

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

IN RE:

PBA EXECUTIVE SUITES, LLC

Debtor-in-Possession.

CASE NO. 16-26136-EPK

CHAPTER 11

**SECURED CREDITOR, SWIFT FINANCIAL CORPORATION D/B/A SWIFT  
CAPITAL'S EXPEDITED MOTION TO PROHIBIT USE OF CASH COLLATERAL**

**Expedited Hearing On Motion Requested On January 4, 2017**

An expedited hearing on the Motion is requested for January 4, 2017 at 2:00 p.m., in light of an already scheduled hearing on that same date and time on *Debtor's Motion for Payment of Post-Petition Retainer in the Amount of \$10,000* [ECF # 12 and # 13] and an *Initial Status Conference* [ECF # 5]. The Debtor previously scheduled a evidentiary hearing on its *Motion to Use Cash Collateral* [ECF #18] for the same date and time [ECF # 20], which was subsequently withdrawn [ECF #19], but the evidentiary hearing does not appear to have been cancelled [ECF # 20]. Irrespective of the likely cancellation of the prior hearing on use of cash collateral, Swift Financial Corporation d/b/a Swift Capital requests a hearing on the use of its cash collateral on the same date and time as the Initial Status Conference – January 4, 2017

Secured Creditor, Swift Financial Corporation d/b/a Swift Capital ("Swift"), by and through undersigned counsel, moves (the "Motion") this Court for entry of an Order prohibiting Debtor-in-Possession, PBA Executive Suites, LLC (the "Debtor") from using its cash collateral, pursuant to 11 U.S.C. §363(c)(2)(A) and Bankruptcy Rule 4001. In support of the Motion, Swift states as follows:

**Brief Introduction**

Swift, is a secured creditor in all of the Debtor's personal property, including cash collateral, accounts, fixtures, furniture, and equipment, by virtue of the *Future Receivables*

*Sales Agreement* (detailed below), and the properly recorded UCC-1 Financing Statement (detailed below). The Debtor has failed to secure permission to utilize Swift's cash collateral in direct violation of 11 U.S.C. §363(c)(2)(A).

### **BACKGROUND**

#### ***Pre-Petition Contract for Purchase Of Future Receivables (Only 46 days prior to Petition), and The Security Agreement***

1. Beginning on July 27, 2015 (the "First Contract"), the Debtor and Swift entered into a series of Contracts for the purchase of receivables.<sup>1</sup>

2. On October 18, 2016 (less than 50 days before commencing the instant bankruptcy case) Swift and Debtor executed the last of the contracts by entering into the *Future Receivables Sales Agreement* (the "Agreement"). A copy of the Agreement is attached as **Exhibit "A."** Pursuant to the terms of the Agreement, Swift purchased \$227,809.00 in future receivables of the Debtor in exchange for purchase price of \$190,000.00. The Debtor was to remit the purchase price from the business' collected receivables on a weekly basis. See Pg. 3-4, the Agreement.

3. As part of the Agreement, and in order to secure the Debtor's obligation to Swift under the Agreement, the Debtor agreed to grant to Swift "continuing security interest in and to all of your present and future accounts, receivables, chattel paper, deposit accounts, personal property, goods, assets and fixtures, general intangibles, instruments, equipment and inventory (as those terms are defined in Article 9 of the Uniform Commercial Code ('UCC')), wherever located, and with respect to these items, all proceeds now or hereafter owned or acquired by you (collectively, the 'Collateral').

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<sup>1</sup> On July 27, 2015 the Debtor sold \$95,925 in future receivables for \$75,000. On December 16, 2015, the Debtor sold \$160,655.00 in future receivables for \$126,600. On May 10, 2016, the Debtor sold \$168,202 in future receivables for \$133,600.

Upon any Event of Default, we may exercise any and all remedies available to secured parties under the UCC or any other applicable law.” See ¶12, Pg. 8, the Agreement.

4. The Debtor also consented in the Agreement to Swift’s creation and filing of a UCC-1 financing agreement to perfect its interest in the above-listed collateral. See ¶12, Page 8 of the Agreement.

5. A UCC-1 Financing Statement (the “UCC-1”) was filed with the Florida Secured Transaction Registry on July 28, 2015 contemporaneously with the execution of the first contract. A copy of the UCC-1 is attached to this Motion as **Exhibit “B.”**

6. The Debtor has ceased making payment due and owed under the Agreement. Debtor is still required to pay the remainder of the sums due and owed under the Agreement in the amount of \$189,840.84.

***The Bankruptcy: Schedules Filed Do Not List Swift as a Secured Party or Counter-Party to An Executory Contract, the Schedules Do Not Include Schedules I and J, and Debtor Continues to Use Cash Collateral Without Swift’s Prior Consent***

7. On December 3, 2016, the Debtor commenced the above-captioned bankruptcy case (the “Petition Date”) under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

8. In schedule A/B of the Debtor’s bankruptcy schedules the Debtor lists office furniture and equipment with current value of \$135,330.00, \$23,780.13 in cash (as of Petition Date), and \$0.00 in accounts receivables (the “Schedules”) [ECF # 14]. However, in Schedule D of the Schedules, the Debtor, under penalty of perjury, fails to list Swift as a secured creditor in any of those assets that serve as its Collateral. Instead, the Debtor lists Swift as an unsecured creditor under Schedule F, and without listing the Agreement as an executory contract under Schedule G.

9. Debtor further fails to file Schedule I and J to provide creditors an ability to determine the present cash flow of the business.

10. On December 20, 2016, the Debtor filed its Chapter 11 Case Management Summary (the "Summary") [ECF # 21]. In the Summary, the Debtor describes its operation as the "operator of executive suites." In light of its ongoing operation, the Debtor generates cash and receivables from leasing its space to various tenants.

11. The Summary further lists the approximate value of the above listed Collateral at \$162,000 (\$150,000 worth of Furniture and Fixtures, and \$12,000 worth of Equipment). Again, the Summary also fails to list Swift as a secured creditor in the Collateral, despite Swift being the only party to have properly perfected its interest in the Collateral by filing its UCC-1 Financing Statement (based on the Florida Secured Transaction Registry). See ¶8 and ¶9, Pg. 2, the Summary.

12. Even more puzzling is Debtor's filing of a *Motion For Use of Cash Collateral* ("Cash Collateral Motion") [ECF # 18] on December 19, 2016, which was withdrawn that same day [ECF #19].

13. The Cash Collateral Motion sought approval of Debtor's use of rents- Cash generated from leases on real property it owns in Tulsa, Oklahoma. That motion sought the use of \$2,800 generated from that specific property pursuant to an assignment of rents agreement. No such agreement was attached thereto the Cash Collateral Motion.

14. Again, there no mention in the Cash Collateral Motion of Swift and its interest in the Collateral.

15. In the Summary, Debtor suggests that Palm Beach Atlantic Financial Group ("PBAFG"), the equity owner of the Debtor, may be receiving ongoing management fee

for its services, all-the-while secured creditor Swift is deprived of its Collateral on an ongoing basis. See ¶16, Pg. 1, the Summary.

16. Swift is not able to determine the amount of cash presently collected in light of Debtor's failure to file Schedules I and J (Income and Expenses, respectively).

17. Moreover, the Debtor continues to operate as though Swift is not a secured party, despite its properly perfected security interest in all of its personal property, including Cash generated from leases, and the furniture, fixtures, and equipment.

**DEBTOR SHOULD BE PROHIBITED FROM  
USING SWIFT'S CASH COLLATERAL**

18. Based on the foregoing, the Court should order the Debtor to cease using any monies that constitute cash collateral, given that the Debtor is using those funds to pay equity holders rather than secured creditors holding a perfected interest in the cash and other Collateral.

19. Any rents or other payments which are proceeds of the Debtor's Collateral constitute cash collateral pursuant to 11 U.S.C. §363(a).

20. According to 11 U.S.C. §363(c)(2), the [Debtor] may not use...cash collateral under paragraph 1 of this subsection unless – (A) each entity that has an interest in such cash collateral consents; or (B) the Court, after notice and a hearing, authorize such use...in accordance with the provisions of this section.”

21. As of the filing of this Motion, the Debtor has not obtained Swift's consent to use its cash collateral or been given authorization by this Court to use the cash collateral after not and hearing as required by 11 U.S.C. §363(c)(2).

22. As such, Swift is entitled to adequate protection for any of its cash collateral pursuant to 11 U.S.C. §361.

WHEREFORE, Swift respectfully request that this Court enter an order providing the following relief:

- (a) Grant the Motion;
- (b) Enjoin the Debtor from using any monies that constitute cash collateral pending further order of the Court, and the completion of Schedule I and J together with the presentation of a proposed budget on a go forward basis;
- (c) Compel the Debtor to provide a detailed accounting of any monies received, which constitute cash collateral, and a condition precedent, be required to amend Schedules D and G.
- (d) Swift be granted adequate protection for its interest in any cash collateral that has previously been utilized without permission;
- (e) To the extent of any diminution of is cash collateral, Swift be granted an administrative priority claim under 11 U.S.C. §507(b);
- (f) That Swift be granted adequate protection for any use of cash collateral in the future in the event this Court authorizes such use;

[MOTION CONTINUES ON NEXT PAGE]

- (g) The Debtor be required to disclose its financial arrangements with its insider property manager, PBAFG, and disclose any written agreements with PBAFG; and
- (h) Grant any such other and further relief as deemed necessary and proper under the circumstances.

Dated: December 26, 2016

**LEIDERMAN SHELOMITH ALEXANDER +  
SOMODEVILLA, PLLC**

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/s/ Ido J. Alexander \_\_\_\_\_

Ido J. Alexander, Esq.  
Florida Bar No.: 51892

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Notice was served on December 26, 2016 by Notice of Electronic Filing to all parties and counsel registered with the CM/ECF system.

/s/ Ido J. Alexander \_\_\_\_\_

**EXHIBIT "A"**  
**(The Agreement)**





## FUTURE RECEIVABLES SALE AGREEMENT

<b>Date:</b>	October 18, 2016
<b>Business:</b>	
<b>PBA EXECUTIVE SUITES, LLC; PALM BEACH ATLANTIC FINANCIAL GROUP, LLC</b> <b>D/B/A Republic Executive Suites of America; PBA Financial Group</b> 2101 Vista Parkway West Palm Beach                      FL                      33411	

### PURCHASE SUMMARY

<b>Purchase Price:</b> The dollar amount paid to Business that Purchaser is paying now for the Amount Sold.	<b>\$ 190000.00 (1)</b>
<b>Amount Sold:</b> The dollar amount of the Future Receivables that are being sold to Purchaser.	<b>\$ 227809.00 (2)</b>
<b>Origination Fee Percentage: ( 2.500% of Line 1)</b> The dollar amount deducted from Business's Remittance Account the first business day after Business receives the Purchase Price.	<b>\$ 4750.00 (3)</b>

### REMITTANCE SUMMARY

<b>Remittance Frequency</b> Expected frequency the Collected Amount is withdrawn from the Business's Remittance Account.	Weekly <b>(4)</b>
<b>Collected Amount:</b> Dollar amount anticipated to be collected from Business's Remittance Account at the specified Remittance Frequency based upon the Purchased Percentage. The Collected Amount is not a fixed remittance amount and is subject to change pursuant to the Future Receivables actually generated by Business and the Alternative Remittance Amount provisions of Section 3(c) of the Terms and Conditions.	<b>\$ 4746.02 (5)</b>
<b>Purchased Percentage:</b> The percentage of Business's Future Receivables that are being sold to Purchaser. (Please note that this is <u>not</u> an interest rate).	14.00% <b>(6)</b>

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**Purchaser:** Swift Financial Corporation, 3505 Silverside, Suite 200, Wilmington, DE 19810

- A. By signing below (either manually or electronically), you, the undersigned: (1) represent that you are authorized to bind the Business to the terms and conditions of this Agreement; (2) agree that the Purchase Price will be used solely for business purposes and not for personal, family or household purposes; (3) acknowledge that you have read and understand this entire Agreement, including, without limitation, the above Purchase Summary, Remittance Summary, and the Additional Terms and Conditions (including the Arbitration Provision), and the Remittance Authorization; (4) agree to all the terms and conditions of this Agreement on behalf of the Business; and (5) acknowledge that signing any other person's name below, without such person's express consent, constitutes fraud.
- B. This Agreement and the resulting sale of Business's Future Receivables is a commercial transaction. Because this is a sale and not a loan, there is no defined repayment term, there is no specific date by which the entire Amount Sold must be delivered to Purchaser. If Business's business slows down and the delivery rate of Future Receivables decreases or if Business's business closes (and in each case Business has not otherwise violated the terms of this Agreement), there will not be an Event of Default under this Agreement.
- C. Purchaser's obligations under this Agreement will not be effective unless and until Purchaser has completed its review of the Business and paid the Purchase Price to Business.
- D. BUSINESS CANNOT SELL ITS FUTURE RECEIVABLES TO ANYONE ELSE OR ENTER INTO A FINANCING ARRANGEMENT REQUIRING DAILY OR WEEKLY REMITTANCES DURING THE TERM OF THIS AGREEMENT WITHOUT PURCHASER'S PRIOR WRITTEN CONSENT. VIOLATION OF THIS REQUIREMENT WILL RESULT IN AN EVENT OF DEFAULT AND THE ASSESSMENT OF CERTAIN FEES.**

**On Behalf of Business:**

DocuSigned by:  
 By: Brenda Morrow  
 27C3FF7C122A464...  
 Name (Print): Brenda Morrow  
 Title: Managing Member  
 Date: 10/25/2016

**Guarantor:**

DocuSigned by:  
 By: Brenda Morrow  
 27C3FF7C122A464...  
 Name (Print): Brenda Morrow  
 Date: 10/25/2016

**On Behalf of Business (if needed):**

DocuSigned by:  
 By: William Smith  
 65A13C7FE48E4A0...  
 Name (Print): William Smith  
 Title: Managing Member  
 Date: 10/25/2016

**Guarantor:**

DocuSigned by:  
 By: William Smith  
 65A13C7FE48E4A0...  
 Name (Print): William Smith  
 Date: 10/25/2016  
 Guarantor:  
 By: \_\_\_\_\_  
 Name (Print): \_\_\_\_\_  
 Date: \_\_\_\_\_

**Swift Financial Corporation agrees to the terms of this Agreement:**

By:   
 Name: **Al Natali**  
 Title: **Authorized Representative**

Date: 10/26/2016

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**ADDITIONAL TERMS AND CONDITIONS****1. General Information and Definitions.**

- (a) This Future Receivables Sale Agreement (this "Agreement") governs the terms of the purchase of Business's Future Receivables (the "Purchase") by Swift Financial Corporation aka Swift Capital, a Delaware corporation ("Swift" or "Purchaser").
- (b) The words "Purchaser", "we," "us" and "our" mean Swift and Swift's successors and assigns (and for purposes of the Arbitration Provision, the related persons identified in the Arbitration Provision).
- (c) The words "you," "your," "yours" and "Business" mean the entity identified as Business on the first page of this Agreement.
- (d) "Guarantor" means each person who signs this Agreement in his or her individual capacity as Guarantor.
- (e) "Notice Address" means Swift Capital, 3505 Silverside, Suite 200, Wilmington, DE 19810 or any updated notice address that we provide by notice to you at any time.
- (f) "Receivables" means any and all payment rights arising from or occurring as a result of your customers' purchases of goods and/or services from you, whether by cash, checks, money orders, electronic fund transfers ("EFTs"), payment cards (including, without limitation, credit cards, charge cards, debit cards, prepaid cards, benefit cards or similar cards), extensions of credit or any other forms of payment now known or hereinafter developed. "Future Receivables" refers to any Receivables received by Business after this Agreement becomes effective.
- (g) Certain other terms are defined above in the Purchase Summary, Remittance Summary, or are defined below, including in the Remittance Authorization.
- (h) The Arbitration Provision, authorization to check credit, express permission to contact you at any telephone number you provide to us, and consent to receive information electronically are all effective immediately as to Business and each Guarantor. The remainder of this Agreement becomes effective if, and only if, we, in our sole discretion, paid the Purchase Price. We may assign all or any part of this Agreement, and any rights, licenses, responsibilities and/or obligations contained herein without restriction or limitation. **YOU AGREE TO USE THE PURCHASE PRICE SOLELY FOR BUSINESS PURPOSES AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.**

- 2. Delivery of Future Receivables.** In exchange for the Purchase Price, Business sells to Purchaser the Amount Sold. You shall deliver to us any and all amounts due under this Agreement, including, without limitation, the Purchased Percentage, or Alternative Remittance Amount if applicable, up to the Amount Sold, the Origination Fee (Line 3 of the Purchase Summary) and any and all applicable fees. There is no interest rate nor any fixed time period during which the Amount Sold must be collected by Purchaser. Purchaser is entering into this Agreement knowing the risks that Business's business may slow down or fail, and Purchaser assumes these risks based on Business's representations, warranties and covenants set forth in this Agreement, which are designed to give Purchaser a reasonable and fair opportunity to receive the benefit of its bargain.

**3. Origination Fee and Remittances.**

- (a) *Origination Fee:* The Origination Fee is due the first business day after we pay the Purchase Price to you. The Origination Fee is not refundable.
- (b) *Delivery of Future Receivables.* Until the Amount Sold is collected by us in full, along with any assessed fees, you shall deliver to us the Purchased Percentage, or the Alternative Remittance Amount if applicable, according to the Remittance Frequency. Your first remittance will be due either: (i) the first business day after you receive the Purchase Price if your Remittance Frequency is daily; or (ii) the first Weekly Remittance Day you specify in Exhibit A after you receive the Purchase Price, if your Remittance Frequency is weekly. If you do not select a Weekly Remittance Day, we will select one in our sole discretion. We may add the Returned Payment Fee or other fee(s) to any payment.

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(c) *Alternative Remittance Amount.* At Purchaser's option, Purchaser may allow Business to make an "Alternative Remittance Amount" each payment day until Purchaser receives full delivery of the Amount Sold and any assessed fees. In such circumstances, Business shall deliver to Purchaser Business's monthly bank statements for all bank accounts (the "Bank Statements") within ten (10) days of Business's receipt thereof. If, upon Purchaser's receipt of Bank Statements, such Bank Statements reflect that Purchaser has collected from Business's Remittance Account(s) during such month an amount in excess of the Purchased Percentage of Business's Future Receivables for such month, Purchaser shall promptly credit the Business's Remittance Account with an amount equal to the difference between (i) the amount actually collected by Purchaser from the Business's Remittance Account during such month and (ii) an amount equal to the Purchased Percentage of Business's Future Receivables for such month. If, upon Purchaser's receipt of Bank Statements for all Bank Accounts for a given month, such Bank Statements reflect that Purchaser has collected from the Business's Remittance Account during such month an amount less than the Purchased Percentage of Business's Future Receivables for such month, Business shall promptly owe and deliver to Purchaser an amount equal to the difference between (i) the amount actually collected by the Purchaser from the Business's Remittance Account during such month and (ii) an amount equal to the Purchased Percentage of Business's Future Receivables for such month. If the amount collected from the Business's Remittance Account is within \$5 of the Purchased Percentage of Business's Future Receivables for such month, neither Purchaser nor Business is required to make additional transfers for that month. This right to make an Alternative Remittance Amount terminates once an Event of Default occurs.

4. **Fees.** Purchaser does NOT CHARGE ANY BROKER FEES to Businesses that sell their Future Receivables to Purchaser. If Business is charged such a fee, it is not being charged by Purchaser. Additionally, because this is not a loan, Purchaser does not charge any interest, finance charges, points, late fees or similar fees. To the extent permitted by applicable law, we will charge the following fees, in addition to the Origination Fee:

- (a) *Returned Remittance Fee.* If for any reason any EFT or other remittance is returned unpaid or cannot be processed, we will charge a \$35 fee. We will charge this fee only once for any returned or dishonored remittance, regardless whether it is honored upon resubmission.
- (b) *Collections Administration Fee.* Upon the occurrence of any Event of Default (as defined below), we will charge a fee in the amount of 10% of the then-current remaining Amount Sold at the time the fee is assessed, less any assessed fees.
- (c) *Stacking Fee:* if Business sells any of Business's Future Receivables without Purchaser's prior written consent (including, but not limited, "stacking" or Business entering into a financing arrangement requiring Business to make daily or weekly payments or remittances), in addition to any Collections Administration Fee, Business will be charged 10% of the original Amount Sold to reflect the increased risk to Purchaser of being paid.

5. **Performance Guaranty.**

- (a) By signing this Agreement, each Guarantor assumes, jointly and severally, the full, complete and timely performance of all of Business's obligations under the Agreement if a breach of any of Business's representations, warranties or covenants occurs. If such a breach occurs, then Guarantor(s) shall perform under this Agreement including paying, or causing to be paid, any amounts due that Purchaser would otherwise be entitled to collect from Business. This guaranty is a guaranty of performance and not a guaranty of collection. Purchaser may proceed to enforce its rights against each Guarantor prior to, contemporaneously with or after, any enforcement against Business or without any enforcement against Business. The Guarantor(s)' obligations are unconditional and absolute and shall remain in full force and effect and without regard to and shall not be released, discharged or in any way affected by (a) any amendment to this Agreement; (b) any exercise or non-exercise of or delay on exercising any right, remedy, power or privilege under or in respect of this Agreement; (c) any bankruptcy, insolvency, arrangement, composition, assignment for the benefit of creditors, or similar proceeding commenced by or against Business or any of its officers, directors or principals; (d) defects in the formation or authority of Business; or (e) any other circumstance that might otherwise constitute a legal or equitable discharge of a guarantor or surety. If payment of any sum by Business is recovered as a preference or fraudulent conveyance under any bankruptcy or insolvency law, the liability of Guarantor(s) under this guaranty

shall continue and remain in full force and effect notwithstanding such recovery. By this provision, the Guarantor(s) is notified that a negative credit report reflecting on his/her credit record may be submitted to a credit reporting agency if the provisions of this Section are triggered by a breach of this Agreement by Business. Each Guarantor acknowledges receiving a copy of this Agreement and having read the terms of this Agreement, including, without limitation, the guaranty set forth in this paragraph, and the Guarantor's signature will serve as confirmation that the Guarantor understands all terms and conditions of this Agreement. Each Guarantor agrees that this guaranty is continuing and absolute and that Purchaser may modify or extend the terms of this Agreement, or compromise, settle or release any other obligor under this Agreement without notice or consent by Guarantor and without affecting Guarantor's liability. For the avoidance of doubt, Guarantor is obligated to pay the Amount Sold and any assessed fees only upon the occurrence of an Event of Default.

(b) *Provisions of Agreement Applicable to Each Guarantor:* Sections 8 (Our Rights upon Default), 9 (Representations and Warranties), 10 (Covenants), 14 (Business Information; Reporting Information to Credit Bureaus), 15 (Telephone Recordings), 16 (Contacting You; Phone and Text Messages); 17 (Correspondence), 18 (Bankruptcy), 21 (Limitation of Liability), 22 (Waiver of Right to Trial by Jury) and 24 (Arbitration Provision) and any other relevant Section apply fully to each Guarantor individually, and each reference to "you," or "your" in such Sections of this Agreement shall be deemed to apply not just to Business but also to each Guarantor individually.

**6. Right to Cancel.** Business may cancel this transaction at any time within ten (10) days after Purchaser forwards any or all of the Purchase Price to Business. However, in order to cancel the transaction, Business must return to Purchaser the entire amount of the Purchase Price received by Business within that same ten (10) day period. Notwithstanding the foregoing, the Origination Fee (if any) is non-cancellable and non-refundable.

**7. Events of Default.** Subject to applicable law, we may declare you to be in default under this Agreement if any one or more of the following events occurs and is continuing (each an "Event of Default"):

- (a) You fail to make any required remittance of Future Receivables or payment when due except as otherwise permitted by this Agreement;
- (b) You fail to inform Purchaser prior to a scheduled daily or weekly remittance that the Remittance Account has insufficient funds due solely to a decline in Receivables as demonstrated by written documentation provided by Business, such that a scheduled remittance is returned or dishonored;
- (c) You fail to maintain the Bank Accounts (as defined in Exhibit A) or open a new bank account to deposit Receivables without our consent;
- (d) You fail to provide copies of all documents and requested information related to your financial or banking affairs within five (5) days after a request by us;
- (e) You use any portion of the Purchase Price for personal, family or household purposes or to fund a dividend or other distribution to Business owners;
- (f) You breach any representation, warranty, agreement, promise or covenant set forth in this Agreement, or you or any of your employees or agents provides us with any false or misleading information;
- (g) You make any act or omission that has the result of interfering with or circumventing, the remittance or payment to us of any amount owed under this Agreement, including, but not limited to: (i) conducting business under an alternative name; (ii) depositing Receivables into any bank accounts other than the Bank Accounts; (iii) encouraging customers to make payments by cash that you fail to deposit into the Bank Accounts; or (iv) manipulating the use and form of business entities for the purpose of avoiding your obligations under this Agreement;
- (h) You fail to permit us or our agent to conduct a site inspection of your business at any reasonable time during the term of this Agreement;
- (i) Without our prior express written consent, you enter into any credit, cash advance or other financing arrangement requiring daily or weekly payments or remittances;

- (j) Without our prior express written consent, you sell any of your assets outside of the ordinary course of business;
- (k) Without our prior express written consent, you sell any of your Future Receivables while you owe any amount under this Agreement;
- (l) Without our prior express written consent, you undertake or permit a change of control of your business;
- (m) You become subject to any material judgment or garnishment following the date of this Agreement;
- (n) You default on any other agreement that you have with us or any of our affiliates.

**8. Our Rights Upon Default.** Upon any Event of Default,: (a) all unpaid amounts of the Amount Sold and any assessed fees shall be immediately due and payable or, including all Receivables or Future Receivables until the entire balance, fees and deficiencies are paid in full; (b) commence an action against you to collect all amounts owed in connection with this Agreement; (c) charge and recover from you the Collections Administration Fee and/or the Stacking Fee (if applicable), all of our out-of-pocket costs and expenses, including reasonable attorneys' fees, arbitration costs, and/or court costs, incurred by us in connection with the defense, protection or enforcement of our rights under this Agreement (including, without limitation, in connection with any bankruptcy proceeding) and any other fees that may be due and owing (collectively, "Costs of Collection"); (d) withdraw funds from any of your Bank Accounts by ACH debit, up to the unpaid amount that you owe us under this Agreement (including the fees as set forth in Section 4 and any Costs of Collection); and (e) we may exercise any and all rights or remedies available to a secured creditor under Article 9 of the Uniform Commercial Code or analogous state laws. All rights available to us are cumulative and not exclusive of any other right or remedy available to us in law or equity.

**9. Representations and Warranties.** You and any individual signing this Agreement as a Guarantor represent and warrant to us, as of the date hereof and each day the Amount Sold and any assessed fees remain unpaid, as follows:

- (a) The Future Receivables are not subject to any claims, charges, liens, restrictions, encumbrances or security interest of any nature whatsoever not disclosed to us prior to executing this Agreement;
- (b) As of the date the Purchase Price is paid to Business, Business is not the subject of a bankruptcy or reorganization proceeding that has not been discharged or dismissed, do not have a plan to make a bankruptcy filing and have not met with a bankruptcy attorney within the past six months;
- (c) All information that you have provided to us is true, correct and accurately reflects your financial condition and results of operations;
- (d) Business has all required permits, licenses, approval, consents and authorizations necessary to conduct your business;
- (e) Business is in compliance with all laws, regulations and requirements that affect your business;
- (f) You (and each Guarantor) have full power and authority to enter into and perform your obligations (and each Guarantor's obligations) under this Agreement;
- (g) Business is financially solvent (i.e., your assets exceed the value of your liabilities);
- (h) Business has the legal right and ability to execute this Agreement and perform all of its obligations under this Agreement without violating any other agreement, obligation, promise, court order, administrative order or decree, law or regulation to which it is subject;
- (i) Business is duly qualified, licensed and in good standing in each state in which it is doing business;
- (j) Business's papers and all amendments thereto have been duly filed and are in proper order, and any capital stock, member interest or other equity issued and outstanding was and is properly issued;
- (k) Business's books and records are accurate and up-to-date and accessible to us;
- (l) Business's legal name is exactly as shown on this Agreement;

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(m) All of the Bank Accounts are maintained at U.S. financial institutions and all of the Bank Accounts were established and are used solely for business purposes and not for personal, family or household purposes.

**10. Covenants.** Until all amounts outstanding under this Agreement have been paid in full, you and any individual signing this Agreement as a Guarantor covenant to us:

- (a) Business will: (i) preserve, renew and maintain in full force and effect your corporate or organizational existence, if any; (ii) take all reasonable action to maintain all rights, privileges and franchises necessary or desirable for the normal conduct of your business; and (iii) remain duly qualified, licensed and in good standing in your state of organization (if any) and every other state in which you are doing business.
- (b) Business will comply with: (i) all of the terms and provisions of your organizational documents and bylaws, if any; (ii) your obligations under your material contracts and agreements; and (iii) all laws and orders applicable to you and your business, except where the failure to do so could not reasonably be expected to risk a material adverse effect on your financial condition, business or prospects or your ability to perform your obligations under this Agreement.
- (c) Business will pay, discharge or otherwise satisfy at or before maturity, all of your material obligations of whatever nature, including without limitation all amounts as they are or may be due under this Agreement.
- (d) Business will not, without our prior written consent, (i) merge or consolidate with or into any other business entity; (ii) sell your assets or enter into any joint venture or partnership with any person, firm or corporation; (iii) change your name, place of business, chief executive officer, mailing address or organizational identification number, if any; (iv) change your type of organization, jurisdiction of organization or other legal structure.
- (e) Within five (5) days after our request, you will: (i) provide us with such information about your financial condition and operations as we may from time to time reasonably request; and (ii) sign any and all documents and provide any and all information and authorizations that we, in our sole discretion, deem necessary to implement this Agreement (including any document, information or authorization that we need in order to access, for purposes of electronic inquiry, any of your Bank Accounts).
- (f) You will promptly provide notice to us in writing upon becoming aware of any Event of Default or the occurrence or existence of an event which, with the passage of time or the giving of notice or both, would constitute an Event of Default.
- (g) Business will not sell or pledge any Future Receivables to another party without our prior written consent other than a sale or pledge pursuant to an agreement, not subsequently modified, in effect prior to the date of this Agreement and brought expressly to our attention as an agreement providing for a sale or pledge of Future Receivables.
- (h) Business will promptly pay all necessary taxes including payroll, sales and use taxes and you will make any payments that you are required to make pursuant to, and in accordance with, the requirements of any tax payment programs in which you participate.
- (i) Without our prior express written consent, Business will, subject to the terms of this Agreement, continue to conduct all aspects of your business consistent with past practices and employ adequate staffing to maintain the operations of your business, notwithstanding the death or disability of any principal, officer or employee.
- (j) You will not share your on-line portal log-on credentials provided by us with any third party.
- (k) You will use the Purchase Price solely for business purposes and not for personal, family or household purposes.
- (l) You will not make any act or omission that has the result of interfering with or circumventing, the remittance or payment to us of any amount owed under this Agreement, including, but not limited to: (i) conducting business under an alternative name; (ii) depositing Receivables into any bank accounts other than the Bank Accounts; (iii) encouraging customers to make payments by cash that you fail to

deposit into the Bank Accounts; or (iv) manipulating the use and form of business entities for the purpose of avoiding your obligations under this Agreement.

- 11. Bank Accounts.** You will maintain the Bank Accounts (as defined in Exhibit A) until all obligations are satisfied under this Agreement. Additionally, you will ensure that all funds arising from Future Receivables are deposited in, or otherwise credited to, the Remittance Account(s), including, without limitation, by: (i) depositing all cash, checks and money orders into the Remittance Account(s) no later than the business day following the business day upon which any of these items are received by you; (ii) directing all EFTs relating to Future Receivables to be directly deposited into the Remittance Account(s); and (iii) directing all of your card processors to directly deposit all card payments into the Remittance Account(s). You will not permit any event to occur that could cause a diversion of any funds from the Remittance Account(s) to any other account or entity. You will provide us and/or our authorized agents with all information and authorizations that are necessary for verifying your Future Receivables, receipts, deposits into and withdrawals from the Remittance Account (s).
- 12. Security Interest.** Business acknowledges that it is selling certain of its Future Receivables to Purchaser and that such a transaction constitutes either the sale of accounts or general intangibles pursuant to the Uniform Commercial Code or analogous state statutes. In order to secure your full performance of your obligations under this Agreement, you grant to us a continuing security interest in and to all of your present and future accounts, receivables, chattel paper, deposit accounts, personal property, goods, assets and fixtures, general intangibles, instruments, equipment and inventory (as those terms are defined in Article 9 of the Uniform Commercial Code ("UCC")), wherever located, and with respect to these items, all proceeds now or hereafter owned or acquired by you (collectively, the "Collateral"). Upon any Event of Default, we may exercise any and all remedies available to secured parties under the UCC or any other applicable law. We have the right, but not the obligation, to create, sign on your behalf and file any and all filings that we determine are reasonably necessary to perfect our security interest in the Collateral, including without limitation, one or more UCC-1 financing statements. You agree that you will, from time to time, promptly execute and deliver all instruments and documents (including any account control agreements), and take all further action, that may be necessary or appropriate, or that we may reasonably request, to perfect our security interest in the Collateral against you and all third parties or to enable us to exercise and enforce our rights and remedies hereunder.
- 13. Indemnity.** You will defend, indemnify and hold us harmless from any damages, liabilities, costs, expenses (including reasonable attorneys' fees) or other harms arising out of any violation of any laws, statutes, regulations, ordinances, contracts or other obligations pertaining to the conduct of your business.
- 14. Business Information; Reporting Information to Credit Bureaus.** You, and each person individually who signs this Agreement on your behalf, in both your individual capacity and as a principal of the Business, authorize us to contact any third party, including any credit reporting or database service, your current, prior or third-party card processors, and your current and prior banks (including, without limitation, any bank where any Bank Account have been or will be maintained), so that we may confirm or obtain any information bearing on your creditworthiness or reputation, and obtain a credit report or background report on you and/or each individual who signs this Agreement on your behalf, together with whatever other information we determine is necessary to review your application or to monitor, maintain and collect on your account and for any other lawful purposes. Such information may include, without limitation, your credit history or similar characteristics, credit card, debit card and other payment card and instrument processing history (including, without limitation, your chargeback history), employment and education history, social security verification, criminal and civil history, Department of Motor Vehicle and other public agency records as well as any other information bearing on your credit standing, credit capacity or character or that we otherwise deem pertinent to this Agreement. This authorization to obtain reports is valid at any time during which this Agreement is in effect.

We may report information about the Purchase Price and this Agreement to other creditors, other financial institutions and credit bureaus. You have the right to dispute the accuracy of information we have reported. If you believe that any information that we have reported to a credit bureau is inaccurate, or if you believe that you have been the victim of identity theft in connection with the Purchase Price or this Agreement, you must write us at the Notice Address, Attn: Fraud/Dispute. Please include your name, address, Advance



Number, telephone number and a brief description of the problem. If available, please include a copy of the credit report in question. If you believe that you have been the victim of identity theft, you must send us a police report or written statement in a form we provide you alleging that you are the victim of identity theft for a specific debt.

- 15. Telephone Recordings.** You understand and agree that we may monitor and/or record any of your phone conversations with any of our representatives. However, we are not required to monitor and/or record any such conversations.
- 16. Contacting You; Phone and Text Messages.** You authorize us and our affiliates, agents, successors, assigns and service providers (collectively, the "Messaging Parties") to contact you using automatic telephone dialing systems, artificial or prerecorded voice message systems, text messaging systems and automated email systems in order to provide you with information about this Agreement, including, without limitation, information about upcoming anticipated remittance dates, missed remittance or payment dates, returned remittances and/or marketing opportunities. You authorize the Messaging Parties to make such contacts using any telephone numbers (including wireless, landline, VOIP numbers and hereinafter developed technology) or email addresses you supply to the Messaging Parties, the Messaging Parties' servicing and/or collection of amounts you owe the Messaging Parties or any other matter. You understand that anyone with access to your telephone or email account may listen to or read the messages the Messaging Parties leave or send you, and you agree that the Messaging Parties will have no liability for anyone accessing such messages. You further understand that, when you receive a telephone call, text message or email, you may incur a charge from the company that provides you with telecommunications, wireless and/or Internet services, and you agree that the Messaging Parties will have no liability for such charges. You expressly authorize the Messaging Parties to monitor and record your calls with the Messaging Parties. The consent set forth in this Section is not required as a condition of entering into a transaction with us and you understand that, at any time, before or after you sign this Agreement, you may withdraw your consent to receive text messages and calls to your cell phone or to receive artificial or prerecorded voice message system calls by calling the Messaging Parties at 800-923-0007.
- 17. Consent to Receive Electronic Notices and Disclosures; Correspondence.** You agree that we may send to you, either electronically or in writing as we elect, any and all documents relating to the Purchase, the Purchase Price and/or this Agreement. Your consent includes, but is not limited to: (a) transacting business with us online or electronically; (b) receiving disclosures or notices electronically, either via a disclosure on our website or in an email sent to you at an email address provided by you; and (c) receiving electronically all relevant documents, communications, notices and/or contracts related to your sale of Future Receivables to us. Any written or electronic correspondence we send to you will be effective and deemed delivered when emailed or mailed to you at your mail address, as it appears on our records. You shall promptly notify us of any change to your email address or your mailing address. All notices to us must be sent to the Notice Address, with such attention as may be specified in this Agreement. To the extent permitted under applicable law, any notice you send us will not be effective until we receive and have a reasonable opportunity to act on such notice.
- 18. Bankruptcy.** All bankruptcy notices and related correspondence to us must be sent to the Notice Address, Attn: Bankruptcy Notice. You represent and covenant that you have no current intent to file any bankruptcy petition and have not consulted a bankruptcy attorney in the past six months. The fact that Business goes bankrupt or is going out of business, in and of itself, does not constitute an Event of Default.
- 19. Inadvertent Overcharges.** It is not our intention to charge any fees or other amounts in excess of those permitted by applicable law or this Agreement. If any fee or other amount is finally determined to be in excess of that permitted by applicable law or this Agreement, the excess amount will be applied to reduce any amount due under this Agreement or, if there is no amount due under this Agreement, will be refunded to you.
- 20. Delay in Enforcement.** We may at any time and in our sole discretion delay or waive enforcing any of our rights or remedies under this Agreement or under applicable law without losing any of those or any other rights or remedies. Even if we do not enforce any rights or remedies at any one time, we may enforce them at a later date.

- 21. Limitation of Liability.** WITH RESPECT TO ANY CLAIMS YOU MAY HAVE AGAINST US, YOUR SOLE REMEDY WILL BE ACTUAL MONEY DAMAGES THAT SHALL NOT EXCEED THE AMOUNT OF ANY FUNDS OVERPAID TO US. IN NO EVENT SHALL WE BE LIABLE TO YOU FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES OR LOSSES, OR LOST PROFITS, RELATING TO THIS AGREEMENT, IN TORT, CONTRACT, OR OTHERWISE, INCLUDING ANY NEGLIGENCE.
- 22. Waiver of Right to Trial by Jury.** YOU AND WE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT BUT MAY BE WAIVED IN CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW, YOU AND WE KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT. THIS JURY TRIAL WAIVER SHALL NOT AFFECT OR BE INTERPRETED AS MODIFYING IN ANY FASHION THE ARBITRATION PROVISION TO WHICH YOU AND WE ARE SUBJECT, WHICH CONTAINS ITS OWN SEPARATE JURY TRIAL WAIVER.
- 23. Governing Law, Venue and Jurisdiction.** Except as set forth to the contrary in the Arbitration Provision, any claim, dispute or controversy arising from or relating to the Purchase or this Agreement or in any way related to the parties' relationship, whether based in contract, tort, fraud or otherwise, is governed by, and construed in accordance with, federal law and, to the extent state law applies, the law of the State of Delaware without regard to otherwise applicable principles of conflicts of law. This Agreement is made and performed in the State of Delaware. All litigation, suits, court proceedings and other actions (except as set forth to the contrary in the Arbitration Provision) arising from or relating to the Purchase or this Agreement or in any way related to the parties' relationship will be submitted to the jurisdiction of the state and federal courts of the State of Delaware and the exclusive venue for all such suits, proceedings and other actions will be in New Castle County, Delaware or such other jurisdiction that may be mutually agreed to by the parties. No action may be brought in any other state or jurisdiction. Notwithstanding the foregoing, Purchaser may elect to commence litigation and court proceedings in the state and federal courts of the state in which Business is located. The parties waive any claim against or objection to the in personam jurisdiction and venue in the courts of New Castle County, Delaware. ALL PARTIES TO THIS AGREEMENT 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

**24. Arbitration Provision.**

- (a) Any party may elect to resolve any Claims (as defined below) or disputes by submitting to binding arbitration before one arbitrator selected by an Administrator. "Administrator" means the American Arbitration Association ("AAA"), [www.adr.org](http://www.adr.org), 800-778-7879 or JAMS, [www.jamsadr.com](http://www.jamsadr.com), 800.352.5267 or, if AAA and JAMS cannot serve, another company selected by you and us or by a court. For purposes of this Arbitration Provision, "we", "us", and "our" mean Purchaser, together with any subsequent holder of this Agreement or participant in the Purchase, and each of our and their respective officers, directors, agents, representatives, contractors, employees, successors and assigns; and "you" and "your" mean Business, its Principals, and each Guarantor, together with their successors. Filing, administrative, hearing and/or other fees, including attorneys fees and costs, will be borne in accordance with the Administrator's rules, except as set forth in Section 8 above related to an Event of Default. For a AAA proceeding, AAA's Commercial Arbitration Rules shall apply. For a JAMS proceeding, Streamlined Arbitration Rules shall apply. Arbitrations may be held via teleconference, but if the arbitrator decides that a hearing is required, the arbitration will be held in Wilmington, Delaware or other state as may be mutually agreed upon. NO CLAIM SUBMITTED TO ARBITRATION WILL BE HEARD BY A JURY.
- (b) "Claim" shall mean any claim, dispute or controversy between you and us that requires a legal decision to resolve, including disputes arising from actions or omissions prior to the date of this Agreement. "Claim" has the broadest reasonable meaning and includes disputes based upon contract, tort, fraud, constitution, statute, regulation, ordinance, common law and equity. "Claim" includes any claim asserted by or against any officer, director, or employee of the Business in his or her individual capacity. However, Claim does not include disputes about the validity, enforceability, coverage or scope of this arbitration provision or any part thereof (including, without limitation, the Class Action Waiver (set forth in subsection (f) below), the final sentence in subsection (e) and/or this sentence); all such disputes are

for a court to decide in which case the sole and exclusive jurisdiction is the state and federal courts located in New Castle County, Delaware and, in such instances, the parties irrevocably waive any objection based on venue or jurisdiction. However, any dispute or argument that concerns the validity or enforceability of the Agreement as a whole is for the arbitrator to decide.

- (c) Any court with jurisdiction may enter judgment upon the arbitrator’s award, which will be final and binding except for any appeal right under the Federal Arbitration Act (the “FAA”).
- (d) The Purchase involves interstate commerce and this Arbitration Provision shall be governed by the FAA and not by any state law concerning arbitration. The arbitrator shall follow applicable substantive law to the extent consistent with the FAA, applicable statutes of limitation and privilege rules that would apply in a court proceeding, and shall be authorized to award all remedies available in an individual lawsuit under applicable substantive law, including, without limitation, compensatory, statutory and punitive damages (which shall be governed by the constitutional standards applicable in judicial proceedings), declaratory, injunctive or other equitable relief, and attorneys’ fees and costs. Upon the timely request of either party, the arbitrator shall write a brief explanation of the basis of the award. The arbitrator will follow rules of procedure and evidence consistent with the FAA, this Arbitration Provision and the Administrator’s rules.
- (e) This Arbitration Provision shall survive the termination or expiration of this Agreement, your fulfillment or default of your obligations under this Agreement and/or your or our bankruptcy or insolvency (to the extent permitted by applicable law). In the event of any conflict or inconsistency between this Arbitration Provision and the Administrator’s rules or other parts of this Agreement, this Arbitration Provision will govern. If any portion of this Arbitration Provision, other than the Class Action Waiver, is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force. If a determination is made with respect to any class Claim that the Class Action Waiver is unenforceable, only this sentence of the Arbitration Provision will remain in force and the remaining provisions shall be null and void, provided that the determination concerning the Class Action Waiver shall be subject to appeal.
- (f) **Class Action Waiver: EXCEPT AS PROHIBITED BY PUBLIC POLICY, NEITHER YOU NOR WE WILL HAVE THE RIGHT TO: (I) PARTICIPATE IN A CLASS ACTION, EITHER AS A CLASS REPRESENTATIVE, CLASS MEMBER OR OTHERWISE; (II) ACT AS A PRIVATE ATTORNEY GENERAL; OR (III) JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST YOU WITH CLAIMS BY OR AGAINST ANY OTHER PERSON, AND THE ARBITRATOR SHALL HAVE NO AUTHORITY TO CONDUCT ANY SUCH CLASS, PRIVATE ATTORNEY GENERAL OR MULTIPLE-PARTY PROCEEDING.**

**25. Miscellaneous.** This Agreement shall be binding upon Business and inure to the benefit of Purchaser, its successors and assigns. Neither this Agreement, nor any of the rights, licenses, responsibilities and/or obligations contained therein, may be transferred, assigned, licensed or delegated by Business without our written permission, which we are not required to give. This Agreement constitutes the entire understanding among the parties pertaining to the sale of Future Receivables, and merges and supersedes all prior negotiations, discussions (whether oral or written) and earlier contracts of a similar nature. This Agreement may not be amended, modified or limited except by a written agreement executed by both you and us. Any provision of this Agreement that is found to be invalid under applicable law shall be invalid only with respect to the offending provision and only to the extent of the invalidity and this Agreement shall be construed so as to best effectuate the intent of the parties.

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**AUTHORIZATION TO CREDIT AND DEBIT BUSINESS’S BANK ACCOUNT(S)  
("REMITTANCE AUTHORIZATION")**

The following is a list of all of Business’s bank accounts (as subsequently supplemented, the “Bank Accounts”). The Bank Account(s) marked “Deposit Funds” is the “Deposit Account” and the Bank Account(s) marked “Withdraw Remittances” is the “Remittance Account.” However, if no Bank Account is marked as the Deposit Account, we may treat any Bank Account as the Deposit Account. Also, if no Bank Account is marked as the Remittance Account, we may treat any Bank Account as the Remittance Account, and if any payment cannot be initiated by us from the primary Remittance Account for any reason, we may treat any other Bank Account as the Remittance Account.

<b>Deposit Funds</b>	<b>Withdraw Remittances</b>	<b>Account #1 Bank Name:</b>	Chase	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<b>Routing #:</b>	267084131	<b>Account #:</b> 620787551

<b>Deposit Funds</b>	<b>Withdraw Remittances</b>	<b>Account #2 Bank Name:</b>	Chase	
<input type="checkbox"/>	<input type="checkbox"/>	<b>Routing #:</b>	267084131	<b>Account #:</b> 233037817

<b>Deposit Funds</b>	<b>Withdraw Remittances</b>	<b>Account #3 Bank Name:</b>		
<input type="checkbox"/>	<input type="checkbox"/>	<b>Routing #:</b>		<b>Account #:</b>

If your Remittance Frequency is weekly, your remittance day (the “Weekly Remittance Day”), will be set to **Tuesday** . If you would like to change your Weekly Remittance Day, please select a day below.

Weekly Remittance Day selected must be a weekday:

Monday     Tuesday     Wednesday     Thursday     Friday

- (a) *Bank Account Verification.* You promise that each Bank Account identified above or at some later time is your bank account and that you have the power and authority to (i) initiate remittances or payments from such Bank Account and (ii) authorize us to initiate remittances or payments from such Bank Account. You promise that each Bank Account is a legitimate, open, and active bank account used solely for business purposes and not for personal, family or household purposes. You authorize us to verify any information you have provided about any Bank Account and to correct any missing, erroneous or out-of-date information.
- (b) *Payment of Purchase Price.* You authorize and request us to disburse to the Deposit Account by an EFT the Purchase Price set forth on Line 1 of the Purchase Summary (and any other amount we subsequently agree to pay to you).
- (c) *Remittances and Additional Amounts.* You authorize and direct us (or our service provider) to initiate electronic fund transfers (“EFTs”) from the Remittance Account for the Collected Amount, or Alternative Remittance Amount if applicable, in accordance with the Remittance Frequency. For the amount due on the date of the final remittance, we may increase or decrease the amount of the EFT to equal the total amount then outstanding under this Agreement. You authorize us to initiate EFTs from the Remittance Account for any fee or charge you owe, and, if an Event of Default occurs, for any amounts due under this Agreement. At our election, we may add any fee or charge you owe us to the EFT we initiate to collect a payment. If any remittance or payment is scheduled to be made on a bank holiday, such remittance or payment will be made on the next business day.

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- (d) *Error Correction.* In the event we make an error in processing any remittance, payment or credit, you authorize us to initiate an EFT to or from the Bank Accounts to correct the error.
- (e) *Resubmissions and Dishonored Remittances.* You agree that we may resubmit up to two times any EFT that is rejected or dishonored. Your bank may charge you fees for unsuccessful EFTs. You agree that we will have no liability to you for such fees.
- (f) *No Termination.* You shall keep this Remittance Authorization in force so long as this Agreement remains in place and/or any amount remains outstanding under this Agreement.
- (g) *Compliance with Law and Network Rules.* You acknowledge that the origination of EFTs to and from the Bank Accounts must comply with U.S. law and applicable network rules. Business agrees to be bound by the rules of NACHA.
- (h) *Alternative Payment Methods.* If you know that we will be unable to process a daily or weekly remittance by an EFT under this Remittance Authorization, you must: (i) notify us; and (ii) mail or deliver a check or money order to us in the Remittance Amount at the Notice Address, Attn: Remittances or, if offered, remit the Remittance Amount by any pay-by-phone or online service that we may make available from time to time.

 

**EXHIBIT "B"**

**(UCC-1 Financing Statement)**



**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) Corporation Service Company 1-800-858-5294	
B. E-MAIL CONTACT AT FILER (optional) SPRFiling@cscinfo.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	
103004423 - 369860 Corporation Service Company 801 Adlai Stevenson Drive Springfield, IL 62703	Filed In: Florida (S.O.S.)

FLORIDA SECURED TRANSACTION REGISTRY

**FILED**  
2015 Jul 28 PM 02:02

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\*\*\*D\* 20120011A8-38.00\*\*\*38.00\*\*\*

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME PBA EXECUTIVE SUITES, LLC				
OR	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS	2101 Vista Parkway	CITY	STATE	POSTAL CODE
		West Palm Beach	FL	33411
				COUNTRY
				USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here  and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME Republic Executive Suites of America				
OR	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS	2101 Vista Parkway	CITY	STATE	POSTAL CODE
		West Palm Beach	FL	33411
				COUNTRY
				USA

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME FINANCIAL AGENT SERVICES				
OR	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
3c. MAILING ADDRESS	P.O. BOX 2576	CITY	STATE	POSTAL CODE
		SPRINGFIELD	IL	62708
				COUNTRY
				USA

4. COLLATERAL: This financing statement covers the following collateral:  
All documentary stamps due and payable or to become due and payable pursuant to s. 201.22 F.S., have been paid.  
Security interest in and to 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.

THE SECURED PARTY NAMED IN THIS RECORD IS ACTING IN A REPRESENTATIVE CAPACITY FOR PURPOSES OF FORWARDING NOTICES & INQUIRIES REGARDING THIS RECORD. FOR MORE INFORMATION, PLEASE CONTACT THE SECURED PARTY AT THE ADDRESS LISTED ABOVE OR AT UCCSPREP@CSCINFO.COM.

5. Check <u>only</u> if applicable and check <u>only</u> one box: Collateral is <input type="checkbox"/> held in a Trust (see UCC1Ad, item 17 and Instructions) <input type="checkbox"/> being administered by a Decedent's Personal Representative	
6a. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Public-Finance Transaction <input type="checkbox"/> Manufactured-Home Transaction <input type="checkbox"/> A Debtor is a Transmitting Utility	6b. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Agricultural Lien <input type="checkbox"/> Non-UCC Filing
7. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> Lessee/Lessor <input type="checkbox"/> Consignee/Consignor <input type="checkbox"/> Seller/Buyer <input type="checkbox"/> Bailee/Bailor <input type="checkbox"/> Licensee/Licensor	
8. OPTIONAL FILER REFERENCE DATA:	

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