

4. Authorization to File Financing Statement. Merchant hereby authorizes Purchaser to file a financing statement under the Uniform Commercial Code (UCC) to evidence the sale of the Future Receivables. The UCC filing shall state that the sale of the Future Receivables is intended to be a sale and not an assignment for security. If Merchant defaults under this Agreement, Merchant hereby grants Purchaser a security interest in, and authorizes Purchaser to file a UCC financing statement covering, all of Merchant's present and future accounts, chattel paper, deposit accounts, personal property, assets and fixtures, general intangibles, instruments, equipment, inventory wherever located, and proceeds now or hereafter owned or acquired by Merchant.

5. Fees. Purchaser does NOT CHARGE ANY ORIGINATION OR BROKER FEES for Merchants that sell their Future Receivables to Purchaser. If Merchant is charged such a fee, it is not being charged by Purchaser or an agent of Purchaser. Additionally, because this is not a loan, Purchaser does not charge any interest, finance charges, points, late fees or similar fees (except as permitted by applicable law in connection with civil judgments). Purchaser is purchasing the Future Receivables at a discount. Because the transaction evidenced by this Agreement is not a loan, there are no scheduled payments and no repayment term. If Merchant's business slows down and Merchant's card processing transactions decrease or if Merchant's business closes (and Merchant has not violated the terms of this Agreement), Merchant will not be in default under this Agreement.

6. Right to Cancel. Merchant may cancel this transaction at anytime prior to midnight of the third business day after Purchaser forwards the Purchase Price to Merchant. In order to cancel the transaction, Merchant must return the Purchase Price to Purchaser within five days of receipt of the Purchase Price.

7. Merchant's Representations, Warranties and Covenants. Merchant represents, warrants and covenants that as of the date and during the term of this Agreement: (i) the Future Receivables are not subject to any claims, charges, liens, restrictions, encumbrances or security interests of any nature whatsoever; (ii) Merchant has not and will not sell the Future Receivables to another party; (iii) Merchant will not conduct business under any name other than as disclosed herein, shall not change its business location without the prior written consent of Purchaser, and shall not temporarily close its business for renovations or other purposes; (iv) Merchant will not change or add credit card processors without the prior written approval of Purchaser; (v) Merchant will not take any action to discourage the use of credit cards, debit cards or other payment cards, will not permit any event to occur that may have an adverse effect on the use, acceptance or authorization of credit cards, debit cards, or other payment cards for the purchase of Merchant's products and/or services; or to permit any event to occur that could cause a diversion of any of Merchant's Future Receivables from Merchant's current card processor to any other entity; (vi) Merchant will not undertake any transaction involving the sale of Merchant, either by an issuance, sale or transfer of ownership interests in Merchant that results in a change in ownership or voting control of Merchant, or by a sale or transfer of substantially all of the assets of Merchant; (vii) Merchant will not permit another person or company, including without limitation a franchisor company (if Merchant is a franchisee), to assume or take over the operation and/or control of the Merchant's business or business locations; (viii) Merchant has not declared bankruptcy and is not currently contemplating the filing of a bankruptcy proceeding or closing Merchant's business; (ix) all information provided by Merchant to Purchaser in this Agreement, application or otherwise and all of Merchant's financial statements and other financial documents provided to Purchaser are true and correct and accurately reflect Merchant's financial condition and results of operations; (x) Merchant will possess and maintain insurance in such amounts and against such risks as are necessary to protect its business and shall show proof of such insurance upon demand; (xi) Merchant has and is in compliance with all permits, licenses, approvals, consents and authorizations necessary to conduct its business and will promptly pay all necessary taxes, including but not limited to employment and sales and use taxes; (xii) Merchant and the person(s) signing this Agreement on behalf of Merchant have full power and authority to enter into and perform the obligations under this Agreement; (xiii) Merchant will sign any and all documents Purchaser, in its sole discretion, deems necessary and provide Purchaser copies of all documents related to Merchant's card processing activity or financial and banking affairs within five (5) days of a request by Purchaser; and (xiv) Merchant will permit Purchaser or its agent to conduct a site inspection of Merchant's business, including an inspection of Merchant's credit card terminals, at any reasonable time during the term of this Agreement without notice to Merchant.

8. Daily Percentage. Purchaser agrees to accept the remittance of the Daily Percentage in one of the following ways: (i) directly from Merchant's credit card processor; (ii) by debiting the Merchant's card processing deposit account; or (iii) by debiting a deposit account established by Merchant that is approved by Purchaser. Purchaser may decide in its sole discretion which of the three methods it will accept for the remittance of the Daily Percentage.

If Purchaser agrees to accept the remittance of the Daily Percentage directly from the Merchant's card processor, Merchant agrees to enter into an agreement with a credit card processor acceptable to Purchaser, and authorizes Processor to pay the Daily Percentage directly to Purchaser rather than to Merchant until the Amount Sold has been forwarded by Merchant's processor to Purchaser. This authorization is irrevocable, absolute and unconditional. Merchant further acknowledges and agrees that the card processor will be acting on behalf of Purchaser to collect the Daily Percentage. Merchant hereby irrevocably grants processor the right to hold the Daily Percentage and to pay Purchaser directly (at, before or after the time processor credits or remits to Merchant the balance of the Future Receivables not sold by Merchant to Purchaser) until the entire Amount Sold has been forwarded to Purchaser. Merchant acknowledges and agrees that Processor may provide Purchaser with Merchant's credit card, debit card and other payment card and instrument processing history, including without limitation Merchant's chargeback experience and any communications about Merchant received by Processor from a card processing system, as well as any other information Purchaser deems pertinent. Merchant understands that Purchaser does not have any power or authority to control the card processor's actions with respect to the

authorization, clearing, settlement and other processing of transactions and that Purchaser is not responsible for the processor's actions. Merchant agrees to hold Purchaser harmless for the processor's actions or omissions.

If Purchaser agrees to accept the remittance of the Daily Percentage by debiting the Merchant's card processing deposit account, Merchant irrevocably authorizes Purchaser or its designated successor or assignee to withdraw the Daily Percentage by initiating a debit via the Automatic Clearing House (ACH) system to the Merchant's card processing deposit account (as listed in Merchant's application) or such other deposit account that Merchant may instruct Purchaser to debit from time to time ("Bank Account"). In the event Purchaser withdraws an incorrect amount from Merchant's Bank Account, Merchant authorizes Purchaser to credit the Bank Account for the appropriate amount. Merchant represents that the Bank Account is established for business or commercial purposes only and is not used for personal, family or household purposes.

If Purchaser agrees to accept the remittance of the Daily Percentage by debiting a deposit account established by Merchant that is approved by Purchaser ("Approved Account"), Merchant agrees to complete all necessary forms to establish the Approved Account. Merchant acknowledges and agrees that any funds deposited into the Approved Account by Merchant's processor will remain in the Approved Account until the Daily Percentage is withdrawn by Purchaser and then the remaining funds, minus any amount required to maintain the minimum balance for the account, will be forwarded to Merchant's Bank Account. If the Approved Account requires a minimum account balance, Purchaser may, in its sole discretion, fund the required minimum balance for the Approved Account out of the Purchase Price.

9. Telephone Monitoring, Recording and Contacts. To ensure that all merchants receive quality service, Purchaser may choose to monitor and/or record telephone calls with merchants and their employees or agents. These calls are monitored and/or recorded solely for evaluation by supervisors, training, monitoring for compliance purposes, and quality control. Merchant agrees that any call between Purchaser and Merchant or a representative of Merchant may be monitored and/or recorded for these purposes. Merchant further agrees that: (i) it has an established business relationship with Purchaser and may be contacted from time to time regarding transactions with Purchaser; (ii) such contacts are not considered unsolicited or inconvenient; and (iii) any such contact may be made using any cellular or other number Merchant or its representative gave Purchaser, using any e-mail address Merchant or its representative gave Purchaser, or using an automated dialing and announcing or similar device, unless prohibited by law.

10. Miscellaneous. Merchant shall have no right to assign its interest hereunder. This Agreement shall be binding upon Merchant and inure to the benefit of Purchaser, its successors and assigns. This Agreement shall not constitute a contract until fully executed by all parties hereto. This Agreement constitutes the entire Agreement between the parties, and no representations, agreements, or understandings of any kind, either written or oral, shall be binding upon the parties unless expressly contained herein. This Agreement is a complete and exhaustive statement of the terms of the parties' agreement, which may not be explained or supplemented by evidence of consistent additional terms or contradicted by evidence of any prior or contemporaneous agreement. No modification of this Agreement shall be effective unless it is in writing and signed by each of the parties. If any provisions of this Agreement are in valid, illegal or unenforceable in any respect, the remaining provisions shall not be affected in any manner. All individuals and entities executing this Agreement hereby acknowledge having the full power and authority to enter into and perform the obligations under this Agreement and that this Agreement does not violate the terms of any other agreement to which it is subject. The parties agree to execute such further and additional documents, instruments, and writings as may be necessary, proper, required, desirable, or convenient for the purpose of fully effectuating the terms and provisions of this Agreement. The information submitted by Merchant as part of its application for this transaction is hereby incorporated into and made a part of this Agreement. The signatures to this Agreement may be evidenced by facsimile copies or other electronic means reflecting the party's signature hereto, and any such copy or signature shall be sufficient as if it were an original signature.

11. Governing Law. Purchaser and Merchant agree that this Agreement is accepted in California and not enforceable until signed in California. This Agreement and all claims shall be governed by, and construed in accordance with, the laws of the State of California without regard to principles of conflicts of laws. All litigation, suits, court proceedings and other actions (except arbitration) relating to, arising out of or in connection with this Agreement, whether founded in contract or tort, shall be submitted to the in personam jurisdiction of the courts of the State of California and the exclusive venue for all such suits, proceedings and other actions shall be in Los Angeles County, California. No action may be brought in any other state or jurisdiction. Merchant and Purchaser hereby waive any claim against or objection to the in personam jurisdiction and venue in the courts of Los Angeles County, California. Purchaser and Merchant hereby irrevocably waive any objection and any right of immunity on the ground of venue or the convenience of the forum, or to the jurisdiction of such courts or from the execution of judgments resulting therefrom. ALL PARTIES TO THIS AGREEMENT HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, SUIT, COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM BROUGHT BY ANY OF THE PARTIES HERETO ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO OR CONNECTED WITH THIS AGREEMENT. Either Party may elect to resolve any claims or disputes related to this Agreement by neutral, binding arbitration. An election to arbitrate a dispute may be made by any party before filing a lawsuit or in response to a claim, counterclaim, or cross claim. Any arbitration hearing at which Merchant appears will take place within the State of California. If arbitration is elected, the party initiating the arbitration proceeding may select from the following arbitration organizations, which will apply the appropriate rules for commercial claims to arbitrate the Dispute: American Arbitration Association ("AAA"), National Arbitration Forum ("NAF"), or any other organization that Purchaser approves. Any arbitration hearing will take place within the State of California. Judgment upon any arbitration award may be entered in any court in any State. NO CLAIM SUBMITTED TO ARBITRATION WILL

BE HEARD BY A JURY AND NO CLAIM MAY BE BROUGHT AS A CLASS ACTION OR AS A PRIVATE ATTORNEY GENERAL. THERE SHALL BE NO RIGHT TO ACT AS A CLASS REPRESENTATIVE OR PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS WITH RESPECT TO ANY CLAIM. Arbitration shall be governed by the Federal Arbitration Act (9 U.S.C. § 1 et. seq.) and not by any state law concerning arbitration. This paragraph shall survive any termination or transfer of this Agreement. If any part of this arbitration clause, other than waivers of class action rights, is deemed or found to be unenforceable for any reason, the rest shall remain enforceable. If a waiver of class action rights is deemed or found to be unenforceable for any reason in a case in which class action allegations have been made, the remainder of this arbitration clause shall be unenforceable.

12. Remedies. In the event Merchant breaches any of the provisions of this Agreement, including but not limited to the representations, warranties and covenants made in paragraph 7, Purchaser shall be entitled to all remedies available under law. In any action for damages, Purchaser shall be entitled to damages equal to the Amount Sold less the amount received by Purchaser from the Daily Percentage. Merchant hereby agrees that Purchaser may automatically debit from any of Merchant's bank accounts via the ACH or otherwise all or any portion of the Purchase Price or may instruct Merchant's processor to forward to Purchaser, without any prior notice to Merchant, all or any portion of the Purchase Price owed if Merchant defaults under this Agreement.

13. Attorney's Fees and Costs. In the event Merchant defaults, Purchaser shall be entitled to recover from Merchant all costs of collection, including reasonable attorney's fees and court costs. For this purpose, "costs of collection" shall include the costs, including reasonable attorney's fees, associated with defending, protecting or enforcing Purchaser's rights under this Agreement including in any bankruptcy proceeding. If Merchant files an action against Purchaser and the matter is dismissed or Purchaser prevails in the matter, Merchant agrees to pay all of Purchaser's attorney's fees and costs incurred in the matter, whether in court or arbitration.

14. Reporting: Merchant and Guarantors, defined below, understand that Purchaser will obtain a credit report on the Merchant and any individual that signs this Agreement. The report Purchaser obtains may include, but is not limited to, the business' or individuals' credit history or similar characteristics, employment and education verifications, social security verification, criminal and civil history, Department of Motor Vehicle records, any other public records, and any other information bearing on credit standing or credit capacity.

15. GUARANTOR(S). By signing this Agreement on behalf of Merchant (each such signer a Guarantor), the Guarantors hereby assume and, jointly and severally, guarantee those obligations of the Merchant arising under paragraphs 7, 12 and 13 of this Agreement or other Merchant fraud, and authorizes and permits Purchaser to automatically withdraw any and all funds from any of Guarantors' bank accounts to ensure payment of any amounts owed under this Agreement. This guarantee is unlimited, absolute and without condition, and is binding upon each Guarantor, the Guarantor's heirs, legal representatives, successors and assigns. Each Guarantor hereby authorizes inquiry into the Guarantor's personal financial information, including, but not limited to, banking relationships, references given, consumer reports and credit bureaus, and criminal and civil matters. Without limiting the generality of the preceding sentence, each Guarantor hereby authorizes Purchaser to obtain consumer and/or investigative reports from one or more consumer reporting agencies about Guarantor. The Guarantors to this Agreement are hereby notified that a negative credit report reflecting on his/her credit record may be submitted to a credit reporting agency if the terms of this Agreement are breached. Each Guarantor acknowledges receiving a copy of this Agreement and having read the terms of this Agreement, including, without limitation, the guarantee set forth in this paragraph, and the Guarantor's signature below shall serve as confirmation that the Guarantor understands all terms and conditions of this Agreement.

PERFORMANCE COMMERCIAL CAPITAL

Merchant: _____

By: _____
(Signature)

By: _____
(Signature)

Print Name: Steven Levey

Print Name: _____

Title: President/COO

Title: _____ Date: _____

Date: _____

Owner:

Print

(Signature)
Name: _____ Date: _____

Additional Guarantor

Print Name: _____ Date: _____