

MONROE COUNTY CLERK'S OFFICE

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Brooklyn, NY 11223

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Date: 12/08/2023

Time: 7:42:01 PM

BIZFUND, LLC

LEADERS OF TOMORROW LEARNING ACADEMY, LLC  
LEADERS OF TOMORROW LEARNING ACADEMY INC  
1255 UPPER HEMBREE CHILDCARE LLC  
2499 SHALLOWFORD RD CHILDCARE LLC  
ELEVATE CHILDCARE ADVISORS LLC

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE  
WARNING – THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

JAMIE ROMEO

MONROE COUNTY CLERK





**BIZFUND**  
BIZFUND.COM  
LOYAL TO YOU AND YOUR GROWTH

BizFund, LLC  
2371 McDonald Ave 2nd FL  
Brooklyn, NY 11223

MERCHANT CASH ADVANCE AGREEMENT

Agreement (this "Agreement" or "Merchant Agreement") dated 9-5-2023 between, BizFund, LLC, a Delaware limited liability company ("Purchaser"), and the Merchant listed below ("Merchant"). Purchaser and Merchant are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties." Capitalized terms used in this Agreement shall have the respective meanings given to them in Section 5 of the attached Terms and Conditions (the "Terms"). The Terms are hereby incorporated into and made a part of this Agreement as if set forth in this Agreement in full.

MERCHANT INFORMATION

Merchant's Legal Name: LEADERS OF TOMORROW LEARNING ACADEMY I LLC  
D/B/A: LEADERS OF TOMORROW LEARNING ACADEMY State of Incorporation/Organization: GA  
Type of entity (check one): Corporation ☐ Limited Liability Company ☒ Limited Partnership ☐  
Limited Liability Partnership ☐ General Partnership ☐ Sole Proprietor ☐  
Address of Executive Offices: 3097 EMERY CIRCLE City AUSTELL State GA Zip 30168  
Mailing Address: SAME AS ABOVE City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Date business started (mm/yy): 12/2020 Federal ID# [REDACTED]

IN CONSIDERATION OF THE PREMISES and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of Merchant and Purchaser, the Parties, intending to be legally bound, hereby agree as follows:

Section 1. Purchase and Sale of Future Receipts.

1.1 Merchant hereby sells, assigns, transfers and delivers to Purchaser absolutely, without recourse, all of its right, title and interest in, to and under its future Receipts in the amount specified below (the "Purchased Amount") for the purchase price specified below (the "Purchase Price"). Purchaser hereby purchases such future Receipts in the amount of the Purchased Amount (the "Purchased Receipts") for the Purchase Price on behalf of itself or on behalf of itself and/or as Agent for certain Syndicate Partners. Merchant hereby agrees that it retains no right, title, ownership or other interest, legal, beneficial or otherwise, in the Purchased Receipts.

1.2 (a) Merchant and Purchaser agree that the Purchased Amount shall be delivered to Purchaser from the proceeds of the collection of the specified percentage (the "Specified Percentage") of Receipts set forth below. Merchant represents that the Specified Percentage of its average weekly receipts during the past three (3) months is approximately equal to the estimated specific weekly amount set forth below (the "Specific Weekly Amount"). Merchant shall establish, and shall maintain at all times during the duration of this Agreement and until all Merchant Obligations have been irrevocably satisfied in full, a depositary account (the "Specified Account") at a commercial bank or other financial institution selected by Merchant that is reasonably acceptable to Purchaser (the "Financial Institution"). Merchant hereby irrevocably authorizes Purchaser to effect ACH Debits to the Specified Account in an amount equal to the Specific Weekly Amount until Purchaser irrevocably receives an aggregate amount equal to all Merchant Obligations. Purchaser may affect ACH Debits to the Specified Account on the first Business Day of each calendar week in an amount equal to the Specific Weekly Amount.

(b) In the event that for any reason Purchaser is unable to effect an ACH Debit pursuant to Section 1.2(a) in any calendar week, Merchant hereby agrees that Purchaser shall thereafter be entitled to, and hereby irrevocably authorizes Purchaser to, effect ACH Debits to the Specified Account on each Business Day in an amount equal to the specific daily amount set forth below (the "Specific Daily Amount"), provided that on the Business Day prior to a legal bank holiday occurring during any business week (Monday through Friday), Purchaser may affect an ACH Debit to the Specified Account in an amount equal to twice the Specific Daily Amount. The Specific Daily Amount equals approximately one fifth (1/5<sup>th</sup>) of the Specific Weekly Amount and Merchant represents that the Specific Daily Amount approximates the Specified Percentage of its average daily receipts during the past three (3) months.

1.3 Merchant and Purchaser acknowledge that the Merchant's Receipts will depend upon Merchant's success in selling its products and services and the collection of payment therefor, that Merchant's average daily Receipts from and after the date of this Agreement may be more or less than the average of Merchant's daily Receipts during the three (3) months prior to the date of this Agreement and that there is no assurance that the Specified Percentage of Merchant's Receipts will be sufficient to enable Purchaser to collect Receipts in a total amount equal to the Purchased Amount. There is no time period during which the Purchased Amount of Receipts must be collected by Purchaser and there is no interest rate or required amortization schedule associated therewith. If Receipts arise more slowly than Purchaser anticipates because Merchant's business slows, or if the Purchased Amount is not collected in full because Merchant becomes bankrupt or otherwise ceases operations in the ordinary course of business, Merchant will have no obligation or liability to Purchaser unless Merchant has breached a representation, warranty, covenant or other obligation on its part to be performed under this Agreement. Consequently, Merchant and Purchaser intend and agree that the transactions provided for in this Agreement constitute a purchase and sale of future Receipts at a discount for all purposes and shall in no event constitute, or be deemed or construed to constitute, a loan transaction. This Agreement has no term but shall remain in full force and effect until all Merchant Obligations have been irrevocably satisfied in full.

1.4 This Agreement shall become effective and binding upon Merchant and Owner/Guarantor when it is executed and delivered by Merchant and Purchaser provides funds to pay the Purchase Price, even if Purchaser has not executed and delivered to Merchant a counterpart of this Agreement.

## Section 2. Authorization of ACH Debits.

2.1 Merchant shall irrevocably authorize and instruct the Financial Institution to honor and effect the ACH Debits permitted by this Agreement by properly completing, executing and delivering to the Financial Institution, with a copy to Purchaser, a written authorization substantially in the form attached to this Agreement as Appendix B. Merchant shall not change the Specified Account or the Financial Institution without the express prior written consent of Purchaser, which Purchaser may give or withhold in its sole discretion. Merchant shall ensure that all of its Receipts are deposited in or otherwise credited to the Specified Account; provided that Merchant shall only deposit, or permit to be deposited, Purchased Receipts into the Specified Account. Merchant shall not block or otherwise interfere with Purchaser's access to the Specified Account to effect ACH Debits in accordance with the terms of this Agreement. Notwithstanding the foregoing provisions of this Section 2.1, Merchant may revoke such authorization and change the financial institution at which it maintains a depository account upon the irrevocable satisfaction in full of all Merchant Obligations.

2.2 Merchant shall properly complete, execute and deliver to Purchaser a Bank Login Authorization in the form attached to this Agreement as Appendix C and will provide Purchaser with all such other access codes and other information or documents necessary to enable Purchaser to affect the ACH Debits provided for in Section 1.2 or elsewhere in this Agreement, as well as all monthly bank statements relating to the Specified Account, promptly upon Purchaser's request. Merchant shall be responsible for, and shall pay upon demand, any fees or costs incurred by Purchaser as a result of any dishonor of an ACH Debit permitted by this Agreement. Purchaser shall in no event be responsible or liable to Merchant or the Financial Institution for any fees, costs or other expenses arising or resulting from or in connection with any rejected ACH Debit transaction or overdraft that may result from Purchaser effecting or attempting to effect an ACH Debit permitted by this Agreement.

2.3 Without the express prior written consent of Purchaser, which Purchaser may give or withhold in its sole discretion, Merchant will not (a) permit to occur or suffer to exist any event that could cause the diversion of any of Merchant's Receipts to any account with a financial institution other than the Financial Institution or to any account with the Financial Institution other than the Specified Account; (b) change the arrangements with the Financial Institution or with respect to the Specified Account or the relevant access codes or other information with respect thereto in any way that is adverse to Purchaser; (d) directly or indirectly make any promise or offer with respect to, or provide, any incentive, economic or otherwise, such as, but not limited to, loyalty points for payment by credit card or any other method other than cash, a personal check or other cash equivalent, the effect or result of which could be to (i) discourage the generation of a Receipt that is not deposited in the Specified Account, or induce a customer of Merchant to pay for Merchant's goods or services with any means other than cash, a personal check or other cash equivalent; or (e) take any other action that could have any adverse effect upon Merchant's Obligations or Purchaser's rights or remedies under this Agreement or fail to take any action if such failure could have such adverse effect.

Section 3. Reconciliations.

3.1 Either Party may request a reconciliation of Merchant's account under this Agreement (a "Reconciliation Request") by providing written notice to the other Party. Promptly upon receiving a Reconciliation Request from Purchaser, and together with any a Reconciliation Request made by Merchant, Merchant shall provide to Purchaser, true, correct and complete copies of all bank statements relating to the Specified Account and all monthly statements of any bank or other financial institution at which Merchant or any of its Affiliates maintain or have maintained a depository or other account since the date of this Agreement through the end of the calendar month immediately prior to the calendar month in which the Reconciliation Request is made (collectively, the "Account Statements"). Any Reconciliation Request shall be in writing and given in accordance with the notice provisions set forth in Section 11.12.

3.2 As soon as reasonably practicable after receipt of all Account Statements, Purchaser shall provide to Merchant, without charge, a statement (a "Reconciliation Statement") that sets forth: (a) the total amount of Receipts that Merchant originated after the date of this Agreement, (b) the amount equal to the product of the Specified Percentage and the total amount of Receipts that originated after the date of this Agreement, and (c) the aggregate amount of ACH Debits effected by Purchaser pursuant to Section 1.2. The Reconciliation Statement shall provide the foregoing information as of the last day of the calendar month immediately prior to Purchaser's receipt of the Reconciliation Request.

Each Reconciliation Statement shall be final, binding and conclusive on Merchant, absent manifest error. Within ten (10) Business Days after the delivery of a Reconciliation Statement, Purchaser shall either deposit into the Specified Account the amount, if any, by which the amount described in clause (c) of Section 3.2 as set forth in such Reconciliation Statement exceeds the amount described in clause (b) of Section 3.2 as set forth in such Reconciliation Statement, or shall debit by ACH Debit the Specified Account in the amount, if any, by which the amount described in clause (b) of Section 3.2 as set forth in such Reconciliation Statement exceeds the amount described in clause (c) of Section 3.2 as set forth in such Reconciliation Statement.

3.4 In the event that Merchant fails to deliver all such Account Statements on a timely basis, Purchaser shall have no obligation under this Agreement or otherwise to provide a Reconciliation Statement with respect to such Reconciliation Request. A failure by Merchant to make a Reconciliation Request with respect to any period, or to provide Account Statements pursuant to Section 3.2 with respect to a Reconciliation Request, shall not constitute a waiver by Merchant of its right to make a Reconciliation Request in accordance with this Section 3 on a future occasion.

Section 4. Certain Adjustments; Fees.

4.1 Notwithstanding and in addition to Merchant's right to make a Reconciliation Request pursuant to Section 3.1, Merchant may request that Purchaser adjust, and Purchaser in its sole discretion may adjust, the Specified Percentage, the Specific Daily Amount, any Fee or any other payment due under this Agreement to a percentage or an amount Purchaser deems appropriate in its sole discretion. Notwithstanding anything to the contrary in this Agreement or any other agreement between Purchaser and Merchant, upon the occurrence of an Event of Default, automatically, without any demand or other notice from Purchaser, the Specified Percentage shall be increased to 100% and the entire remaining uncollected portion of the Purchased Amount (the "Purchased Amount Balance") shall immediately become due and payable.

4.2 In addition to the foregoing, Merchant shall be responsible for and shall pay when due all fees, costs and expenses provided for in Appendix A attached to this Agreement (collectively "Fees"). Appendix A is hereby incorporated into and made a part of this Agreement as if set forth in this Agreement in full. Subject to applicable law, Purchaser may apply amounts collected hereunder to the Merchant Obligations in such manner as Purchaser chooses in its sole discretion

ANY MISREPRESENTATION MADE BY MERCHANT OR OWNER OR GUARANTOR IN CONNECTION WITH THIS AGREEMENT MAY CONSTITUTE A SEPARATE CAUSE OF ACTION FOR FRAUD, FRAUDULENT INDUCEMENT OR INTENTIONAL MISREPRESENTATION.

Purchase Price:	Specified Percentage	Estimated Specific Weekly Amount:	Estimated Specific Daily Amount:	Purchased Amount:
\$ 45,000.00	15%	\$ 2,395.00	\$ 479.00	\$ 67,050.00

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the date first above written:

MERCHANT (#1)

By ERNEST ROMARIAN HUDSON  
(Print Name and Title):

Ernest Hudson  
ernest hudson (Sep 5, 2023 16:42 EDT)  
(Signature)

Sign Here

FOR MERCHANT (#2)

By \_\_\_\_\_  
(Print Name and Title):

\_\_\_\_\_  
(Signature)

Sign Here

OWNER/GUARANTOR #1

By ERNEST ROMARIAN HUDSON  
(Print Name):

Ernest Hudson  
ernest hudson (Sep 5, 2023 16:42 EDT)  
(Signature)

Sign Here

OWNER/GUARANTOR #2

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

\_\_\_\_\_  
(Signature)

Sign Here

## MERCHANT CASH ADVANCE AGREEMENT TERMS AND CONDITIONS

[Payment by ACH Debits]

Section 5. Definitions. Capitalized terms used in this Agreement shall have the respective meanings set forth below in this Section 5:

"ACH Debit" means a direct debit transfer that is transacted through the Automated Clearinghouse (ACH) electronic network for financial transactions in the United States.

"Account Statements" has the meaning set forth in Section 3.1.

"Advisor" has the meaning set forth in Section 9.

"Affiliate" of any Person means any other Person controlling, controlled by or under common control with such Person.

"Agent" means Purchaser, acting in its capacity as the administrative agent for the Syndicate Partners in connection with this Agreement and the transactions contemplated hereby.

"Agreement" has the meaning set forth in the heading to this Agreement and includes all extensions, renewals, amendments and other modifications and restatements thereof. Any reference herein to this "Agreement" or this "Merchant Agreement" includes these Terms.

"Ancillary Document" means the Guaranty, a Confession of Judgment, and any other agreement, document or instrument delivered by Merchant and/or Owner/Guarantor pursuant to or in connection with this Agreement or the transactions contemplated hereby and in each case includes all extensions, renewals, amendments and other modifications and restatements thereof.

"Bankruptcy Case" means any bankruptcy, insolvency, arrangement, reorganization, liquidation or other debt-relief Proceeding under Federal or State law.

"Business Day" means any day on which commercial banks in New York, New York, or in the principal place of business of Financial Institution, are not authorized to be open or are required to be closed for commercial transactions under applicable law, rule or regulation.

"Event of Default" has the meaning set forth in Section 7.1.

"Fees" has the meaning set forth in Section 4.2.

"Financial Institution" has the meaning set forth in Section 1.2(a).

"Guaranty" means the guaranty at the end of this Agreement executed by Owner/Guarantor and includes all extensions, renewals, amendments and other modifications and restatements thereof.

"Liens" has the meaning set forth in Section 6.3.

"Merchant" has the meaning set forth in the heading to this Agreement.

"Merchant Agreement" has the meaning set forth in the heading to this Agreement.

"Merchant Confidential Information" has the meaning set forth in Section 9.

"Merchant Obligations" means the Purchased Amount Balance, together with any and all Fees and all other payment obligations of Merchant to Purchaser pursuant to this Agreement and any other Ancillary Document, including all fees, costs and expenses of investigation, court costs and fees and expenses of attorneys and other professionals.

"Owner/Guarantor" means the member, shareholder or other owner of Merchant who has executed this Agreement and/or the Guaranty.

"Party" and "Parties" have the respective meanings set forth in the heading to this Agreement, except that in Section 10, the

terms "Party and "Parties" shall also include any Owner/Guarantor that has executed this Agreement or any Ancillary Document.

"Person" means any individual, corporation, limited or general partnership, limited liability company, limited liability partnership, joint venture, trust, association or other entity.

"Proceeding" means any claim, demand, action, suit or proceeding at law, in equity or otherwise, including any arbitration.

"Purchase Price" has the meaning set forth in Section 1.1.

"Purchased Amount" has the meaning set forth in Section 1.1.

"Purchased Amount Balance" has the meaning set forth in Section 4.1.

"Purchased Receipts" has the meaning set forth in Section 1.1.

"Purchaser" has the meaning set forth in the heading to this Agreement.

"Purchaser Advisor" has the meaning set forth in Section 9.

"Purchaser Confidential Information" has the meaning set forth in Section 9.

"Receipt" means any and all payments Merchant receives for the sale of goods or services in the ordinary course of business from, on account of or in connection with any and all invoices, accounts, contract rights and other payment obligations arising after the date of this Agreement with or by any customer or client of Merchant or other third parties having a business relationship with Merchant, whether such payment is made in cash or by check, money order, wire transfer or any in other form.

"Reconciliation Request" has the meaning set forth in Section 3.1.

"Reconciliation Statement" has the meaning set forth in Section 3.2.

"Security Agreement" means the security agreement set forth in Section 11.13.

"Specific Amount" means the Specific Daily Amount or the Specific Weekly Amount, as applicable.

"Specific Daily Amount" has the meaning set forth in Section 1.2 (b).

"Specific Weekly Amount" has the meaning set forth in Section 1.2(a).

"Specified Account" has the meaning set forth in Section 1.2(a).

"Specified Percentage" has the meaning set forth Section 1.2(a).

"Syndicate Partners" means those Persons that have acquired a participation interest in the transactions contemplated by this Agreement

"Terms" has the meaning set forth in the heading to this Agreement.

"UCC" means the Uniform Commercial Code as in effect in the jurisdiction in which the Merchant is organized.

Section 6. Representations, Warranties and Covenants of Merchant. By executing and delivering this Agreement, Merchant acknowledges, represents, warrants, covenants and agrees to and with Purchaser as follows:

6.1 Organization and Good Standing. Merchant is the type of entity specified on the first page of this Agreement

and is duly organized and in good standing in its jurisdiction of organization specified on the first page of this Agreement. Merchant is duly qualified or licensed to do business in each jurisdiction in which the operation of its business or the location of its properties or assets requires such qualification or licensing. Merchant is a valid business and Merchant is entering into this Agreement for business purposes only and not as a consumer for personal, family or household purposes. Merchant understands, acknowledges and agrees it is not entitled to the rights and protections that are afforded to consumers under federal and state law with respect to consumer loans.

6.2 Authorization. Merchant has full power and authority to execute and deliver this Agreement and any Ancillary Document to which it is a party, and to incur and perform its obligations under this Agreement and each such Ancillary Document. Owner/Guarantor has full capacity, power and authority to execute and deliver this Agreement on behalf of Merchant and any Ancillary Document to which it is a party, and to incur and perform its obligations under each such Ancillary Document. Merchant and each such Owner/Guarantor have duly authorized, executed and delivered this Agreement and any such Ancillary Document and each of this Agreement and any such Ancillary Document constitutes their respective legal, valid and binding obligations, enforceable against them in accordance with their respective terms.

6.3 No Conflict. Neither the execution, delivery nor performance of this Agreement or any Ancillary Document by Merchant or any Owner/Guarantor does or will, with or without the giving of notice or the passage of time, or both, (a) conflict with, violate, breach, cause a default or give rise to a right of acceleration in favor of any third Person under (i) the constituent documents of Merchant or any such Owner/Guarantor; (ii) any law, rule or regulation binding on Merchant or any such Owner/Guarantor; or (iii) any contract, agreement, trust or other understanding, commitment or arrangement, whether written or oral, to which Merchant or any such Owner/Guarantor is a party or by which any of them, or their respective properties or assets, is bound; (b) require the consent, authorization or approval of, or the giving of notice to, any governmental agency or authority under any applicable law, rule or regulation; or (c) result in the creation of any claim, charge, restriction, condition, option, right, mortgage, security interest, equity, pledge, lien or other encumbrance of any kind or nature whatsoever (collectively, "Liens") upon any or all of the properties or assets of Merchant or Owner/Guarantor.

6.4 Financial Condition and Financial Information.

(a) All of the information and statements made in Merchant's application for the purchase and sale transaction provided for in this Agreement are true, correct and complete. Merchant will promptly notify Purchaser if any of such information or statement is no longer true, correct or complete. Merchant's financial statements, true, complete and correct copies of which have been furnished to Purchaser, fairly present in all material respect the financial condition and results of operations of Merchant at their respective dates, and for the periods then ended, and since those dates there has been no material adverse change, financial or otherwise, in the business, operations, financial condition, results of operations, assets or liabilities, prospects or ownership of Merchant. Any financial statements delivered by Merchant to Purchaser pursuant to this Agreement will be true, correct and complete and will fairly present in all material respects the financial condition and results of operations of Merchant as of their respective dates and for the respective periods then ending. Merchant shall promptly advise Purchaser of any material adverse change in its business, operations, financial condition, results of operations, assets, liabilities, prospects or ownership. Merchant shall provide to Purchaser within five (5) Business Days after Purchaser's request therefor, true, correct and complete copies of all such other financial statements, bank statements or other documents relating to Merchant's financial condition or results of operations, all of which shall be true, correct and complete.

(b) Merchant authorizes Purchaser and its agents to investigate Merchant's financial responsibility, credit worthiness and financial history, and will provide to Purchaser any bank or financial statements, tax returns, etc., as Purchaser deems necessary in its sole discretion prior to or at any time after the execution of this Agreement. A photocopy of this Agreement shall be deemed as acceptable for release of such information by the various credit services and financial institutions. Purchaser is authorized to request updates with respect to such information from time to time as it deems appropriate in its sole discretion. Merchant shall authorize its bank(s) to provide to Purchaser Merchant's banking and/or credit card processing history to assist Purchaser in evaluating the transactions contemplated by this Agreement.

(c) Merchant and each Person signing this Agreement on behalf of Merchant and/or as Owner/Guarantor, in respect of himself personally, authorizes Purchaser to disclose information concerning Merchant's and each Owner/Guarantor's credit standing (including credit bureau reports that Purchaser obtains) and business conduct to agents, Affiliates, subsidiaries, Syndicate Partners, Purchaser's funding sources and credit reporting bureaus. Merchant and each Owner/Guarantor hereby waives and releases to the maximum extent permitted by law any claim for damages against Purchaser or any of its Affiliates relating to any (i) investigation undertaken by or on behalf of Purchaser permitted by this Agreement, or (ii) disclosure of information permitted by this Agreement.



6.5 Title to Assets; No Liens. Merchant has good, complete and marketable title to all of the properties and assets used in its business, free and clear of any and all Liens or any other rights or interests that may be inconsistent with the transactions contemplated hereby, or adverse to the interests of Purchaser. Merchant will not incur, permit or suffer to exist any Lien on the Purchased Receipts.

6.6 Conduct of Business; Compliance with Laws. Merchant shall conduct its business in the ordinary course, consistent with past practice, and shall use its best efforts to continue its business at least at the same level as on the date of this Agreement. Merchant has no current plans to close its business for any reason, and agrees that until all Merchant Obligations have irrevocably been satisfied in full, Merchant will not close its business on a temporary basis for renovation, repairs or other similar purposes without the express prior written consent of Purchaser, which consent Purchaser may give or not give in its sole discretion. Merchant shall use the proceeds of the Purchase Price solely in connection with the operation of its business. Merchant will not incur any debts outside the ordinary course of business, will not make any loans, advances or other extension of credit to any Person or guarantee or otherwise become liable for the debts or obligations of any other Person, except for the endorsement of negotiable instruments in the ordinary course of business. Merchant is currently in compliance and shall continue to comply with all laws, rules and regulations applicable to its business, operations, properties and assets and it has valid and in full force and effect, and will continue to maintain in full force and effect and operate its business in compliance with, all necessary or advisable permits, authorizations and licenses to own, operate and lease its properties and assets as and where they are located and to conduct the business in which it is presently engaged. Without limiting the foregoing, Merchant shall pay all required taxes on a timely basis, including employment taxes and withholdings, sales and use taxes and, if applicable, real estate taxes. For the avoidance of doubt, this Section 6.6 does not constitute a covenant or agreement by Merchant that it will not cease conducting its business should circumstances in the Merchant's business beyond its control so require.

6.7 Certain Matters as to the Receipts and Payments. The Purchase Price is in full payment for the purchase, at an agreed-upon discount, of the Future Receipts pursuant to this Agreement and equals the fair market value of the Purchased Receipts. Purchaser has purchased and upon the funding under this Agreement, without any other action or the delivery of any other document or instrument by Merchant, shall have good, complete and marketable title to all the Purchased Receipts as and when the Purchased Receipts arise, free and clear of any and all Liens. If, notwithstanding Section 1.3, a court re-characterizes the purchase and sale transaction provided for in this Agreement as a loan transaction, determines that any collections by Purchaser pursuant to this Agreement constitute interest, determines that such payments are in excess of the highest rate permitted by applicable law or otherwise determines that the transactions provided for in this Agreement are subject to the usury laws of any jurisdiction, the Purchase Price or the Purchased Amount shall automatically be adjusted to a payment amount that will equal the maximum amount permitted by applicable law. Purchaser shall promptly refund to Merchant any payments received by Purchaser in excess of the maximum lawful amount, it being intended that Merchant not contract to pay or pay, and that Purchaser not contract to receive or receive, directly or indirectly in any manner whatsoever, any payment in excess of that which may be paid by Merchant under applicable law.

6.8 No Bankruptcy Pending. During the six (6) months ending on the date of this Agreement, neither Merchant nor Owner/Guarantor has contemplated (or contemplates) or has commenced (a) any Bankruptcy Case; (b) any petition or other Proceeding seeking the appointment of a receiver, administrator, liquidator or other person for the marshalling, sale or liquidation of its properties or assets; or (c) an assignment for the benefit of its creditors, and there has been no involuntary petition or Proceeding brought or is pending against Merchant or Owner/Guarantor for any of the foregoing purposes. Neither Merchant nor Owner/Guarantor is insolvent or has admitted in writing its inability to pay its debts as they mature. Merchant does not anticipate commencing any such Bankruptcy Case, petition or other Proceeding and it does not anticipate that any such involuntary petition or Proceeding will be filed against it during the next twelve (12) months. For the avoidance of doubt, this Section 6.8 does not constitute a covenant or agreement by Merchant that it will not commence or become subject to a Bankruptcy Case in the next twelve (12) months should circumstances in the Merchant's business beyond its control so require.

6.9 Working Capital Funding. Merchant has not and shall not enter into any arrangement, agreement or commitment that relates to or involves the Purchased Receipts, whether in the form of a purchase of, a loan against, collateral against or the sale, assignment, transfer, factoring or purchase of credits against, Receipts, cash deposits or receipts or future sales with any Person other than Purchaser without Purchaser's prior express written consent, which Purchaser may or may not give in its sole discretion. Purchaser may share information regarding this Agreement with any third person in order to determine whether Merchant is in compliance with the provisions of this Section 6.9. Upon the irrevocable satisfaction in full of all Merchant Obligations, the restrictions contained in this Section 6.9 shall terminate.

6.10 Insurance. Merchant will maintain in full force and effect liability, property and casualty and business-interruption insurance policies in such amounts and against such risks as are satisfactory to Purchaser and shall provide Purchaser proof of such insurance upon request.

6.11 Change of Name or Location. Merchant will not conduct its business(es) under any name other than as set forth in the heading to this Agreement or change its name or the location of its incorporation or other organization or any of its places of business without providing Purchaser express written notification at least twenty (20) Business Days in advance of any such change.

6.12 Notice of Certain Events. Merchant shall give Purchaser written notice of its intention to file a Bankruptcy Case at least five (5) Business Days prior to the filing of any Bankruptcy Case. Merchant shall give Purchaser written notice of its intention to enter into or consummate any transaction described in Section 7.1(c) or Section 7.1(d) at least ten (10) Business Days prior to the closing of any such transaction. Merchant shall give Purchaser advance notice of at least one (1) Business Day in the event that sufficient funds will not be available in the Specified Account to permit Purchaser to effect ACH Debits in accordance with the terms of this Agreement.

6.13 Estoppel Certificate. Merchant will at any time, and from time to time, upon at least one (1) Business Day's prior notice from Purchaser, execute, acknowledge and deliver to Purchaser and/or to any other Person specified by Purchaser, a statement certifying that this Agreement is unmodified and in full force and effect (or, if there has been any modification, that the same is in full force and effect as modified and stating the modification) and stating the dates on which the Purchased Amount or any portion thereof has been collected.

6.14 Publicity. Purchaser may include Merchant's name in a listing of its clients and in its advertising and marketing materials. Purchaser may in its discretion disclose to Syndicate Partners information about this Agreement and the transactions contemplated hereby.

6.15 D/B/A's. Purchaser may be using "doing business as" or "dba" names in connection with various matters relating to this Agreement and the transactions contemplated hereby, including the filing of UCC-1 financing statements and other notices or filings.

MERCHANT ACKNOWLEDGES AND AGREES THAT EACH OF ITS ACKNOWLEDGEMENTS, REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS SET FORTH IN THIS SECTION 6 OR ELSEWHERE IN THIS AGREEMENT IS MATERIAL, THAT PURCHASER HAS RELIED THEREON IN ENTERING INTO THIS AGREEMENT AND THAT A BREACH OR VIOLATION OF ANY OF THEM SHALL CONSTITUTE A MATERIAL BREACH OF THIS AGREEMENT. ALL SUCH REPRESENTATIONS AND WARRANTIES SHALL BE CONTINUING REPRESENTATIONS AND WARRANTIES AND SHALL SURVIVE THE EXECUTION, DELIVERY, PERFORMANCE AND THE TERMINATION OF THIS AGREEMENT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT.

## Section 7. Events of Default and Remedies.

7.1 Events of Default. The occurrence of any of the following events shall constitute an "Event of Default" hereunder:

(a) Merchant breaches or violates any covenant, agreement or other obligation contained in this Agreement (including any breach or violation of Section 2.1, Section 2.2 or Section 2.3 or any failure to provide a timely notice of certain events pursuant to Section 6.12) or any Person other than Purchaser that is a party to an Ancillary Document breaches or violates any covenant, agreement or other obligation of such other Person contained in such Ancillary Document;

(b) Any representation or warranty of Merchant contained in this Agreement, or any representation or warranty of any Person other than Purchaser in any Ancillary Document, shall prove to be incorrect, incomplete, false or misleading in any material respect when made or at any time thereafter until all Merchant Obligations shall have been irrevocably satisfied in full;

(c) Merchant sells, assigns, conveys or otherwise transfers all or substantially all of its assets or makes or sends any notice of an intended bulk sale of its properties and assets without, in any such case, (i) the prior express written consent of Purchaser, which Purchaser may give or withhold in its sole discretion, and (ii) the written agreement of any purchaser or transferee to the assumption of all of Merchant's obligations (including all Merchant Obligations) under this Agreement pursuant to documentation satisfactory to Purchaser in its sole discretion;

(d) Merchant reorganizes, merges or consolidates with, or otherwise effects a business combination with, any Person, as a result of which the ownership of Merchant after such transaction is materially different than such ownership immediately prior to such transaction, without, in any such case, (i) the prior express written consent of Purchaser, which Purchaser may give or withhold in its sole discretion, and (ii) the written agreement of the surviving Person in such reorganization, merger, consolidation or other business combination, as the case may be, to the assumption of all of Merchant's obligations (including all Merchant Obligations) under this Agreement pursuant to documentation satisfactory to Purchaser in its sole discretion;

(e) Merchant takes any action, or fails to take any action, that could have the effect of encumbering the cash flow of its business or unduly straining the viability of its operations; or

(f) Any Owner/Guarantor revokes or otherwise terminates its Guaranty, or such Guaranty otherwise becomes invalid or unenforceable.

7.2 Remedies. In case any Event of Default occurs and is not expressly waived pursuant to Section 11.3, Purchaser may, without any demand, protest, notice of protest or other notice of any kind, all of which Merchant hereby waives, proceed to protect and enforce its rights or remedies set forth below in this Section 7.2 and such other rights and remedies available to it under applicable law, whether by suit for specific performance or other equitable relief or by action at law, or both, or otherwise, including an action for breach of this Agreement and monetary damages as a result thereof:

(a) Purchaser may enforce the provisions of the Guaranty against the Owner/Guarantor;

(b) If requested by Purchaser upon execution of this Agreement, and Merchant has executed and delivered to Purchaser a Confession of Judgment in favor of Purchaser, Purchaser may enter such Confession of Judgment as a judgment with the Clerk of the Court and executethereon;

(c) Purchaser may enforce its rights under Section 11.13 and pursue any and all remedies available to it under the UCC; or

(d) Purchaser may debit Merchant's depository accounts wherever situated by means of ACH debit or facsimile signature on a computer-generated check drawn on Merchant's bank account or otherwise for an amount equal to the Merchant Obligations.

7.3 Remedies Cumulative; Costs. All rights and remedies of Purchaser under this Agreement or applicable law are cumulative and not exclusive. The exercise by Purchaser of any one or more of such rights or remedies on any occasion or with respect to any Event of Default shall not preclude or be deemed to waive the exercise of any other such right or remedy on the same or any other occasion or with respect to the same or any other Event of Default. Merchant shall pay to Purchaser all costs and expenses Purchaser incurs as result of or in connection with (a) a breach by Merchant of any of its obligations under this Agreement, and (b) enforcement of Purchaser's rights and remedies under this Agreement or applicable law, including fees, costs and expenses of investigation, court costs and fees and expenses of attorneys and other professionals.

#### Section 8. Exculpation and Indemnification.

8.1 Exculpation. In no event will Purchaser, as principal or Agent, or any Syndicate Partner, or any of their respective officers, directors, managers, members, shareholders, employees, agents or consultants, be liable for any claim asserted by Merchant or any Owner/Guarantor under any legal theory (a) as a result of any action taken or omitted to be taken by Purchaser in accordance with and pursuant to this Agreement or any Ancillary Document or (b) for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect or consequential damages, each of which is waived by Merchant and Owner/Guarantor.

8.2 Indemnification of Purchaser. Merchant shall indemnify and hold harmless Purchaser, as principal and as Agent, and the Syndicate Partners, and their respective officers, directors, managers, members, shareholders, employees, agents and consultants, and the successors, assigns, executors, personal representatives and heirs of each of the foregoing, from and against any and all direct and indirect losses, damages, claims, liabilities, costs and expenses (including fees, costs and expenses of investigation, court costs and fees and expenses of attorney's and other professionals) incurred or suffered as a result of or in connection with (a) Merchant and Owner(s)/Guarantor(s) entering into this Agreement and the Ancillary Documents with Purchaser or performing or failing to perform their respective obligations pursuant to this Agreement and the Ancillary Documents ; (b) actions taken by the Financial Institution in reliance upon information or instructions provided by Purchaser; (c) actions taken by any other third Person as a result of Purchaser exercising its rights or remedies under this Agreement or any Ancillary Document; and (d) any fees, costs or other expenses described in the last sentence of Section 2.2.

8.3 Indemnification of Financial Institution. Merchant shall indemnify and hold harmless Financial Institution and its successors and assigns from and against any and all direct and indirect losses, damages, claims, liabilities, costs and expenses (including fees, costs and expenses of investigation, court costs and fees and expenses of attorney's and other professionals) incurred or suffered by Financial Institution as a result of or in connection with (a) Merchant and Owner(s)/Guarantor(s) entering into this Agreement and the Ancillary Documents with Purchaser or performing or failing to perform their respective obligations pursuant to this Agreement and the Ancillary Documents ; and (b) actions taken by Financial Institution in reliance upon information or instructions provided by Purchaser.

Section 9. Confidentiality.

Merchant understands and agrees that the terms and conditions of the products and services offered by Purchaser, including without limitation this Agreement, the Ancillary Documents and any other documentation produced or provided by Purchaser in connection with the transactions contemplated by this Agreement (collectively, "Purchaser Confidential Information"), are the proprietary and confidential information of Purchaser. Accordingly, unless disclosure is required by law or court order, Merchant shall not disclose Confidential Information to any Person other than an attorney, accountant, financial advisor or employee of Merchant who needs to know such information for the purpose of advising Merchant ("Advisor"), provided such Advisor uses such information solely for the purpose of advising Merchant and first agrees in writing to be bound by the terms of this Section 9. Purchaser understands and agrees that the documentation and information it received from Merchant upon evaluating and reviewing Merchant's eligibility for a funding and all subsequent confidential information of Merchant (collectively, "Merchant Confidential Information"), are the proprietary and confidential information of Merchant. Accordingly, unless disclosure is required by law or court order, Purchaser shall not disclose Merchant Confidential Information to any Person other than an attorney, accountant, financial advisor or employee of Purchaser who needs to know such information for the purpose of advising Purchaser ("Purchaser Advisor") or a Syndicate Partner, provided the Purchaser Advisor uses such information solely for the purpose of advising Purchaser, and the Syndicate Partner uses such information solely for the purpose of evaluating its participation in the transactions contemplated by this Agreement, and is bound by a confidentiality obligation to Purchaser with respect to the Merchant Confidential Information. Notwithstanding anything contained in this Section 9, Purchaser may aggregate Merchant Confidential Information with other similar information Purchaser obtains in the ordinary course of its business in order to compile statistical and other information for the purpose of monitoring its business, analyzing, improving and marketing its products and services and providing such aggregated information to third parties which are interested in evaluating market trends or the performance of Purchaser's business or marketing their own services and products.

Section 10. Power of Attorney.

Merchant irrevocably appoints Purchaser as its agent and attorney-in-fact with full authority to take any action and execute any instrument or document to settle all obligations due to Purchaser from Merchant or Financial Institution or, in the case of an Event of Default, from Merchant under this Agreement, including (a) to obtain and adjust insurance; (b) to collect monies due or to become due under or in respect of any of the Merchant Obligations (c) to receive, endorse and collect any checks, notes, drafts, instruments, documents or chattel paper in connection with clause (a) or clause (b) of this Section 10; (d) to sign Merchant's name on any invoice, bill of lading or assignment directing customers or account debtors to make payment directly to Purchaser; and (e) to file any claims or take any action or institute any Proceeding which Purchaser may deem necessary to satisfy the Merchant Obligations in full, or otherwise to enforce its rights and remedies under this Agreement.

Section 11. Miscellaneous.

11.1 Entire Agreement. This Agreement (including the Terms), together with each Ancillary Document, constitutes the entire understanding and agreement of the Parties with respect to the subject matter hereof and thereof and supersede any and all prior or contemporaneous representations, statements, understandings, undertakings, commitments or agreements, whether written or oral, by or between or among the Parties with respect to such subject matter. For the avoidance of doubt, this Agreement does not contemplate any purchase of Merchant's Receipts by Purchaser in addition to the Purchased Receipts and Purchaser has no obligation, express or implied, to make any such purchase. Any such purchase will be in the sole discretion of Purchaser and will only occur upon the execution and delivery by Merchant and Purchaser of appropriate documents satisfactory to Purchaser in its sole discretion.

11.2 Assignment; Binding Nature; No Third-Party Beneficiaries; Survival. Neither Merchant nor Owner/Guarantor may assign its rights, or delegate the performance of its duties, under this Agreement or any Ancillary Document without the express prior written consent of Purchaser, which Purchaser may give or not give in its sole discretion. Purchaser may assign, transfer or sell its rights to receive all or any portion of the Merchant Obligations, or delegate the performance of its duties hereunder, either in whole or in part, and shall give notice of any such assignment, transfer, sale or delegation to Merchant and Owner/Guarantor, provided that no such notice shall be necessary with respect to any assignment, transfer or sale to a Syndicate Partner or to an Affiliate of Purchaser. Upon any such assignment, the assignee shall have all of the rights, remedies, powers and privileges of Purchaser under this Agreement. For the avoidance of doubt, no assignment, transfer or sale of this Agreement or Purchaser's rights hereunder by Purchaser or any such Affiliate as collateral security shall constitute, or be deemed or construed to constitute, an assignment, transfer or sale for purposes of this Section 11.2. This Agreement and each Ancillary Document shall be binding upon and inure to the benefit of the Parties and their respective successors, permitted assigns, executors, personal representatives and heirs. No Person, other than the Parties and their respective successors, permitted assigns, executors, personal representatives and heirs, is entitled to the benefit of this Agreement or any Ancillary Document, or any provision hereof or thereof, provided that Purchaser, both as a principal and as Agent, each Syndicate Partner, and the respective officers, directors, managers, members, stockholders and other owners, employees and consultants of Purchaser and each Syndicate Partner, and the Financial Institution, and the successors, permitted assigns, executors, personal representatives and heirs of each of the foregoing, shall be third party beneficiaries of this Agreement and the Ancillary Documents and may rely upon the terms of this Agreement and the Ancillary Documents and raise them as a defense in any Proceeding. The provisions of Sections 6.14, 7, 8 and 9 and this Section 11 shall survive the satisfaction in full of the Merchant Obligations, and the provisions of Sections 2, 6.14, 7, 8, 9, 10 and this Section 11, and any other provision of this Agreement that by its terms or intention should survive, shall survive any other termination or expiration of this Agreement.

11.3 Amendment and Waiver. Neither this Agreement or any Ancillary Document, nor any provisions hereof or thereof, may be amended, changed, otherwise modified or discharged or terminated unless such amendment, change, modification, discharge or termination is expressly set forth in a written instrument that is duly executed by the Parties that executed this Agreement or such Ancillary Document, as applicable. No waiver of any provision of this Agreement or of any Ancillary Document and no waiver of any breach or default under this Agreement or any Ancillary Document shall be valid or effective unless such waiver is expressly set forth in a written instrument that is duly executed by the Parties that executed this Agreement or such Ancillary Document, as applicable. Any such waiver shall be effective only to the extent set forth therein and shall not be effective with respect to any provision, breach or default not expressly set forth therein, whether or not similar to the provision, breach or default set forth therein, nor with respect to the same or any similar breach or default on a future occasion. Neither the failure to exercise, nor any delay in exercising, any right, remedy or power under this Agreement, any Ancillary Document or applicable law shall impair or constitute a waiver of such right, remedy or power. No course of conduct by any Party or between or among the Parties shall constitute or be deemed to constitute a waiver of any provision of or any breach of or default under this Agreement or any Ancillary Document.

11.4 Choice of Law; Submission to New York Courts; Waiver of Jury Trial. This Agreement and the Ancillary Documents shall be governed by, construed and enforced in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely in the State of New York, without reference to the principles of conflict of laws of such State. Any controversy or claim arising out of or relating to this Agreement or any Ancillary Document or the transactions contemplated hereby or thereby, or any breach hereof or thereof or default hereunder or thereunder, shall be submitted for resolution to a State or federal court sitting in the City, County and State of New York, which courts shall have exclusive jurisdiction with respect to any such controversy or claim. Each of the Parties agrees not to assert in any forum that such courts are not a convenient forum, or that there is a more convenient forum, for the resolution of any such controversy or claim, and waives any and all objections to jurisdiction or venue. Service of process and any other papers or documents with respect to any such controversy or claim may be made in accordance with the provisions of Section 11.12 for the giving of notices under this Agreement. For the avoidance of doubt, Purchaser or its assigns or agents may serve any summons, complaint or other process to commence or prosecute any Proceeding against Merchant and/or Owner/Guarantor by mailing the same by registered or certified mail, return receipt requested, to the respective mailing addresses set forth in Section 11.12 and any such mailing shall constitute proper service thereof for all purposes.

THE PARTIES HEREBY IRREVOCABLY WAIVE TRIAL BY JURY IN ANY COURT IN ANY PROCEEDING ON ANY MATTER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY ANCILLARY DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY OR ANY BREACH HEREOF OR THEREOF OR DEFAULT HEREUNDER OR THEREUNDER OR ANY ENFORCEMENT HEREOF OR THEREOF. THE PARTIES HEREBY ACKNOWLEDGE THAT EACH MAKES THIS WAIVER KNOWINGLY, WILLINGLY, VOLUNTARILY AND WITHOUT DURESS, AND ONLY AFTER EXTENSIVE CONSIDERATION OF THE RAMIFICATIONS OF THIS WAIVER WITH ITS ATTORNEYS.

11.5 Class Action Waiver.

PURCHASER AND MERCHANT ACKNOWLEDGE AND AGREE THAT THE AMOUNT AT ISSUE IN THIS TRANSACTION AND ANY DISPUTES THAT ARISE BETWEEN THEM ARE LARGE ENOUGH TO JUSTIFY DISPUTE RESOLUTION ON AN INDIVIDUAL BASIS. EACH PARTY HEREBY KNOWINGLY AND IRREVOCABLY WAIVES ANY RIGHT TO ASSERT ANY CLAIMS AGAINST THE OTHER PARTY AS A REPRESENTATIVE OR MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION, EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY LAW OR DEEMED BY A COURT OF LAW TO BE AGAINST PUBLIC POLICY. TO THE EXTENT EITHER PARTY IS PERMITTED BY LAW OR COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST THE OTHER, THE PARTIES AGREE THAT: (A) THE PREVAILING PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOT WITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT); AND (B) THE PARTY WHO INITIATES OR PARTICIPATES AS A MEMBER OF THE CLASS WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION.

11.6 Equitable Relief. Merchant and each Owner/Guarantor acknowledge and agree that in the event it breaches or threatens to breach any provision of Section 9, Purchaser may suffer irreparable damage for which monetary relief will not be an adequate remedy. Therefore, Merchant and each Owner/Guarantor agree that upon any such breach or threatened breach, Purchaser shall be entitled to seek specific performance and/or preliminary and permanent injunctive or other appropriate equitable relief to remedy such breach or to prevent such threatened breach without posting any bond or other security and without proving that monetary damages would be an inadequate remedy.

11.7 Further Acts; Solicitations.

(a) Merchant and each Owner/Guarantor agree to do such further acts and things and to execute and deliver such additional agreements, powers of attorney, documents and instruments as Purchaser may reasonably request to carry into effect the terms, provisions and purposes of this Agreement and any Ancillary Document or to better assure and confirm unto Purchaser its title to the Purchased Receipts, as well as its rights and remedies hereunder or thereunder.

(b) Merchant agrees that any call between Purchaser and Merchant, and their respective employees or agents, and Owner/Guarantor agrees that any call between Purchaser or its employees and agents and Owner/Guarantor, may be recorded or monitored. Merchant and Owner/Guarantor also agree that there is an established business relationship between and among them and Purchaser and therefore Purchaser may contact Merchant and its employees and agents and/or Owner/Guarantor from time to time regarding the transactions contemplated by this Agreement or other business matters. Merchant and Owner/Guarantor each agree that such contacts shall not be regarded as unsolicited or inconvenient and may be made by way of any phone number, including cell phone, e-mail address or facsimile number provided by Merchant, or its employees or agents, or Owner/Guarantor to Purchaser or its employees or agents. Merchant and each Owner/Guarantor waive, to the fullest extent permissible under applicable law, the provisions of, and shall indemnify Purchaser, its Affiliates and such third Persons and hold each of them harmless from and against any and all claims under, the US Can-Spam Act of 2003, the Telephone Consumer Protection Act and any and all other state or federal laws relating to transmissions or solicitations by any of the methods described above in this sentence.

11.8 Headings. The headings contained in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning or interpretation of any provision of this Agreement.

11.9 Severability. If any provision of this Agreement or any Ancillary Document or the application of any such provision to any Party or circumstance shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or such Ancillary Document or the application of such provision to such Party or circumstance other than those to which it is so determined to be invalid or unenforceable, shall not be affected by such determination, and each other provision of this Agreement and any Ancillary Document, as the case may be, shall be enforced to the fullest extent permitted by applicable law. If the final judgment of a court of competent jurisdiction determines that any provision of this Agreement or any Ancillary Document is invalid or unenforceable, the Parties agree that the court making such determination shall have the power to, and shall, reduce the duration or scope of such invalid or unenforceable provision, or to delete specific words or phrases therefrom or add specific words or phrases thereto, and to replace such provision with a provision that is valid and enforceable and that comes closest to expressing the intention of the Parties with respect to the invalid or unenforceable provision, and this Agreement and any such Ancillary Document, as the case may be, shall be enforced as so modified.

11.10 References and Construction. References in this Agreement to "Section" mean and refer to the designated section of this Agreement, unless otherwise indicated. Words such as "herein," "hereby," "hereof," "hereto" and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires. Common nouns and pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, and words in the singular shall refer to the plural, and vice versa, as the identity of the Person, Persons or other reference in the context requires. Whenever used in this Agreement, "or" shall include both the conjunctive and disjunctive, "any" shall mean "one or more" and "including" and "include" shall mean "including" and "includes" "without limitation," respectively. All references in this Agreement or in any Ancillary Document to "dollars" or "\$" mean and refer to United States dollars. Each Party has been represented by counsel in connection with the drafting, execution and delivery of this Agreement and the Ancillary Documents and the language used in this Agreement and in the Ancillary Documents shall be deemed to be the language chosen by the Parties to express their mutual intent. No rule of strict construction shall be applied against a Party and each Party agrees that if an ambiguity exists with respect to any provision of this Agreement, or any Ancillary Document, such provision shall not be construed against a Party because such Party or its representative drafted such provision.

11.11 Counterparts; Delivery by Electronic Means. This Agreement and each Ancillary Document may be executed in counterparts, each of which shall constitute an original and all of which, taken together, shall constitute one and the same instrument. The Parties may execute and deliver a counterpart of this Agreement or any Ancillary Document by facsimile or email transmission. Each Party agrees that the delivery of a counterpart of this Agreement or any Ancillary Document by facsimile or email shall have the same force and effect as delivery of original signatures and that each Party may use such facsimile signatures as evidence of the execution and delivery of this Agreement or any Ancillary Document by all Parties to the same extent that an original signature could be used.

11.12 Notices. Unless otherwise expressly provided for in this Agreement, any notice authorized or required by this Agreement to be given to a Party shall be given in a writing addressed to such Party and delivered via (a) United States postal service, registered mail, return receipt requested, (b) nationally recognized overnight courier service, (c) email or facsimile, if a copy thereof is provided by any other means set forth in this Section 11.12, or (d) hand delivery with signature acknowledging receipt to such Party at its office at the address (and person's attention) set forth below, or at such other address (or to such other person's attention) as may be specified by a written notice given in accordance with this Section 11.12. Notices given by registered mail shall be effective five (5) Business Days after mailing, notices given by overnight courier service shall be effective on the next Business Day and notices given by email or facsimile shall be given when received. Notwithstanding the foregoing, Merchant may not give any notice to Purchaser via email or facsimile unless Purchaser expressly consents thereto in its sole discretion.

11.13 Acknowledgment of Security Interest and Security Agreement; Financing Statements.

(a) The Receipts sold by Merchant to Purchaser pursuant to this Agreement are "accounts" or "payment intangibles" as those terms are defined in the UCC and such sale shall constitute and shall be construed and treated for all purposes as a true and complete sale, conveying good title to the Purchased Receipts free and clear of any Liens, by Merchant to Purchaser. To the extent that the Purchased Receipts are "accounts" or "payment intangibles" then (i) the sale of the Purchased Receipts creates a security interest (as defined in the UCC); (ii) this Agreement constitutes a "security agreement" under the UCC; and (iii) Purchaser has all the rights of a secured party under the UCC with respect to the Purchased Receipts. Purchaser further agrees that, with or without an Event of Default, Purchaser may notify account debtors, or other persons obligated on the Purchased Receipts, of Merchant's sale of the Purchased Receipts and may instruct them to make payment or otherwise render performance to or for the benefit of Purchaser.

(b) Merchant authorizes Purchaser to file one or more UCC-1 forms under the UCC to give notice that the Purchased Amount of Receipts is the sole property of Purchaser. The UCC filing may state that such sale is intended to be a sale and not an assignment for security and may state that the Merchant is prohibited from obtaining any financing that impairs the value of the Receipts or Purchaser's right to collect same. Merchant authorizes Purchaser to effect an ACH Debit to the Specified Account for all costs incurred by Purchaser in connection with the filing, amendment or termination of any UCC filings.

BizFund, LLC

GUARANTY

Merchant's Legal Name:

D/B/A:

State of Incorporation:

Type of entity

Limited Liability Company ☒

Limited Liability Partnership ☐

General Partnership ☐

Physical Address: 3097 EMERY CIRCLE

City: AUSTELL State: GA Zip: 30168

Mailing Address: SAME AS ABOVE

City: State: Zip:

Date business started (mm/yy): 12/2020

Federal ID#

LEADERS OF TOMORROW LEARNING ACADEMY I LLC

LEADERS OF TOMORROW LEARNING ACADEMY

Corporation ☐

Limited Partnership ☐

Sole Proprietor ☐

GUARANTY

Personal Guaranty of Performance. The undersigned Guarantor(s) hereby irrevocably and unconditionally guarantees to Purchaser Merchant's performance when due and in full of all of the representations, warranties, covenants and agreements made by Merchant in that certain Merchant Cash Advance Agreement between BizFund, LLC, as Purchaser, and the Merchant named above to which this Guaranty is attached (as the same may be extended, renewed, amended, modified or restated from time to time, the "Merchant Agreement"). Such representations, warranties, covenants and agreements are referred to herein as the "Guaranteed Obligations." The Guaranteed Obligations are immediately due and payable upon the occurrence of any Event of Default under the Merchant Agreement. For the avoidance of doubt, this Guaranty does not constitute a guaranty of payment by the undersigned Guarantor(s) of any obligation of Merchant under the Merchant Agreement. Guarantor(s) shall pay to Purchaser all costs and expenses Purchaser incurs as result of or in connection with the enforcement of Purchaser's rights and remedies under this Guaranty, including fees, costs and expenses of investigation, court costs and fees and expenses of attorneys and other professionals.

Guarantor Waivers. In the event that Merchant fails to perform any obligation when due under the Merchant Agreement, Purchaser may enforce its rights under this Guaranty without first seeking to obtain payment from Merchant or any other guarantor under this Guaranty or any other security agreement or guaranty. Guarantor(s) also waives any and all defenses, set-offs, counterclaims and cross claims available to him or her in any action by Purchaser to enforce this Guaranty, including any claim or defense of usury.

Purchaser does not have to notify Guarantor of, or obtain Guarantor's consent with respect to, any of the following events and Guarantor will not be released from his or her obligations under this Guaranty as a result of (even if he or she is not notified of or does not consent to): (i) Merchant's failure to perform any obligation under the Merchant Agreement; (ii) any adverse change in Merchant's financial condition or business; (iii) any sale or other disposition of any collateral securing the Guaranteed Obligations or any other guarantee of the Guaranteed Obligations; or (iv) Purchaser's acceptance of this Guaranty. In addition, Purchaser may take any of the following actions without notifying Guarantor, obtaining his or her consent or releasing Guarantor from any of his or her obligations under this Guaranty: (i) extend, renew, amend, modify or restate, in whole or in part, at any time or from time to time, the Merchant Agreement, the Merchant Obligations or Merchant's other obligations to Purchaser; (ii) release of Merchant from all or any part of its obligations to Purchaser (including the Merchant Obligations); (iii) sell, release, impair, waive or otherwise fail to realize upon any other guarantee of the Guaranteed Obligations or any collateral securing the Guaranteed Obligations or any other guarantee of the Guaranteed Obligations; (iv) foreclose on any collateral securing the Guaranteed Obligations or any other guarantee of the Guaranteed Obligations in a manner that impairs or precludes the right of Guarantor to obtain reimbursement for payment under this Guaranty; or (v) any other action or inaction that would, under applicable law or principles of equity, release or discharge a surety. Furthermore, this Guaranty shall be enforceable against Guarantor(s) regardless of whether the Merchant Agreement or any other Ancillary Document is valid or enforceable against Merchant or any other Person and notwithstanding any defense, setoff or counterclaim that Merchant may have or assert against Purchaser or any other Person.

Until all Merchant Obligations have been irrevocably satisfied in full, Guarantor shall not seek reimbursement from Merchant or any other guarantor for any amounts paid by it under this Guaranty. Guarantor irrevocably waives and agrees not to seek to exercise any of the following rights that it may have against Merchant, any other guarantor, or any collateral provided by Merchant or any other guarantor, for any amounts paid by it, or acts performed by it, under this Guaranty: (i) subrogation; (ii) reimbursement; (iii) performance; (iv) indemnification; (v) contribution; and (vi) any and all rights of set-off, counterclaim or cross claim. In the event that Purchaser must return any amount paid by Merchant or any other guarantor of the Guaranteed Obligations because that person has become subject to a Proceeding under the United States Bankruptcy Code or any similar law, Guarantor's obligations under this Guaranty shall include that amount.



Guarantor Acknowledgement. Guarantor acknowledges that: (i) it understands the seriousness of the provisions of this Guaranty; (ii) it has had a full opportunity to consult with counsel of its choice; and (iii) it has consulted with counsel of its choice or has decided not to avail itself of that opportunity.

Joint and Several Liability. The obligations hereunder of the persons or entities constituting Guarantor under this Guaranty are joint and several and shall be binding upon and enforceable against each of them, separately, and their respective executors, personal representatives, heirs, successors and permitted assigns.

Waiver of Trial by Jury.

THE PARTIES HEREBY IRREVOCABLY WAIVE TRIAL BY JURY IN ANY COURT IN ANY PROCEEDING ON ANY MATTER ARISING OUT OF OR IN ANY WAY RELATED TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY BREACH HEREOF OR DEFAULT HEREUNDER OR ANY ENFORCEMENT HEREOF. THE PARTIES HEREBY ACKNOWLEDGE THAT EACH MAKES THIS WAIVER KNOWINGLY, WILLINGLY, VOLUNTARILY AND WITHOUT DURESS, AND ONLY AFTER EXTENSIVE CONSIDERATION OF THE RAMIFICATIONS OF THIS WAIVER WITH THEIR ATTORNEYS.

Class Action Waiver.

EACH GUARANTOR ACKNOWLEDGES AND AGREES THAT THE AMOUNT AT ISSUE IN THIS TRANSACTION AND ANY DISPUTES THAT ARISE WITH RESPECT THERETO ARE LARGE ENOUGH TO JUSTIFY DISPUTE RESOLUTION ON AN INDIVIDUAL BASIS. THEREFORE, EACH GUARANTOR KNOWINGLY AND IRREVOCABLY WAIVES ANY RIGHT TO ASSERT ANY CLAIMS AGAINST PURCHASER AS A REPRESENTATIVE OR MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION, EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY LAW OR DEEMED BY A COURT OF LAW TO BE AGAINST PUBLIC POLICY. TO THE EXTENT A GUARANTOR IS PERMITTED BY LAW OR COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST PURCHASER, SUCH GUARANTOR AGREES THAT: (I) THE PREVAILING PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOT WITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT); AND (II) SUCH GUARANTOR, AS A MEMBER OF THE CLASS, WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION.

Security Interest. Guarantor(s) hereby assigns to Purchaser, as collateral security, and grants to Purchaser a security interest in its "accounts" and "payment intangibles" (as those terms are defined in the UCC) now existing or hereafter arising, to secure its obligations under this Guaranty. Guarantor(s) agrees that Purchaser is authorized to and may (a) file one or more UCC-1 forms under the UCC to give notice of the grant of this security interest, and to file appropriate amendments, continuations and termination statements with respect thereto; (b) notify account debtors, or other persons obligated with respect to such accounts and payment obligations, of this security interest and instruct them to make payment or otherwise render performance to or for the benefit of Purchaser; and (c) exercise any and all rights and remedies available to it under the UCC or other applicable law to protect and enforce its rights under this security interest.

THE TERMS, DEFINITIONS, CONDITIONS AND INFORMATION SET FORTH IN THE MERCHANT AGREEMENT, INCLUDING THE TERMS, ARE HEREBY INCORPORATED IN AND MADE A PART OF THIS GUARANTY. CAPITALIZED TERMS NOT DEFINED IN THIS GUARANTY, SHALL HAVE THE RESPECTIVE MEANINGS SET FORTH IN THE MERCHANT AGREEMENT, INCLUDING THE TERMS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, GUARANTOR(S) EXPRESSLY ACKNOWLEDGES, CONFIRMS AND AGREES TO THE PROVISIONS OF SECTION 1.3 AND 6.7 OF THE MERCHANT AGREEMENT

SIGNATURE:   
 Ernest Hudson (Sep 5, 2023 16:42 EDT)