

KLEAR PLATFORM **INVOICE FINANCING AGREEMENT**

Last Updated: May 14, 2024

This Invoice Financing Agreement (this “**Agreement**”) is a Supplemental Agreement as defined in the KLEAR Platform Terms of Services available at: <https://www.klearbusiness.com/terms-of-service> (the “**Terms of Service**”), which supplements the Terms of Services if a User wishes to utilize the invoice financing services (the “**Invoice Financing Services**”) offered by KLEAR Inc. (the “**Company**”). The Company may in its sole discretion offer the Invoice Financing Services through its subsidiary(ies) or affiliate(s) (collectively with the Company, the “**Company Party**”).

This Agreement shall be effective as of the date the User receives a written confirmation from the Company confirming its agreement to provide the Invoice Financing Services. Capitalized terms not herein defined shall have the meanings ascribed to them in the Terms of Service.

WHEREAS, the Company offers a proprietary platform known as KLEAR (“**KLEAR**”) and related APIs, software, processing, and suite of other services designed to help User offer and administer Trades, and User is an existing subscriber of KLEAR.

WHEREAS, User wishes, from time to time, to engage in Receivables Purchase Transactions, and the applicable Company Party may, from time to time, enter into Receivables Purchase Transactions.

NOW, THEREFORE, the Parties agree as follows:

1. DEFINITIONS.

Unless otherwise defined in this Agreement, the following terms will have the following meanings:

“**Anticipatory Receivables**” means the rights to future or contingent payments that are not yet due but expected to be owed to the User by a Customer, arising from a binding Customer Contract such as a purchase order.

“**ACH**” means an Automated Clearing House transaction processed on the network sponsored by the National Automated Clearing House Association.

“**Bank Account**” means a business demand account, acceptable to the Company in its sole discretion, that is titled in User’s legal name at a depository institution the deposits of which are insured up to applicable limits by the Federal Deposit Insurance Corporation, which is used for User’s business operations and is able to transact and process ACH account debits and credits.

“Collections” means, with respect to any Receivable, all amounts collected in respect of such Receivable pursuant to the applicable Customer Contract with respect to such Receivable, together with any proceeds of collateral and other amounts obtained through enforcement of, or exercise of remedies under, such applicable Customer Contract.

“Customer” means a business entity, association, sole proprietorship, or any other similar organization to whom User provides goods or services, or any customer, designee, assignee, or successor of such person.

“Customer Contract” means, with respect to any Receivable, any order, invoice, receipt, note, loan agreement, installment agreement, trade credit agreement, or other document or agreement evidencing User’s right to receipt of payment on account of such Receivable.

“Dispute” means a situation in which a Customer questions any goods or services underlying a Receivable or otherwise asserts any offset, set-off, defense, claim, counterclaim, dispute, deduction, reduction, discount, allowance, right of return, right of recoupment, or warranty claim of any kind relating to such goods or services; and is unwilling to pay the Receivable or a portion of the Receivable. Disputes between the Customer and User may arise for many reasons, including: (i) goods or services were not provided as agreed or contracted; (ii) cancellations or returns; (iii) damaged or defective goods or services; (iv) goods not received or services not performed; (v) dissatisfaction with goods or services provided; and (vi) billing errors. A Customer’s inability to pay a Receivable due to insolvency is not a Dispute.

“Effective Date” means the date on which the Company confirms to provide the Invoice Financing Services.

“Discount” means the amount disclosed to User in writing (whether on KLEAR or otherwise) that the Company charges per transaction to purchase a Receivable. Discounts may vary by transaction and by Customer.

“Lien” means any lien, liability, claim, charge, restriction, condition, option, right, security interest, hypothecation, pledge, claim, set-off, offset, participation, encumbrance, or other similar right, of any kind or nature whatsoever or any other rights or interests that may be inconsistent with a transaction contemplated in or adverse to the Company’s interests under this Agreement.

“Party” or “Parties” means User or the Company, individually or collectively.

“Payment Account” means the bank account(s) established or arranged by the Company or applicable Company Party into which Collections on account of Retained Receivables may be deposited. The Payment Account may be a pooled account into which various collections are deposited.

“Processing Fee” means the amount disclosed to User in writing (whether on KLEAR or otherwise) that the Company charges per transaction to process Customer payments on Receivables, which may vary according to payment method.

“Purchase Price” means, with respect to any Receivable purchased by the Company from the User from time to time hereunder, the face (gross) amount of such Receivable (or, in the case of a partial purchase, the face (gross) amount of the portion purchased), minus the Discount.

“Purchased Receivable” means a Receivable (excluding any User obligations or liabilities) or any portion thereof that the Company purchases from User by paying the Purchase Price.

“Receivable” means the right to payment owed to User by a Customer arising out of the provision of goods and/or services, including Anticipatory Receivables, by the User to such Customer or to its designee and any other related rights, in each case to the extent processed by User’s use of KLEAR. A Receivable, if a Purchased Receivable, also includes any Related Assets.

“Receivables Purchase Transaction” means a transaction relating to the purchase by the Company of a Purchased Receivable from User.

“Related Assets” means, with respect to any Receivable, (i) all Collections on account of such Receivable, (ii) an electronic copy of the Customer Contract evidencing such Receivable, (iii) electronic, executed copies of any modifications, amendments, supplements, or addendums to such Customer Contract, and (iv) all books and records related to any of the foregoing.

“Repurchase Price” means, with respect to any Purchased Receivable: (i) where on or before the fifth day following the related Receivables Purchase Transaction a Dispute arose, User provided the Company timely notice of the Dispute, and User did not breach any of its Receivable-level representations or warranties in Section 5.2 with respect to the Purchased Receivable: the Purchase Price attributable thereto, minus any amounts received by the Company from a Customer in respect of such Purchased Receivable; or (ii) in all other circumstances: the Purchase Price attributable thereto, minus any amounts received by the Company from a Customer in respect of such Purchased Receivable, plus the Discount.

“Retained Receivable” means a Receivable or any portion thereof that the Company does not purchase from User, or which has been repurchased by User.

“Subscription Fee” means the fee the Company charges for User’s use of KLEAR, according to the service level chosen by User on KLEAR.

2. GENERAL TERMS AND CONDITIONS. User hereby agrees to the following:

- 2.1 **User Eligibility.** Before User may access the Invoice Financing Services, the Company may conduct a due diligence evaluation of and approve, in its sole discretion, User for such access. The Company’s due diligence of User may include evaluating any history of litigation and customer complaints, historic chargeback rates and losses, tax returns, legal status, the financial background of User, the overall financial health of User, the nature of User’s business, and any other information reasonably requested by the Company. User authorizes the Company to obtain credit reports and make other inquiries of any bank, lender,

and trade credit references identified by User, and other information sources as the Company deems appropriate. User agrees to provide all information that the Company may reasonably request while performing such due diligence. The Company reserves the right at any time, in its sole discretion, to reassess User's eligibility for the Invoice Financing Services.

- 2.2 **Fees.** If applicable, User will pay the Subscription Fees and Processing Fees when due to continue use the Invoice Financing Services.
- 2.3 **Bank Account.** User will establish the Bank Account and maintain it in good standing, and User will not change the Bank Account without the Company's prior written consent, which will not be unreasonably withheld. User authorizes the Company to initiate an ACH account credit to the Bank Account for any amount owed by the Company to User under this Agreement, and to initiate an ACH account debit from the Bank Account for any amount owed by User to the Company under this Agreement. The Company is not responsible for any non-sufficient funds fees, overdraft fees, or other fees that may be incurred if the Bank Account has insufficient funds. The Bank Account may also have an ACH account debit block or filter to reject unauthorized ACH account debits. User must check with its depository institution to determine if the Bank Account has this feature, and, if so, authorize the Company to process ACH account debits on the Bank Account. If any the Company ACH transaction is returned due to an ACH account debit block, filter, or any other reason, User must promptly pay any resulting fees or charges, including any that may be assessed on the Company.
- 2.4 **Law.** User will comply with applicable law in connection with this Agreement.

3. RECEIVABLE PURCHASE TRANSACTIONS.

- 3.1 **Offers of Receivables.** From time to time, User may offer for sale to the Company any Receivable owed to User by a Customer. The Company may decide to purchase, but is not obligated to purchase, all or part of any Receivable that User offers for sale to the Company. No Receivable may be offered or sold by User to any person other than the Company unless the Receivable first has been offered to and declined by the Company. If the Receivable is an Anticipatory Receivable, the Company reserves the right to withdraw its offer from purchasing such Anticipatory Receivable at any time without liability to the User or any third parties if the Company in its sole discretion determines that purchasing such Anticipatory Receivable would be detrimental to the Company's interest.
- 3.2 **Discounts.** The Company will charge, and User agrees to pay, the Discount with respect to each Purchased Receivable. Payment of the Discount is due immediately upon the Company's purchase of such Receivable.
- 3.3 **Purchase.** The Purchase Price will be paid by ACH account credit to the Bank Account. Upon payment of the Purchase Price to User, all of User's right, title,

and interest in the Purchased Receivable, including any rights to payment, are absolutely and irrevocably sold, transferred, and assigned to the Company. The Company does not assume any liabilities or obligations related to any Purchased Receivable; any such liabilities and obligations remain solely with User. All taxes incurred by User or the Company in such transactions will be borne by User.

- 3.4 **Non-Recourse.** With respect to Receivables Purchase Transactions, the relationship between the Parties is that of seller (i.e., User) and purchaser (i.e., the Company or the applicable Company Party, as the case may be) of Receivables; the Parties' relationship is not one of lender and borrower. The Company's right to receive payment on account of any Purchased Receivable is generally non-recourse. This means that if the Customer pays the Company an amount that is less than the amount of the Purchased Receivable—for example, if the Customer has closed in the ordinary course of business—and User has not breached this Agreement and the applicable Purchased Receivable is not subject to a repurchase under Section 3.10, then User will have no payment obligation on such Purchased Receivable.
- 3.5 **Servicing of Purchased Receivables.** All Purchased Receivables will be serviced, collected, and administered by the Company, with full right to take any action in doing so, including changing the terms of any Purchased Receivable. Any such action could adversely affect, including reducing the value of, any Receivable or the portions of any Receivable that the Company does not purchase from User, and User agrees that the Company will have no liability for any such effects. The User authorizes the Company to notify each Customer of the Company's interest in any Purchased Receivable owed by such Customer. If instructed by the Company, User will immediately (i) notify User's Customer in writing that the Company has purchased the Purchased Receivables and (ii) provide the Company with any and all requested contact information related to User's Customer. If User receives any Customer payment on a Purchased Receivable, User must notify the Company immediately, segregate the amount of such payment for the Company's benefit, and immediately remit the amount of such payment to the Company. If a Purchased Receivable is only a portion of a Receivable (for the avoidance of doubt, the unpurchased portion of such Receivable is a Retained Receivable), then the Company and User will be entitled to any Customer payments on the Receivable on a pro rata basis, and the Company will as User's agent remit User's portion of such Customer payment to User in accordance with Section 4. User will provide the Company any requested assistance regarding servicing, collecting, and administering any Purchased Receivable and facilitating payment of any Receivable.
- 3.6 **Security Interest and Financing Statements.** User acknowledges and agrees that it is intended that the conveyance of all right, title, and interest in and to the Purchased Receivables is and will be an absolute and irrevocable sale, conveyance, and transfer conveying title, free and clear of any Lien, and that such Purchased Receivables will not be part of User's estate (or bankruptcy estate) in

the event of an insolvency proceeding with respect to User (which will include, for the avoidance of doubt, the filing of a decree or order for relief by a court having jurisdiction in respect of User or any substantial part of its property in an involuntary case under Title 11 of the United States Code or any other state or federal applicable insolvency law now or later in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official for User or for any substantial part of its property, or ordering the winding-up or liquidation of User's affairs, or the commencement by User of a voluntary case under any applicable insolvency law now or later in effect, or the consent by User to the entry of an order for relief in an involuntary case under any such law, or the consent by User to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official for User or for any substantial part of its property, or the making by User of any general assignment for the benefit of creditors, or the failure by User to pay its debts as such debts become due, or the taking of User of any action in furtherance of any of the foregoing). It is not intended that such conveyance be deemed a pledge of the Purchased Receivables to the Company to secure a debt or other obligation of User. If, however, notwithstanding such intention, the purchase and sale provided for in Section 3 is determined to be a transfer for security, then this Agreement will be deemed to be, and hereby is, a "security agreement" within the meaning of Article 9 of the Uniform Commercial Code, and User grants to the Company a first priority security interest in, and lien on, all right, title, and interest in and to the Purchased Receivables, now existing or later arising or created, to secure the prompt and complete payment of any loan deemed to have been made, together with all of the other obligations of User under this Agreement. The Company will have, in addition to the rights and remedies that it may have under this Agreement, all other rights and remedies provided to a secured creditor under the Uniform Commercial Code and other applicable law, which rights and remedies will be cumulative. User authorizes the Company to file one or more financing statements (including any continuation or amendment) consistent with the applicable Uniform Commercial Code, identifying User as "debtor" and/or "seller," in any applicable filing office in any applicable jurisdiction that the Company deems necessary or desirable in order to perfect or give notice of the irrevocable purchase and sale of the Purchased Receivables and/or the security interest granted by User in such Receivables and related assets under this Section 3.6. Any such financing statement may state that such sale is a sale and not an assignment for security and may state that User is prohibited from obtaining any financing that impairs the value of the Purchased Receivables or the Company's right to collect or realize same.

- 3.7 **No Impairment.** User will not take any action or make any omission (including (i) changing the payment terms or due date of a Purchased Receivable, or (ii) placing or allowing placement of a Lien on any Purchased Receivable) that has, individually or in the aggregate, an adverse effect on any Purchased Receivable or on the ability to collect on any Purchased Receivable.

- 3.8 **Further Assurances.** User will take all actions requested by the Company, as applicable, to preserve and protect the Company's right, title, and interest in and to any Purchased Receivable and to realize Customer payment in full on any such Purchased Receivable.
- 3.9 **Disputes.** User must notify the Company of any Dispute within five days of becoming aware of it. Resolving Disputes is solely the responsibility of User. User will work directly with Customer in good faith to resolve the Dispute. User will provide the Company periodic updates, as requested by the Company, regarding the status of the Dispute. A Dispute is resolved when Customer pays the full Receivable balance (or unpaid remainder of the Receivable) to User. If User is unable to resolve a Dispute related to a Purchased Receivable within ten days, User must repurchase the Purchased Receivable and pay to the Company the Repurchase Price immediately upon demand. The Company is authorized to initiate ACH account debits from the Bank Account in the amount of the Repurchase Price.
- 3.10 **Repurchases.** If User breaches any of its Receivable-level representations or warranties in Section 5.2 with respect to any Purchased Receivable, User must give the Company notice of any such breach immediately upon becoming aware of it. Upon discovering any such breach (through User or otherwise), the Company may require User, and User hereby agrees, to repurchase the related Purchase Receivable from the Company by paying the Repurchase Price immediately upon demand. User hereby authorizes the Company to initiate ACH account debits from the Bank Account in the amount of the Repurchase Price. User further authorizes the Company to apply any Collections received by the Company on account of Retained Receivables to the payment of any Repurchase Price or other amount due and unpaid hereunder.

4. **ADMINISTRATION OF RETAINED RECEIVABLES.**

- 4.1 **Administration Services.** The Company will provide to User forms of electronic account statements in the User's name and using the User's Marks and send such statements to Customers on User's behalf. The statements will provide that check, ACH, and wire payments are to be made to the Payment Account. The Company may indicate on the statements that they are "powered by KLEAR", "powered by the Company", or similar designations.
- 4.2 **Payment Account.** From time to time, the Company as User's Representative will cause Collections deposited in the Payment Account on account of Retained Receivables to be remitted to a bank account designated by User, net of any amounts due to the Company under this Agreement. As consideration for the Company's administration of the Retained Receivables, User will pay the Company the Processing Fees by withdrawal from the Payment Account, by netting from remittances as provided in this Section 4.2, or by such other manner

specified by the Company from time to time. The Company may also withdraw and retain any interest earned on funds in the Payment Account.

5. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

5.1 General Representations and Warranties. In addition to the representations and warranties set forth in Section 6 of the Terms of Service, User represents, warrants, and covenants on an continuing basis: (i) User has and will maintain insurance in such amounts and against such risks as are reasonably necessary to protect its business and will provide proof of such insurance to the Company upon reasonable request; (ii) all tax returns and tax reports, and all taxes due and payable or required to be filed by User have been or will be filed and paid, on a timely basis (including any extensions); (iii) User has no and will have no material liabilities and no material contingent liabilities, except those which User disclosed to the Company in writing before the Effective Date and except current liabilities incurred in the ordinary course of business; (iv) User is not and will not be subject to any Lien, except those which User disclosed to the Company in writing before the Effective Date and except those incurred in the ordinary course of business; (v) User will promptly notify the Company of any significant change or other development that has or may have a material adverse effect on or a significant change in User's business, and User agrees to provide to the Company, upon request, any information related to User's business or the transactions contemplated by this Agreement; (vi) there is and will be no action, suit, claim, inquiry, investigation, or legal, administrative, or arbitration proceeding pending or currently threatened, whether at law, in equity, or before any governmental authority, against User; (vii) User has not declared bankruptcy within the past seven years preceding the Effective Date, has not consulted with a bankruptcy attorney within the past six months preceding the Effective Date, and is not and will not contemplate or anticipate the filing of a bankruptcy or other insolvency proceeding, or closing or materially modifying User's business; (xiii) User is and will be solvent and capable of fulfilling its obligations under this Agreement, and User has not been having and will not have any difficulty paying amounts due to others in full and when due; and (ix) and any information, materials, data, content, or documents User directly or indirectly provides to the Company are true, correct, and complete and nothing material has been omitted.

5.2 Representations and Warranties Concerning Purchased Receivables. For each Purchased Receivable, User makes the following representations and warranties as of the time of purchase by the Company: (i) User holds good and marketable legal title to the Purchased Receivable, free and clear of any Liens and restrictions on transfer; (ii) User has not sold, pledged, assigned, or encumbered the Purchased Receivable; (iii) no person has any rights, interest, or claims in or to the Purchased Receivable; (iv) the Purchased Receivable is not subject to any reduction in value resulting from User's decisions, actions, or omissions, and is presently and unconditionally owing; (v) the Purchased Receivable is not past due and represents amounts owed by the Customer arising from User's actual and

timely performance or provision of goods or services to the Customer in the ordinary course of User's business; (vi) the Purchased Receivable is not subject to any Dispute; (vii) no agreement has been made under which the Customer may claim any deduction or discount against the Purchased Receivable; (viii) the Customer is liable for the full amount of the Purchased Receivable and has not objected to its payment or the quality or quantity of the goods or services performed or provided; (ix) the Purchased Receivable has not been modified, dismissed, settled, or paid; (x) there has been no error, misrepresentation, negligence, fraud, omission, or violation of law on the part of any person with respect to the Purchased Receivable or its underlying goods or services; and (xi) User has no knowledge that the Customer has filed or intends to file for bankruptcy or receivership, or has been having any difficulty paying or intends not to pay amounts due to any person in full and when due.

6. CONSENT TO ELECTRONIC COMMUNICATION.

User irrevocably consents and agrees that the Company may provide all information and disclosures required by law to User electronically; and User's electronic signature on this Agreement and related documents has the same effect as if User signed them in ink. This consent applies to acceptance of this Agreement, to all future communications with User, and to other communications, notices, and disclosures that the Company provides to User electronically. All communications provided electronically will be deemed to be "in writing." the Company reserves the right to cancel electronic disclosure services and to change such services or send disclosures in paper form at any time. The Company is responsible for sending notice of the disclosures to you electronically, but is not responsible for any delay or failure in User's receipt or review.

7. CONSENT TO TELEPHONIC COMMUNICATIONS.

For informational, servicing, fraud, or collection related communications, User agrees that the Company may use the phone numbers that User provides to the Company to contact User's phone, cellular phone, or wireless device with text messages, artificial or prerecorded voice calls, and calls made by an automatic telephone dialing system. User represents and warrants that any phone number that User provides to the Company is a business-purpose phone number that belongs to User or that User is authorized to provide to the Company. Call and text frequency may vary and may be recurring. This consent applies even if User is charged for the call or text under User's plan. User is responsible for any charges that may be billed to User by User's communications carrier when the Company contacts User. Message and data rates may vary. The Company and any carrier are not liable for delayed or undelivered messages. To ensure that User receives accurate and courteous customer service, User's calls with the Company may be monitored or recorded by us or our agents, and User agrees to any such monitoring and recording.

8. NOTICES TO THE COMPANY.

All notices to the Company concerning this Agreement must be sent to us at: KLEAR Inc., at 2021 Fillmore St. #63, San Francisco, CA 94063 . Notice by User to the Company is deemed to be given when received by the Company.

9. NOTICES TO USER.

All notices to User concerning this Agreement will be sent to User's last mailing address or email address that the Company has on file for User. Notice by the Company to User is deemed to be given when sent. User agrees to notify the Company, as set forth in Section 8, immediately regarding any change of User's address or email address. Until the Company is notified that User's address has changed, the Company will continue to send notices to the last address or email address for User that the Company maintained on file.

10. WARRANTY DISCLAIMER.

THE INVOICE FINANCING SERVICES AND RECEIVABLES PURCHASE TRANSACTIONS ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND, INCLUDING THOSE EXPRESS, IMPLIED, OR STATUTORY, AND, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, RESOLVE DISCLAIMS ALL WARRANTIES OF ANY KIND REGARDING THE INVOICE FINANCING SERVICES AND RECEIVABLES PURCHASE TRANSACTIONS INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, NONINFRINGEMENT, TITLE, AND ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE.

11. SETOFF.

The Company may set off any Subscription Fees, Processing Fees, Discounts, Repurchase Prices, costs, expenses, indemnification amounts, and any other amounts User owes the Company, as applicable, against any Purchase Prices, remittances, or other amounts owed by the Company to User.

12. INDEMNIFICATION; REMEDIES.

- 12.1 In addition to User's indemnification obligations set forth in the Terms of Service, User shall indemnify and hold the Company, its affiliates and each of their respective Representatives harmless from and against all Claims arising out of or relating to any of the following: (i) any misrepresentation, breach or alleged breach of, failure, or default by User in connection with any of representation, warranty, covenant, or other provision of this Agreement (or any agreement incorporated by reference herein); (ii) any Dispute or other claim arising out of or relating to the goods or services provided by User, including any claims for false advertising, unfair business practices, product defects, and personal injury, death, and property damage; (iii) any claim arising from Customers' use of the Invoice Financing Services; (iv) the Company's servicing of the Retained Receivables; or (v) User's gross negligence or willful misconduct. In addition to the rights and

remedies the Company has under this Agreement, the Company will also have all other rights and remedies provided under applicable law and equity, which rights and remedies will be cumulative.

- 12.2 the Company shall indemnify and hold User and its affiliates and each of their respective Representatives, harmless from and against all Claims arising out of or relating to any of the following: (i) any misrepresentation, breach or alleged breach of, failure, or default by the Company in connection with any of representation, warranty, covenant, or other provision of this Agreement (or any agreement incorporated by reference herein); or (ii) the Company's gross negligence or willful misconduct. In addition to the rights and remedies User has under this Agreement, User will also have all other rights and remedies provided under applicable law and equity, which rights and remedies will be cumulative.

14. INDEPENDENT CONTRACTORS.

Except for the agency expressly provided in Sections 3.5 and 4.1, nothing in this Agreement shall be construed to create a joint venture, partnership, franchise, or agency relationship between the Parties and neither Party has the authority, without the other Party's written approval, to bind or commit the other Party in any capacity.

15. FORCE MAJEURE.

Except for each Party's payment obligations, neither Party will be responsible for any failure or delay in performance due, in whole or in part, directly or indirectly, to any contingency, delay, failure, or cause of any nature beyond its reasonable control, including, without in any way limiting the generality of the foregoing, fire, terrorism, pandemic or epidemic, earthquake, storm, flood or other weather, unavailability of necessary utilities, telecommunications failures, or shortage of raw materials, strike, lockout, labor problems, unavailability of components, war, riot, acts of God, regulation, ordinance, or instructions of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such Party of this Agreement).

16. ASSIGNMENT.

User may not sell, assign, or transfer this Agreement or any rights or obligations under it without the Company's advance written consent, and any sale, assignment, or transfer or attempt thereof without the Company's prior written consent is and will be null and void. The Company (or the applicable Company Party, as the case may be) may sell, assign, or transfer to any person, all or any portion of a Purchased Receivable, this Agreement, or any of the Company's (or the applicable Company Party's) rights or obligations under this Agreement without prior notice to User. The provisions of this Agreement will inure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns. For the avoidance of doubt, the Parties agree that the applicable Company Party may serve as such a designee, assignee, or successor, in the Company's sole discretion, with respect to any Receivables Purchase Transaction.

17. TERMINATION; SURVIVAL.

- 17.1 A Party may terminate this Agreement for cause (i) upon 30 days written notice to the other Party of a breach if such breach remains uncured at the expiration of the 30-day period, or (ii) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors which is not dismissed after 30 days of the related filing.
- 17.2 Regardless of any termination or expiration of the subscription term (if applicable) or any termination of this Agreement, User will continue to be obligated to pay all amounts owing by it under, and to otherwise perform the terms of, this Agreement, and all of the Company's rights will continue in full force and effect until all of User's obligations are fully satisfied, including payment of Subscription Fees, Processing Fees, Discounts, and Repurchase Prices, which the Company will continue to impose until the date full payment is received. However, if this Agreement is terminated in accordance with Section 17.1 by User for cause, the Company will refund User any prepaid Subscription Fees covering the remainder of the subscription term for the Services after the effective date of termination. Sections 3, 4.2, 5.2, 6, 7, 10 through 16, and 18 will survive any termination or expiration of the subscription term of the Services and any termination of this Agreement.

18. MISCELLANEOUS

- 18.1 **Amendment.** The Company may, at any time and subject to applicable law, change any term or add any new term in this Agreement, including those related to Subscription Fees, Processing Fees, Discounts, or other charges, or other terms. When required by applicable law, the Company will deliver a notice of any change(s) or addition(s) to User. No change to any term or new term in this Agreement will affect any User obligation under this Agreement to pay, in full, all amounts owing by it under, or otherwise perform the terms of, this Agreement. User's continued use of the Services will constitute acceptance of any amendment.
- 18.2 **Waiver.** Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.
- 18.3 **Severability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect. Section headings in this Agreement are for convenience of reference only, and shall not be considered in interpreting this Agreement.

- 18.4 **Entire Agreement.** This Agreement, together with the Terms of Service and/or any applicable Third Party Agreements, represent the complete and exclusive Agreement between the Parties with respect to the subject matter hereof, superseding any prior agreements and communications (both written and oral) regarding such subject matter. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of both Parties. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- 18.5 **Confidentiality.** Section 12 of the Terms of Service shall govern the Parties' confidentiality obligations under this Agreement.
- 18.6 **Limitation of Liability.** Section 10 of the Terms of Service shall govern the limitation of liability of the Parties under this Agreement.
- 18.7 **Dispute Resolution.** Section 14 of the Terms of Service shall govern the dispute resolution and governing law of this Agreement.