

the appropriate agencies; and a search for bankruptcies, liens or judgments in all jurisdictions where business functions have been conducted. Any onsite examination may include, without limitation, verifications that business is conducted as represented by Seller at all sites where it conducts business. This examination shall be conducted upon reasonable prior notice to the Seller and only during reasonable business hours. The financial examination may include, without limitation, a review of Seller's current financial statements, its most recent annual reports, tax returns for the previous three (3) years and all documentation supporting employee bonds and insurance policies of Seller. If Seller is not publicly held, Purchaser, or its agents, may conduct background and financial examinations of all principals owning ten percent (10%) or more of Seller. Such examinations may include, without limitation, a review of information regarding criminal history for all jurisdictions where the principal has resided and been employed, address verifications for all residences, and employment verifications. The examination may also include, without limitation a review of the credit standing of the principal, and a search for bankruptcies and judgments in all jurisdictions where the principal has resided or been employed. The review may also include a review of up to three (3) years of personal tax returns.

Section 5.7 Grant of Security Interest. To secure the performance of Seller's obligations hereunder Seller grants to Purchaser a continuing security interest in (i) all of Seller's Accounts, Chattel Paper, Goods, Inventory, Equipment, Instruments, Reserves, Accounts, Investment Property, Documents, General Intangibles, as such terms are defined in the Uniform Commercial Code as in effect in the State of New York (the "UCC"), (ii) all Future Receivables, as herein defined, (iii) all other assets and personal property of the Seller, and (iv) all products and proceeds thereof. Purchaser shall have all rights and be entitled to all benefits afforded to a secured creditor under the UCC or otherwise at law. Seller authorizes Purchaser to file and/or record such further instruments, agreements or undertakings, and such certificates of title, financing and continuation statements and other instruments, as the Secured Party may deem necessary or desirable to perfect, protect and preserve the security interests hereby granted in the Purchased Percentage. Nothing contained in this Section 4.7 shall be construed to change the parties' intent under this Agreement to effect a final sale of the Purchased Percentage as opposed to a secured loan or any other type of transaction.

Section 5.8 Sale of Additional Pools of Future Receivables; Schedules; Right of First Refusal. In the event that Seller wishes to sell and Purchaser agrees to purchase an additional pool (or additional pools) of Future Receivables, this Agreement shall serve as a "Master Agreement" which sets forth all of the terms and conditions governing any such sale. In such an event, the parties shall execute additional schedules setting forth the Purchase Price, Purchased Percentage and Purchased Amount applicable to that additional pool of Future Receivables. The terms listed on such schedule shall take effect upon Purchaser's receipt of the complete Purchased Amount herein or upon a date agreed to by the parties in writing, with the terms and conditions of this Agreement otherwise fully applicable, *mutatis mutandis*. Nothing herein shall obligate either party to sell or purchase additional pools of receivables; however, Seller grants Purchaser the option of first refusal to purchase any such additional pool of future receivables that Seller may wish to sell.

Section 5.9 Collection of Future Receivables; ACH Authorization; Purchaser will daily collect the cash attributable to the Purchased Percentage of the Future Receivables based on the total Daily Batch Amount furnished to Purchaser. As per the terms of the attached ACH authorization Seller irrevocably authorizes Purchaser, or its designated successor or assign to withdraw the Future Receivables and any other amounts now due, hereinafter imposed, or otherwise owed in conjunction with this Agreement by initiating via the Automatic Clearing House (ACH) system debit entries to Seller's account at the bank listed above or such other bank or financial institution that Seller

may provide Purchaser with from time to time ("Bank Account"). In the event that Purchaser withdraws erroneously from the Bank Account, Seller authorizes Purchaser to credit the Bank Account for the amount erroneously withdrawn via ACH. Purchaser shall not be required to credit the Bank Account for amounts withdrawn related to transactions which are subsequently reversed for any reason. Purchaser, in its sole discretion, may elect to offset any such amount from collections from Future Receivables. Seller represents that the Bank Account is established for business purposes only and not for personal, family, or household purposes. Seller understands that the foregoing ACH authorization is a fundamental condition to induce Purchaser to enter into this Agreement.

6. MISCELLANEOUS

Section 6.1 Modifications Amendments. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by both parties.


Section 6.2 Successors and Assigns. All covenants and agreements by or on behalf of Seller contained in this Agreement or any documents or agreement delivered in connection herewith shall bind Seller's successors and assigns and shall inure to the benefit of Purchaser and its successors and assigns. Seller shall not, however, have the right to assign Seller its rights under this Agreement or any interest therein, without the prior written consent of Purchaser.

Section 6.3 Waiver; Remedies. No failure on the part of the Purchaser to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise of any other right. The remedies provided hereunder are cumulative and not exclusive of any remedies provided by law or equity. Seller consents to the waiver of notice prior to Purchaser exercising any and all rights provided for in this Agreement.

Section 6.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Seller, the Purchaser and their respective successors and assigns, except that Seller shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Purchaser, which consent may be withheld in the Purchaser's sole discretion. The Purchaser reserves the right to assign this Agreement with or without prior notice to Seller.

Section 6.5 Notices. All notices, requests, demands, claims, and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (i) when delivered personally to the recipient, (ii) one (1) business day after being sent to the recipient by recognized overnight courier service, or (iii) three (3) business days after being mailed to the recipient by certified, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth in the preamble to this Agreement.

Section 6.6 Consent to Participation. Seller agrees and consents to Purchaser's sale or transfer, whether now or later, of one or more participation interests in the Purchased Amount to one or more purchasers, whether related or unrelated to Purchaser. Purchaser may provide, without any limitation whatsoever, to anyone or more purchasers, or potential purchasers, any information or knowledge Purchaser may have about Seller or about any other matter relating to the Purchased Amount, and Seller hereby waives any rights to privacy Seller may have with respect to such matters. Seller additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Seller also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interests in the Purchase Amount and will have all the rights granted under the participation agreement or agreements governing the sale of such participation interests. Seller further waives all rights of offset or counterclaim that it may have now


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