



Strategic Funding Partners, Inc., DBA Merchant Cash Group
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AGENT AGREEMENT

Strategic Funding Partners, Inc., DBA Merchant Cash Group (“Group”), and _____ (“Agent”) enter into the following marketing and promotion independent contractor agreement.

Section 1. Group’s Program. The Group purchases from merchants a percentage of their future receivables due to the merchants for an amount agreed to by the Group and by the merchants (“Program”). The Program allows merchants to sell an agreed upon percentage of their future receivables at a discount.

Section 2. Agent Obligations. Agent’s primary obligation shall be to solicit and market the Group’s Program and submit applications for the Program from merchants within the guidelines, policies and practices of the Group, which guidelines, policies and practices, and funding, are understood may change from time to time, at the discretion of the Group.

Section 3. Application Approval. The Group shall have the sole discretion in the approval or denial of applications.

Section 4. Limitation of Agent’s Authority. Under no circumstances, and at no time, shall the Agent represent itself to any merchant or third party that it has any right to accept, decline or modify a merchant application or agreement, or act on behalf of or bind the Group in any manner.

Section 5. Agent Is Independent Contractor. Agent acknowledges and agrees that the Agent, and its representatives, are independent contractors and their relationship shall not be construed as any other form of relationship. Agent acknowledges and agrees that neither it nor any person or entity acting on its behalf shall represent themselves as agents or employees of the Group. Agent, and its representatives, shall at all times clearly identify themselves by the Agent’s own business name.

Section 6. Group Not Liable for Agent’s Acts. Agent acknowledges and agrees that Group shall not be liable in any manner for any acts or conduct, or failure to act, of the Agent or any of its representatives, and the Agent and its representatives shall not at anytime represent themselves out otherwise.

Section 7. Filling Out Application. Agent understands that in every case the merchant shall complete its own application and that the Agent shall not under any circumstance complete any application on behalf of the merchant.

Section 8. Other Agents. Agent shall not be the only or exclusive agent to solicit and market the Group’s program. The Group may, at its sole discretion, retain the services of other such agents.

Section 9. Compensation. The Group shall pay Agent based on applications that are approved by

the Group in accordance with the Agent Compensation Schedule, Set out in Schedule A below (“Compensation”). No commission shall be due on any application in which the merchant fails to execute an agreement within ten (10) days of the date of the merchant’s application. If a merchant referred by the Agent defaults under its agreement with the Group within thirty (30) days after funding, the Agent shall immediately return to the Group, at the Group’s discretion, via ACH, electronic check or wire transfer, the Compensation paid Agent under the Group’s agreement with the merchant. If the merchant breaches or defaults in its agreement with the Group, fails to act in good faith, or changes merchant’s credit card processor from the processor designated by the Group, Compensation to the Agent shall terminate in respect to that merchant. Commissions on Renewals and/or Re-ups shall be paid to Agents so long as that Agent submits to Group a minimum of three (3) applications that are approved and funded by Group per month for the two consecutive calendar month period prior to the month in which the commissions are due Agent. Fees shall not be charged to merchant by agent without prior written approval from MCG. Payment of Compensation to the Agent shall continue and survive termination of this agreement, unless the Group terminates the Agent or Agent, its servants, employees, officers, directors, affiliates or representatives breach this contract.

Section 10. Agent’s Expenses. Agent shall be solely responsible for any and all expenses and costs incurred by the Agent, including that related to employees, agents, representatives and consultants.

Section 11. Promotional Materials and Marks. Agent shall not present or publish to merchants, or other third parties, any marketing or promotional documents and materials, including electronic, that have not been provided by the Group or approved in advance, in writing, by the Group or for any purpose other than the solicitation for, and the promotion of, the Group’s Program. No logo, trademark or mark of the Group shall be utilized or published other than for the solicitation and promotion of the Group’s Program.

Section 12. Agent Must Know Group’s Agreement. Agent, and all of its representatives, shall read, and fully understand, the Group’s merchant agreement with the merchants. Agent, and its representatives, shall not make any statements or representations to the merchant, or to any third party, that are inconsistent with the Group’s merchant agreement, or with the Group’s guidelines, policies and practices.

Section 13. Agent’s Representatives. Agent shall be responsible to ensure that all persons and entities acting on its behalf are adequately trained, supervised and disciplined, and that no such person or entity engages in any conduct detrimental to the Group or to the Group’s Program or that violates the practices, guidelines and policies of the Group.

Section 14. Agent’s Good Faith. Agent shall act honestly and in good faith in all dealings and interactions of any nature with merchants, with the Group, and with third parties. Agent shall not engage in any illegal, fraudulent or deceptive acts or practices, or undertake any action or inaction, which is against the best interest of the Group.

Section 15. Group’s Reliance on Information. Agent acknowledges that the documents and information provided by the Agent to the Group are material and will be relied upon by the Group for its decision on whether to purchase future credit card receivables. Agent shall only provide information to the Group that is accurate, and based upon due diligence to confirm its accuracy.

Section 16. Agent's Litigation. Agent is not a party to any current litigation or judicial proceeding that will increase the risk to the Group under this agreement that have not been disclosed to the Group in writing prior to the execution of this agreement. In the event the Agent becomes a party to any litigation following the execution of this agreement, Agent shall, within ten (10) days, notify the Group of such litigation and make a full and complete disclosure of the nature of the litigation, and provide the Group with all documents and information requested by the Group concerning such litigation.

Section 17. Agent's Representations and Warranties. The Agent represents, warrants and covenants that (a) if it is a corporation, limited liability company or other form of legal entity, it is organized, validly existing and in good standing under the laws of the State where its principal office is located; (b) it has full authority and power to enter into this agreement and to perform the obligations under this agreement; (c) performance of this agreement will not violate the terms of any agreement to which it is a party; (d) it shall exert its best efforts to promote and market the Program; (e) it shall comply with any and all guidelines, policies and practices established by the Group; (f) it shall act honestly and in good faith in all dealings and interactions of any nature with merchants, with the Group, and with third parties; (g) it shall conduct its business consistent with good business principles and not alter its business practices as represented to the Group; (h) it shall timely deliver to the Group all merchant applications and all supporting documentation; (i) it shall immediately notify the Group of any changes that become known to the Agent as to the address, ownership or business operations of itself or of any merchant; (j) it shall not use any promotional material without the prior written consent from the Group or for purposes other than promotion of the Group's Program; (k) it shall not solicit or cause a merchant to terminate or change its credit card processing to a bank or processor other than that designated by the Group; (l) it shall not take any action that materially prejudices the Group or increases the Group's business or financial risk; (m) it shall notify the Group immediately of any action or omission of which the Agent is aware that could result in any loss or liability to the Group; (n) it is not a party to any pending litigation that would have an impact on this agreement; (o) it has never been fined or penalized by Visa, MasterCard, Discover, NACHA or any other association in the credit, payments or banking industry; (p) it is not on the Member Alert to Control High-Risk merchants list of MasterCard or any other similar list; (q) it shall not engage in any illegal, fraudulent or deceptive acts or practices, or undertake any action or inaction, that is detrimental to, or against, the best interest of the Group; and (r) it shall not fail to timely respond or reply to communications, including letter, telephone and electronic, from the Group, or any of its representatives.

Section 18. Term and Termination. The term of this agreement shall be for an initial period of one (1) year. The agreement shall automatically renew for successive one (1) year periods unless terminated by either party upon fourteen (14) days written notice. This agreement may be terminated immediately by the Group upon any breach by the Agent, or any of its representatives, of any term, provision or obligation of this agreement or if the Agent, or any of its representatives, causes any detrimental or adverse affect to the Program, Group or any of its affiliates, other programs, officers, employees or any merchant, as determined by Group.

Section 19. Non-Interference. The Agent and its representatives shall not cause, permit or allow any representative, subsidiary, affiliate, successor or entity (a) to interfere in any manner

whatsoever, either directly or indirectly, with the Group's business perspective advantage or contractual relationship with any merchant, processor or person or entity with which the Group has a personal or business relationship; or (b) to cause or attempt to cause any merchant or processor to terminate its relationship with the Group or any merchant, or utilize the services of any entity other than that of the Group.

Section 20. Non-compete. Agent shall not directly or indirectly do or attempt to do any of the following during its engagement or agreement with the Group (except in the faithful performance of Agent's duties for the Group) or during the period of two (2) years after the date of termination of Agent's engagement or agreement or after Agent ceases to receive compensation under this agreement, which ever is last, within the geographic area that the Agent worked for the Group within the past two (2) years under this agreement: solicit, employ, engage, hire, call on, compete for, sell to, divert, or take away any merchant, customer, supplier, endorser, advertiser or employee, agent, subagent, or independent contractor of corporation or aid, assist or plan for anyone else to do so; divert or aid, assist or plan for others to divert from the Group any past or pending sale, purchase, or exchange of any goods, product, receivable or service; entice, aid or cooperate with others in soliciting or enticing any employee, agent, subagent or independent contractor of the Group to leave, modify or terminate its relationship with the Group; participate in planning for any new or existing business that is or would be similar to the business of the Group or that does or would compete with the Group or solicit customers of the Group; accept any other employment or engagement that would call upon Agent to use, disclose or base judgments on the Group's trade secrets or confidential information or to utilize the Group's business model or plans, or rules, policies, guidelines, practices, customer goodwill in making sales, purchases or exchanges, or other advantageous business relations, for a business similar to or in competition with the Group's business; compete against the Group for customers, suppliers, employees, agents or independent contractors; or own, manage, be employed by, be engaged by, work for, consult for, be an officer, director, partner, manager, employee or agent of, advise, represent, engage in, or carry on any business which is similar to the type of business engaged in by the Group at the time of the execution of this agreement or on the date of termination of Agent's engagement or agreement with the Group and which competes with the Group. At the time of the execution of this agreement, the Group's business consists of purchasing, including the solicitation, marketing and promoting for the purchase, from business merchants a percentage of their future credit card, debit card, bank card and/or other charge card receivables. Agent agrees that this covenant not to compete is reasonably limited in time and geographic area and protects the legitimate business interests of the Group.

Section 21. Confidential Information. Each party acknowledges that it may directly or indirectly disclose confidential information to the other party in the course of negotiation of and performance of this agreement. All such confidential information disclosed by the Agent shall become the property of the Group for use in its existing business of purchasing, including the solicitation, marketing and promoting for the purchase from business merchants a percentage of their future credit card, debit card, bank card and/or other charge card receivables, or in any extension of such business, or any other existing or new business the Group may undertake or engage. Confidential information of the Group disclosed to, obtained or learned by, the Agent, or any of its representatives, shall remain the property of the Group and remain confidential information that the Agent, and its representatives, shall not disclose to any other person or entity. Except as provided in the preceding sentences and except in the normal course of any business of

the Group, neither party shall disclose the confidential information of the other party to any third party without the prior written consent of the disclosing party, and the duty of confidentiality created by this section shall survive any termination of the agreement. Confidential information includes all proprietary, secret or confidential information or data relating to either party and its affiliates, operations, agents, employees, products or services, clients, customers or potential customers, merchants, merchant lists, contact information, card member account numbers, commission structures, pricing information, search engine optimization, all electronic data, financial models, financial plans, business models, business plans, rules, policies, guidelines, practices, computer access codes, instruction and/or procedural manuals, and the terms and conditions of this agreement.

Section 22. Notices. Any notice or other communication required or permitted under this agreement shall be sufficiently given if in writing and delivered personally, or if sent by internationally recognized overnight courier, registered or certified mail to the address of the Group or the Agent set forth below, or at such other address as the Group or Agent may designate in accordance with the notice provisions of this Section. Such notice or other communication shall be deemed received (a) on the date delivered, if delivered personally, (b) on the business day after being sent by an internationally recognized overnight air courier or (c) five days after being sent, if sent by first class registered or certified mail.

If to Agent:

Name: _____
Address: _____
City/State/Zip: _____

If to Group:

Strategic Funding Partners, Inc., DBA Merchant Cash Group
5745 SW 75th Street, Suite 110
Gainesville, FL 32608-5504

Section 23. Location of Performance. The parties acknowledge and agree that this agreement shall have no force or effect unless and until signed by the Group at its offices within the City of Gainesville, Florida, and at which time the agreement shall then have full force and effect and establish the law, jurisdiction, venue and forum of any and all claims and causes of action between the parties to this agreement. The parties further acknowledge and agree that all performance and any notice under and pursuant to this agreement is required to be, and shall be, in the City of Gainesville, Florida, and that no transaction, service or payment, or other act or performance, shall have any effect or bind the Group until such time as it is approved and ratified by the Group at its offices in Gainesville, Florida. All performance under this agreement shall be deemed to, and in fact, occur and take effect only in Gainesville, Florida.

Section 24. Governing Law, Jurisdiction and Venue. This agreement shall be governed by, and construed in accordance with, the laws of the State of Florida. By execution of this agreement, Agent agrees to submit, and waives any objection, to the jurisdiction, venue and forum of any Florida state or federal court having jurisdiction in Alachua County. Agent waives any claim that the action is brought in an inconvenient forum, that the venue of the action is improper, or that this agreement or the transactions of which this agreement is a part may not be enforced in or by any of the above named courts.

Section 25. Jury Trial Waiver. The parties waive trial by jury for any legal action or proceeding on any matter arising out of or in connection with this agreement, except where such waiver is prohibited by law or deemed to be against public policy. The parties acknowledge that they make this waiver knowingly, willingly and voluntarily and without duress, and only after extensive consideration of the ramifications.

Section 26. Class Action Waiver. Agent hereby affirmatively waives the right to assert any class or other type of representative claim or legal action against the Group.

Section 27. Remedies. If the Agent breaches any provision of this agreement, the Group shall be entitled to obtain temporary and permanent injunctions, specific performance, damages (including but not limited to compensatory, incidental, consequential, punitive, exemplary, and lost profits), costs and attorney's fees. Agent agrees that in the event of any such breach by the Agent it shall be conclusively presumed that irreparable injury will result to the Group and that the Group has no adequate remedy at law.

Section 28. Limitation of Liability. The Group is not liable or responsible for any delay or failure to perform caused by any act of God, strike, flood, fire, war, public enemy, electrical, electronic or equipment failure, failures of third parties, action or inaction of any processor, or events beyond the Group's control. The Group shall not be liable for any special, consequential or punitive damages of any kind regardless of the form of the action, whether in contract, tort, breach of warranty, or other form or ground of action. The aggregate, total or cumulative liability of the Group, and any of its employees, agents and representatives, or those acting on its behalf, for damages arising from any breach of this agreement or for any contract, tort or other claim by the Agent, the Guarantor or any third party, shall not exceed an amount equal to the Purchased Amount minus the Discounted Purchased Price. The Group shall not be liable to the Agent or any third party for any compensatory, liquidated, indirect, consequential, exemplary, punitive or incidental damages (including damages for loss of business profits, business interruption, loss of business information, and the like) arising out of this agreement.

Section 29. Costs to Enforce. Agent shall pay all reasonable costs associated with any breach by the Agent of any term or condition of this agreement or any incorrect representation, warranty or covenant by the Agent, including but not limited to non-court collection expenses, court costs and attorney's fees. In-house attorney fees will be billed to Agent at the rate of \$450.00 per hour. Agent agrees that this provision of this agreement shall constitute authorization that such costs shall be automatically debited from Agent's bank account via ACH, electronic check or wire transfer.

Section 30. Indemnification. In the event of a breach by the Agent of any provision of this agreement, Agent shall assume liability for, and does hereby agree, to indemnify, protect, save and hold harmless the Group, and its servants, employees, agents, officers, directors, affiliates, and representatives, from and against any and all liabilities, claims, losses, obligations, damages, penalties, actions and suits of every kind and nature presented, imposed, incurred or asserted against the Group or its servants, employees, agents, officers, directors, affiliates, and representatives in any way relating to or growing out of such breach.

Section 31. Agent's Performance Time. Performance by the agent of the terms and conditions of this agreement shall be of the essence.

Section 32. Severability. In the event any one or more of the provisions of this agreement is adjudged invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions of the agreement shall not in any way be affected or impaired and shall continue unabated and in full force and effect, and enforceable.

Section 33. Headings. The section headings contained in this agreement are for convenient reference only, and shall not in any way affect the meaning or interpretation of this agreement.

Section 34. Pronouns. As used in this agreement, the words “it,” “itself,” “he,” and “she” shall be construed as interchangeable.

NOW THEREFORE, the parties place their signature, date and seal:

Two signatures are required if the agent acts thru an organized entity. The agent must sign on behalf of the company and the agent must also sign personally.

_____(SEAL) Date: _____
Individual Signature

Print Name

Business Entity/Name of Agent

Title

City, State, Zip

**Accepted and Agreed at Gainesville, Florida:
STRATEGIC FUNDING PARTNERS, INC. DBA MERCHANT CASH GROUP**

by _____(SEAL) Date: _____
Executive Vice President