and agrees that Owner must take appropriate and commercially reasonable steps to safeguard the confidentiality of its Proprietary Information. Recipient agrees that, during the term of this Agreement and for a period of three (3) years thereafter with respect to Confidential Information and with respect to Trade Secrets for as long as such information remains a Trade Secret, Recipient will hold Owner's Proprietary Information in strict confidence, and shall not directly or indirectly use, reproduce, distribute, manufacture, publish, disclose, or otherwise transfer such Proprietary Information to any third party, or utilize such information for any purpose except as expressly contemplated by this Agreement or otherwise authorized by Owner.

3. Ownership. Each party hereto reserves all of its right, title and interest in and to all of its intellectual property, including, without limitation, copyrights, trademarks, patents, and Proprietary Information, except as may be specifically set forth herein.

4. No Inherent Right. Any right or license not expressly granted to Coach under this Agreement is reserved to TCC.

III. Compensation

A. The Coach acknowledges and understands that the Coach earns income only from certain sales of the Products and that no income is earned by or paid to the Coach for marketing, advertising, or any services rendered on behalf of TCC. The Coach's sole compensation under and during the term of this Agreement shall be commissions for sales directly originated by Coach pursuant to this Agreement and the Coaches Reseller Agreement Rules and Guidelines. There is no guarantee that the Coach will be financially rewarded because of entering into this Agreement.

B. Coach acknowledges and agrees that any commissions are subject to withholding in order to maintain a reserve against returns, as determined in the sole discretion of TCC, and shall be payable to Coach only after payment for the same has been actually received by TCC from the Customer.

C. In the exercise of its sole discretion, TCC reserves the right to and may refund any Customer all or any part of payments made by Customer, and Coach agrees to promptly reimburse TCC for its expenses in connection therewith. Coach further agrees to promptly repay TCC all commissions by Coach with respect to any refunds to Customers, and TCC is hereby authorized to deduct from any other commissions due or that may become due to Coach hereunder, the amount due TCC for any such expenses or commissions to be repaid by Coach.

D. Except as set forth herein, Coach shall receive no other compensation of any kind whatsoever under this Agreement. Coach will not receive any fringe benefits under this Agreement whatsoever, including but not limited to insurance benefits, disability income, paid vacation, expense reimbursement or retirement benefits unless otherwise specifically provided for in this Agreement.

E. Coach acknowledges and agrees that there will be spill over of potential customers who may have been originated by Coach through any of several means, including but not limited to

television or radio advertising, but who order TCC Products directly from the TCC website because the customer does not hyperlink or click through to the TCC website from Coach's website. Coach agrees that TCC is unable to account for such sales to Coach, but will make commercially reasonable efforts to inquire from potential customers when purchases are made through the TCC website whether the customer was referred by a Coach. Coach waives any rights to commissions for such spill over customers.

IV. Term and Termination

A. This Agreement shall continue in effect until Termination.

B. Upon the Termination of this Agreement, all commissions due to Coach prior to the effective date of Termination of this Agreement shall be paid by TCC to Coach within a reasonable period of time, less any portion withheld as a reserve against returns. Coach shall promptly surrender to TCC all books and records relating to this Agreement or TCC, including but not limited to all applications and payments, which Coach may have in his/her possession or under his/her control at the time of Termination.

C. **Covenant Not to Solicit Personnel.** Coach agrees that Coach shall not during the term of this Agreement and for a period of one (1) year after the termination date of this Agreement for any reason, solicit for employment, attempt to employ or affirmatively assist any other person or entity in employing or soliciting for employment any person employed or hired as an employee or Coach by TCC or any person employed or hired as an employee by any client of TCC with whom Coach has direct personal contact in connection with providing the Product sales services hereunder.

D. **Non-Solicitation of Customers.** Coach agrees that during the term of this Agreement and for a period of one (1) year immediately following termination of this Agreement, Coach shall not, on Coach's own behalf or on behalf of any person, firm, partnership, association, corporation or business organization, entity or enterprise, solicit, contact, call upon, communicate with any Customer or any prospect of TCC, or their subsidiaries or affiliates, with whom Coach had direct personal contact selling Products hereunder with a view to market, distribute, license, sell, develop or provide any product, equipment, or service competitive or potentially competitive with any product, equipment or service sold or provided or under development by TCC.

E. **Reasonableness; Remedies.** The restrictions contained in this Agreement are considered by the parties hereto to be fair and reasonable and necessary for the protection of the legitimate business interests of TCC. In the event Coach is in breach, or threatens to breach any covenants of this Agreement, Coach acknowledges and agrees that TCC will be greatly damaged and such damage(s) will be irreparable and difficult to quantify; therefore, TCC will be entitled to injunctive or other equitable relief to restrain such breach or threat of breach, without impairing, invalidating, negating or voiding TCC's rights to relief in either law or equity. In the event that any or all of the covenants hereunder are determined by the court of competent jurisdiction to be invalid or unenforceable, by reason that the breadth of restrictions is too great or for any other reason, these covenants shall be modified and interpreted to extend over the maximum geographic area, period of time, range of activities or other restrictions to which they may be enforceable.

V. Arbitration of Grievances

A. Except with respect to equitable remedies and disputes related to the ownership and protection of intellectual property, the parties agree that if a dispute, claim or controversy relating in any way to this Agreement arises and cannot be settled by direct discussion, the parties shall endeavor first to settle the dispute in an amicable manner by informal communication or mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration. Thereafter, any unresolved controversy shall be settled by binding arbitration in Atlanta, Georgia, administered by the American Arbitration Association ("AAA") in accordance with its

Commercial Arbitration Rules, with judgment upon the award rendered by the arbitrator to be entered in a court of competent jurisdiction. Notwithstanding the foregoing or the then-current Commercial Arbitration Rules of the AAA, the following shall apply with respect to the arbitration proceeding: The arbitration proceeding shall be conducted by one (1) arbitrator selected by the AAA in its sole discretion (provided such arbitrator shall have experience and knowledge of information technology and software development transactions).

B. Each party to the arbitration is to pay an equal part of the deposit fixed by the AAA. All costs associated with the arbitration, including reasonable attorneys' fees, shall be borne by the non-prevailing party to the arbitration, or as otherwise determined by the arbitrator. Determinations of the arbitrator will be final and binding upon the parties to the arbitration. The arbitrator shall apply the substantive law of the State of Colorado, U.S.A., without giving effect to its conflict of laws rules.

VI. Indemnification

The Coach agrees to indemnify and hold harmless the Indemnified Party from and against any and all Indemnified Losses which are incurred, sustained, suffered, or assessed against the Indemnified Party, or all or any combination thereof, because of, arising out of or as a result of any careless, negligent, reckless or intentional acts or omissions by the Coach in connection with Product sales. The Indemnified Party shall be entitled to use counsel of its own choosing, shall be entitled to determine the validity of the Indemnified Loss and shall not be required to notify the Coach of the existence or progress of any claims or Indemnified Loss as a condition precedent to requiring payment by the Coach to the Indemnified Party for an Indemnified Loss.

VII. Miscellaneous

A. All capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Glossary and Explanation of Terms attached hereto and incorporated by this reference.

B. The Coach expressly represents and warrants that the Coach has the authority to enter into this Agreement and that the Coach is not and will not, by virtue of entering into this Agreement and consummating the transactions contemplated hereby, or otherwise, be in breach of, violate, or interfere with any other contract, agreement, or business relations which the Coach has or had with any third party, company, agency, association, firm, person, corporation, or other entity.

C. All notices or demands hereunder shall be sent either by certified mail, return receipt requested postage and certified feed prepaid, electronic mail or by overnight courier service, addressed as follows: if to TCC, addressed to Amy Bergin, The Couponizer Company, at its then principal home office address. For purposes of this Agreement, the Coach shall maintain only one address at a time (the "Coach's Principal Address"), and shall immediately notify TCC of any change in the Coach's Principal Address.

D. This Agreement is not a franchise agreement and does not create a franchise relationship between TCC and Coach. If any provision of this Agreement is deemed to create a franchise between the parties, then those provisions shall be deemed void and unenforceable and shall not impact the validity of any other provision(s) of this Agreement.

E. The failure or delay by any party to insist upon strict performance of the terms and conditions of this Agreement shall not be deemed a waiver of the terms or conditions of the Agreement or of any subsequent breach or default in the terms hereof. Any waiver must be in writing and signed by the party granting the waiver. No mutual departure from the terms of this Agreement shall constitute any waiver. The parties hereby expressly waive reliance on or application of any provision of the applicable Uniform Commercial Code in the interpretation of this Agreement and the rights of the parties.

F. Titles and heading of sections and subsections of this Agreement are for convenience and are not intended to encompass all of the provisions therein or to interpret such provisions.

G. If any part, section, clause, paragraph, term or provision of this Agreement shall be found to be void or unenforceable by any court or arbitration of competent jurisdiction, such finding shall have no effect upon any other part, section, clause, paragraph, term or provision of this Agreement.

H. The Coach may not assign any rights or delegate any duties under this Agreement except as expressly provided herein. TCC may, from time to time, desire to assign to its affiliates or others all or a part of its rights and obligations hereunder (a "future assignment"); and the Coach consents and agrees to any such future assignment and agrees that, after any such future assignment, TCC shall be released from all obligations and liabilities so assigned, so long as such obligations and liabilities are assumed by the assignee.

I. If any Party hereto commences an action or arbitration to enforce any of the provisions hereof, the prevailing Party in such action shall be entitled to an award of its reasonable attorney's fees and all costs and expenses incurred in connection therewith.

J. This Agreement, including the Glossary and Explanation of Terms and the Coaches Agreement Rules and Guidelines, constitutes the entire agreement and understanding between the parties hereto. Any representations not set forth herein are hereby superceded and rendered void. The parties disclaim reliance on any representations not expressly set forth in this Agreement.

K. This Agreement will be governed and construed under the laws of Georgia notwithstanding any state's conflict of laws principles. If conflict or choice of law rules would choose a law of another jurisdiction, each party waives such rules and agrees the substantive law of Georgia shall nonetheless govern. The parties agree that the state and federal courts of Georgia shall have exclusive jurisdiction of any litigation between the parties and the Coach expressly submits to the jurisdiction and venue of the federal and state courts sitting in Fulton County, Gwinnett County or Cobb County, Georgia with respect to any such litigation.

L. The Coach agrees that TCC shall have the right to run credit, employment and other financial and background investigations on the Coach at any time TCC deems useful, whether such investigations is conducted by TCC or by an outside service or third party. The Coach consents to such investigations and consents to the disclosure by any person or entity to TCC of any financial, background and employment information conducted by TCC or by an outside service or third party.

M. Notwithstanding any termination of this Agreement, the Coach irrevocably consents to, grants to and forever authorizes the use by TCC or anyone authorized by TCC, its legal representatives or assigns, the absolute and unqualified right to commercially use, license and publish throughout the universe all photographs and media in which the Coach has appeared for or in connection with TCC and reproductions thereof, in which the Coach has been included in whole or part, without inspection or approval of the finished product or use to which it may be applied, in any manner TCC may desire, factually or fictionally, including the right to make adaptations of said material of every and any kind and character. For such purpose TCC may adopt, arrange, change, dramatize, make musical versions of, interpolate in, transpose, add to, and subtract from such photographs and reproductions to such extent as TCC, in its sole discretion, may desire, and in any language; and, further to obtain copyright releases and discharges from Coach for the benefit of TCC, its assigns, agents, or licensees, of and from any and all claims and demands that the Coach may have, which arise out of or relate to the use of such photographs or reproductions, including but not limited to, any and all claims of libel, slander, and invasion of privacy. The Coach further releases TCC, its assigns, agents, or licensees from any liability of alterations, optical illusion or faulty mechanical reproduction. The Coach is over eighteen years of age and has read the above authorization and release prior to its execution.

O. This Agreement may be executed in one or more counterparts, each of which shall constitute an original. Facsimile signatures shall constitute original signatures for purposes of executing this Agreement. This Agreement is effective as of the date set forth immediately below. If there is no date indicated, this Agreement is effective as of the date it is signed by Coach. If there is no date indicated, this Agreement is effective as of the date it is signed by Coach and then signed by TCC. Any provision of this Agreement that by its nature should survive this Agreement's termination shall so survive.

IN WITNESS WHEREOF, the parties have indicated their consent to the terms of this Agreement by their signatures below, effective as of this _____ day of _____, _____.

COACH:

THE COUPONIZER COMPANY:

PRINT NAME

PRINT NAME, TITLE

PRINT ADDRESS

PRINT CITY, STATE, ZIP

SIGNATURE

SIGNATURE

DATE

DATE

The Couponizer Company

GLOSSARY AND EXPLANATION OF TERMS

The following sections (“Sections”) define and explain additional terms which apply to and are part of the Coaches Reseller Agreement (“Agreement”).

A. “Corporate People”. Any and all of the officers, directors, representatives, legal counsel and employees of TCC, whether present or past and whether in their individual or their corporate capacities.

B. “Covenants”. Covenants include:

1. Valuable Assets of TCC. The Coach understands and acknowledges that TCC has developed, through the expenditure of considerable sum of monies, and owns the following valuable, special and unique assets: i) a competent network of contractually affiliated sales associates/representatives, which representatives are located throughout the United States, and certain of its Territories, but are and have been organized and trained, with the result that TCC developed a highly effective coupon organizing system; and ii) the Customers particularly insofar as TCC receives its primary compensation from sales of Products to such Customers.

2. Covenants of Other Coaches and Harm to TCC. The Coach acknowledges that all members of TCC’s network of contractually affiliated sales associates/representatives have executed agreements with TCC containing covenants identical or similar to the Covenants and that any act by the Coach to induce or attempt to induce such members to breach any portion of his/her agreement with TCC would constitute wrongful interference with the contractual rights of TCC with such member. The Coach acknowledges that TCC would suffer extremely costly and irreparable harm, loss and damage if, during the term of the Covenants, the Coach should violate any of said Covenants.

3. Equitable Relief. The Coach acknowledges and agrees that, in the event that he/she were to violate or threaten to violate any of the Covenants, TCC’s recovery of damages would be inadequate to protect TCC. Accordingly, the Coach agrees that, in the event of a violation, actual or threatened, of any such Covenants, TCC shall be entitled to injunctive relief and specific performance, notwithstanding any other provision of this Agreement to the contrary. The Coach acknowledges and agrees that injunctive relief and specific performance are appropriate and necessary in the event of a violation, actual or threatened, of such covenants because there may be no adequate remedy at law for violation of any of such Covenants in that, among other reasons, the property rights of TCC which are protected by such covenants are unique assets which can not be readily replaced in any reasonable period of time or in any other way adequately protected.

C. “Customers”. Any person or entity with respect to which a Coach has direct verbal or written contact in soliciting or attempting to solicit sales of Products.

D. “Grievance”. Any controversy, claim or dispute arising out of or relating to this Agreement, between the Coach, on the one part, and TCC and/or any of the Corporate People, or any of them, on the other part.

E. “Indemnified Losses”. Any and all liability, claims, demands, proceedings, obligations, assessments, loss, cost, damage and expense, of any nature whatsoever, contingent or otherwise (including, without limitation, any and all judgments, decrees, equitable relief, extraordinary relief, settlements, awards, attorney’s fees, court costs, punitive damage and arbitration costs including arbitrator’ fees).

F. “Indemnified Party”. TCC including the TCC Affiliates and Corporate People.

G. "Parties". TCC and the Coach.

H. "Products". Those products and services selected, approved and designated from time to time by TCC for which Coach may attempt to sell.

I. "Prohibited Actions". Coach is prohibited from, and agrees that Coach shall not: i) make any misrepresentation, or improperly induce a Customer to purchase Products; and ii) commit any crime or tort under applicable law in the provision of the services under this Agreement.

J. "Termination". Termination of this Agreement means the occurrence of any of the following: i) the automatic termination, without notice, upon the death or disability of Coach; ii) the termination by Coach at any time, for any reason or no reason, effective upon the delivery of written notice to TCC, stating that Coach voluntarily terminates the Agreement; iii) the termination by TCC at any time, for any reason or no reason, effective upon the delivery of written notice to Coach, stating that TCC voluntarily terminates the Agreement.

K. "TCC Affiliate". Any legal entity which is under common control with TCC.