

## American Financial Management, Inc. (“AFM”) Terms & Conditions

American Financial Management, Inc. (“AFM”), is in the business of collecting delinquent debts and providing other various accounts receivable services. The company listed on AFM’s Placement Form under Client Information (“Client”), engages AFM to collect the delinquent debt due to Client (“AFM Collection Services”) upon the terms and conditions set forth below (“Agreement”). However, if AFM and Client (collectively, the “Parties”) have a written agreement relating to AFM Collection Services, then this Agreement shall not supersede the ancillary written agreement with respect to any item addressed by said written agreement.

Now, THEREFORE, it is mutually covenanted and agreed as follows:

1. **Definitions.** The following definitions apply to all of the terms described within this Agreement.
  - a. Account – A file that Client refers or assigns to AFM for collection of a delinquent receivable from Debtor.
  - b. AFM Placement Form – Client completes and signs a manual Single Claim, Multiple Claim, or Volume Claim document or an online Single Claim form, located on AFM’s website, providing AFM with Client’s contact information, Debtor’s contact information, details describing the balance due to Client from Debtor, backup documentation to substantiate the balance due to Client and Client’s confirmation that Client is assigning the applicable Account to AFM in accordance with AFM’s Published Rate Schedule and AFM’s Terms and Conditions.
  - c. AFM’s Published Rate Schedule – AFM’s pricing document that describes AFM’s fees in various situations.
  - d. Debtor – Client’s past customer that Client assigns to AFM for collection.
  - e. Placement Date – The date that Client refers or assigns a file to AFM by completing an AFM Placement Form.
2. **Assignment of Accounts.** Client shall refer to AFM for collection, and any ancillary services authorized by Client, such Accounts as Client, in its sole discretion, shall elect to refer. With respect to each Account referred hereunder, Client shall provide AFM with copies of all necessary documentation of the debt and any other such information concerning the Debtor and the Account.
3. **AFM Compensation Overview.** AFM’s compensation shall be on a contingent-fee-basis in accordance with AFM’s Published Rate Schedule. Client owes AFM the fees described within AFM’s Published Rate Schedule from any monies collected, regardless of whether the funds secured were sent to AFM or to Client, and on any goods, products or merchandise returned (“Merchandise Returns”), regardless of whether the Merchandise Returns were provided to AFM or Client, on or after the Account Placement Date.

On or after the Account Placement Date, all principal balance monies, accrued interest, collection costs, attorney’s fees, court costs, other costs, penalties of any kind, disbursements and any other sums recovered from an Account, which is collected or recovered by or on behalf

of the Client, regardless of whom secured such monies or where the monies were sent, whether pursuant to any agreement between Client and the Debtor, or pursuant to any court order or appropriate statute, or otherwise, is included within the gross amount collected for calculating AFM's compensation in accordance with AFM's Published Rate Schedule.

After the Account Placement Date, if Client offsets or forgives any portion of an Account debt in exchange for the Debtor, or any third-party, releasing any claim or counterclaim, or for any other valuable consideration, or for any other reason, such offset or forgiveness shall not decrease the gross amount of AFM's compensation.

4. **Trust Account.** AFM shall hold all monies collected on Accounts in AFM's non-interest bearing trust account, in trust, for Client. AFM shall not commingle any monies collected on Accounts with AFM's general funds. Client authorizes AFM, and any counsel retained to act as collection agent for Client, to endorse for deposit in a trust account all checks and remittances received. After payment clears, AFM or counsel shall deduct their fees and remit the NET balance to Client. AFM agrees to remit payments collected on Accounts to Client fourteen (14) – twenty-one (21) days after receipt. AFM may use any payments collected on Accounts to offset any fees owed to AFM from Client.
5. **Invoicing.** On or after the Account Placement Date, Client shall promptly report to AFM any Debtor communications made to Client, all Account credits granted, Account payments and Merchandise Returns Client receives. Upon receipt of such notification, AFM will update its' file and, if appropriate, bill Client for AFM fees per AFM's Published Rate Schedule.

AFM's invoices are due upon receipt. If AFM's invoices are outstanding for more than thirty (30) days, Client agrees to be bound for the unpaid monies from the invoices together with accrued finance fees of one and a half percent (1.50%) per month. Further, if AFM engages an attorney to collect the monies due, Client agrees to also be responsible for collection costs and attorney fees of twenty-five percent (25.00%) of the total unpaid balance from AFM's invoices plus the total amount of accrued finance fees.

6. **Settlements.** Unless AFM receives Client's prior authorization, AFM is not authorized to settle any Account for less than the full amount owed to Client. AFM's compensation on Accounts settled for less than the full amount owed to Client is the full applicable contingency fee rates of the amount actually collected, regardless of whether the settlement funds secured were sent to AFM or to Client.

However, on or after the Account Placement Date, if AFM, Client, or any agent retained to act as collection agent for Client, procures a settlement offer on the Account from the Debtor, or another party, on Client's behalf and then Client subsequently withdraws the Account from AFM, regardless of whether Client accepted or rejected the procured settlement offer and regardless of whether Client ultimately secured monies on such Account, AFM's compensation is AFM's contingency fee rates, determined by AFM's Published Rate Schedule, from the amount

of the settlement offer procured by AFM, Client, or any agent retained to act as collection agent for Client, from Debtor.

7. **Atypical Fee Scenarios.** In accordance with AFM’s Published Rate Schedule and in addition to Merchandise Returns described in Section 3 above, Settlement fees described in Section 6 above and Free Demand Letter Series Program fees described in Section 12 below, atypical AFM fee situations arise in the following situations:
- a. **Withdrawal Fees** – To compensate AFM for its efforts on Accounts that Client opts to withdraw after the Account Placement Date, regardless of the reason for such withdrawal, including, but not limited to, Client’s desire to use Client’s own counsel, Client agrees that Client is responsible to pay AFM’s compensation, which is AFM’s full applicable contingency fee rates, determined by AFM’s Published Rate Schedule, from the principal balance due to Client from Debtor on the Account Placement Date. However, if AFM, Client, or any agent retained to act as collection agent for Client, procured a settlement offer from Debtor on or after the Account Placement Date and before the date that Client withdrew the Account from AFM, AFM’s compensation shall be the amount described in Section 6, Paragraph 2, above.
  - b. **Discovery Fees** – Client agrees that Client is responsible to pay AFM half of the applicable contingency fee rate on monies paid prior to AFM’s involvement, but learned by Client after the Account Placement Date, regardless of whether AFM Collection Services prompted Client to learn of the payment received prior to the Account Placement Date.
  - c. **Trade Agreement Balance Reduction** – Client agrees that Client is responsible to pay AFM half of the applicable contingency fee rate on monies waived or reduced due to a trade agreement entered into between the Client and the Debtor prior to the Account Placement Date. Further, Client agrees that Client is responsible to pay AFM’s full applicable contingency fee rates on monies waived or reduced due to a trade agreement entered into between the Client and the Debtor on or after the Account Placement Date.
  - d. **Liquidated Damages Balance Reduction** – Client agrees that Client is responsible to pay AFM ten percent (10.00%), with a minimum fee of one-hundred dollars (\$100.00) and a maximum fee of five-hundred dollars (\$500.00), of the liquidated damage balance Client waives in lieu of doing future business with Debtor.
8. **Litigation Support.** AFM is hereby authorized to refer any Accounts to an attorney (“Forwarding Attorney”) at AFM’s sole cost and expense, with an adjustment to AFM’s compensation for the applicable Account per AFM’s Published Rate Schedule. Client reserves the right to choose the Forwarding Attorney. When Client desires to choose the Forwarding Attorney, Client will send AFM, in writing, the desired Forwarding Attorney names for various locations or for specific Accounts. If Client does not desire to choose the Forwarding Attorney or Client does not send AFM, in writing, the desired Forwarding Attorney names, AFM is authorized to tender any Accounts to any Forwarding Attorney selected by AFM from a law list holding a Certificate of Compliance from the Standing Committee on Law Lists of the American Bar Association.

In the absence of instructions from Client, Accounts shall be tendered to the Forwarding Attorney upon the terms of compensation recommended by the Commercial Law League of America. The supplemental suit fee will not exceed ten percent (10.00%). If any Forwarding Attorney requests compensation in excess of these rates, AFM shall advise Client and Client will determine whether or not to retain the Forwarding Attorney.

Once AFM forwards an Account to Forwarding Attorney, all future communications on the applicable Account will involve Client, AFM and Forwarding Attorney, together, to ensure everyone works as a team to obtain the best result possible ( "Group Email"). If Forwarding Attorney recommends that Client file a lawsuit, within Group Email, Forwarding Attorney will directly request from Client the necessary costs, affidavits and additional or amended documentation to initiate legal proceedings. Along with these requests, Forwarding Attorney will provide instructions regarding how Client can return the costs, affidavits and additional or amended documentation directly to Forwarding Attorney. Forwarding Attorney's recommendation for commencing legal action, a proposed compromise or extension of time for payment will be disclosed to Client within Group Email.

When Client authorizes a lawsuit, mediation, arbitration, counterclaim or similar formal legal procedure ("Formal Legal Proceeding"), or any other expense, Client will advance the necessary costs. The costs Forwarding Attorney requests from Client will serve as a litigation fund and will cover court costs, Sheriff's fees, the retention of local counsel and certain administrative costs. The size of this litigation fund will vary depending upon local counsel's requirements, jurisdiction of the legal proceedings and the type and dollar size of the claim. Despite AFM's authorization to forward an Account to a Forwarding Attorney, neither AFM or Forwarding Attorney is authorized to initiate any Formal Legal Proceeding, or incur any expense for such procedure, without Client's prior authorization.

Client authorizes AFM as their agent to conduct all routine correspondence with Forwarding Attorney, subject to Client's control. Forwarding Attorney shall represent Client directly and charge Forwarding Attorney's fee to Client directly, although Forwarding Attorney may deduct its' fee from the monies collected.

Client acknowledges that all aspects of a Formal Legal Proceeding could not be anticipated in advance. Therefore, if Client approves a Formal Legal Proceeding, Client agrees to all financial and logistical requirements of the Formal Legal Proceeding, regardless of whether the requirements were disclosed to Client by Forwarding Attorney. AFM or Forwarding Attorney may infer that Client consented to a Formal Legal Proceeding, and to be responsible for all further costs and expenses thereof, including legal fees and other expenses, from Client's payment of costs to Forwarding Attorney or AFM.

If a counterclaim is filed, Forward Attorney will request from Client compensation on an hourly basis to defend the counterclaim. Forwarding Attorney's hourly rate to defend the counterclaim

is separate, distinct and in addition to the outlaid costs for the Formal Legal Proceeding and AFM's compensation in accordance with AFM's Published Rate Schedule.

9. **Compliance with Laws.** AFM will be free of Client's domination or control over the time and manner of AFM Collection Services on Client's behalf. AFM shall comply with all Federal, State and Local consumer collection laws, bankruptcy laws, and all other laws, regulations, rules and ordinances governing debt collections in general. AFM shall also comply with all of Client's internal policies that are provided by Client to AFM, in writing, prior to AFM performing AFM Collection Services on an Account.
10. **Indemnification.** Client and AFM shall indemnify and hold the other Party harmless from any and all loss, cost, damage, claims, liability or injury, including, without limitation, Forwarding Attorney's retainer, fees and expenses, (collectively, "Damages") incurred in connection with any claim, demand or lawsuit against AFM or Client, or any notice requiring Client or AFM to respond to a subpoena, document or information request or other legal requirement, in each such case arising from or related to AFM Collection Services received by Client, regardless of whether AFM Collection Services were performed by AFM or by a Forwarding Attorney or another agent hired by AFM on the Client's behalf, or related to the facts of the Account itself received by AFM, except to the extent that AFM's or the Client's gross negligence, willful misconduct or intentional violation of an applicable law or government agency regulation was the proximate cause of the Damages. Upon receipt of service for any such claim, demand, lawsuit or notice, AFM or Client shall notify the other Party in writing of such claim, demand, lawsuit or notice. Any failure to promptly give such notice shall diminish Client's or AFM's liability to the other Party hereunder, only to the extent that such delay caused harm to Client's or AFM's ability to defend the other Party.
11. **Credit Bureaus Reporting.** With Client's written authorization, AFM will report Client's delinquent, unpaid Accounts to Experian, TransUnion, Dun & Bradstreet, and Cortera (hereinafter collectively, the "Credit Bureaus"). AFM will pay for all costs in reporting Client's Debtors, and guarantors, unpaid account balances to the Credit Bureaus. If Client authorizes AFM to report Client's delinquent, unpaid Accounts to the Credit Bureaus, the following terms and conditions apply:
  - a. Client authorizes AFM to report their Debtor's delinquent account balances to the Credit Bureaus on all open and active accounts that Client assigns to AFM for third-party collections.
  - b. In accordance with the Fair Credit Reporting Act ("FCRA"), Client is the contributor of the data reported to the Credit Bureaus. Credit information must be reported accurately. Client therefore agrees to report to AFM, in writing, any modification to the delinquent account balance, including the specific reason for such change, within thirty (30) days of the account balance adjustment. AFM will then modify the information reported to the Credit Bureaus.
  - c. AFM is only able to report delinquent account balances to the Credit Bureaus on active AFM collection accounts. Therefore, Client agrees that all *uncollectible* accounts remain



open and active in AFM's database for credit bureaus reporting purposes. Due to the fact that AFM will provide the data to the Credit Bureaus on Client's behalf, the delinquent mark on the Debtor's credit report will appear as AFM.

- d. While credit bureau reporting is active and ongoing, Client agrees that AFM is due its' customary contingency fee on applicable collection activity in accordance with AFM's Published Rate Schedule and this Agreement.
- e. AFM will pay for all administrative Credit Bureau reporting services' costs. However, Client agrees that neither AFM, nor the Credit Bureaus, under any circumstances, will be liable for any consequential, incidental, or specific damages arising from this Agreement.

12. **Free Demand Letter Series Program.** AFM offers a Free Demand Letter Series Program on commercial accounts that exceed \$300.00. Specifically, AFM can send Client's delinquent customers *final* demand letters, covering a period of ten (10), twenty (20), or thirty (30) days ("Free Demand Letter Series Period"). Client shall choose the desired Free Demand Letter Series Period. If Client does not specify the Free Demand Letter Series Period for a given Account, then the Free Demand Letter Series Period will be ten (10) days for the applicable Account.

Every 10-days, on AFM Letterhead, AFM will send a demand letter to Client's customer that directs all communications and payments to Client's office. The language within each demand letter becomes more stringent as the Free Demand Letter Series Period progresses.

If payment is made to Client during the Free Demand Letter Series Period and Client notifies AFM, in writing, of the payment received, then AFM will not charge Client for the monies paid and reported. Client must notify AFM, in writing, that Client received payment either by email to [freedemand@afm-usa.com](mailto:freedemand@afm-usa.com) or by fax at 847-259-7014.

If Client does not receive payment during the Free Demand Letter Series Period or if Client receives payment during the Free Demand Letter Series Period and omits to notify AFM before the expiration of the Free Demand Letter Series Period, then the account's remaining balance automatically transfers into AFM's immediate collection program, in which AFM's compensation, in accordance with AFM's Published Rate Schedule, applies from that first day. Client acknowledges that if Client notifies AFM after the expiration of the Free Demand Letter Series Period of a payment received, even if payment arose before or within two (2) days after the expiration of the Free Demand Letter Series Period, AFM's compensation is ten percent (10.00%) of the monies secured in accordance with AFM's Published Rate Schedule.

13. **Complete Defense.** It is understood and agreed by the Parties that this Agreement may be pleaded as a complete defense to any action or proceeding hereinafter instituted by the Parties with respect to AFM Collection Services.
14. **Opportunity to Obtain Counsel.** The Parties hereby acknowledge that this Agreement has been completely read and is fully understood and voluntarily accepted and that each of the Parties

has had the opportunity to seek the advice of legal counsel of its own choice prior to entering into this Agreement.

15. **Successors and Assigns.** All provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the Parties and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns. Specifically, AFM may assign any of its rights, duties and obligations under this Agreement without the prior, written consent of Client. This includes AFM's referral of an Account to a Forwarding Attorney.
16. **Notice.** Any notice, request, demand or other communication permitted or required hereunder to AFM shall be in writing to the postal mail or email address listed below, or to any other address given by any Party in writing to the other Party pursuant to this Section, and shall be effective upon delivery if personally delivered or sent via nationally recognized overnight courier or via certified mail, return receipt requested, postage prepaid. Notices given by electronic mail, facsimile or other electronic means shall be effective at the time notice is sent.
- a. Notice to Client:
    - i. Client's postal mail and email address provided on an AFM Placement Form shall be used for notice to the Client.
  - b. Notice to AFM:
    - i. Postal Mail Address – American Financial Management, Inc., Attn: Chief Executive Officer, 8755 West Higgins Road, Suite 610, Chicago, IL 60631
    - ii. Email Address – [brosen@afm-usa.com](mailto:brosen@afm-usa.com).
17. **Amendment and Modification, Termination and Waiver.** No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure therefrom, will in any event be effective unless the same is in writing by an authorized representative of the Party against whom enforcement of the same is sought.

This Agreement may be terminated for reasonable cause by either Party providing thirty (30) days written notice to the other Party, or with immediate written notice in the event of a material breach hereof. All rights and obligations arising or accruing under this Agreement prior to termination shall survive such termination. If either party terminates an Account, the terminated account will be regarded as an Account withdrawn by Client in accordance with Section 7 above. However, if Client attempts to terminate an Account already sent by AFM to a Forwarding Attorney, Client may not withdraw the applicable Account without AFM's written approval.

Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given and shall be in writing and signed by an officer of the waiving party.

18. **Captions.** Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.
19. **Construction.** Unless the context of this Agreement clearly requires otherwise: (a) references to the plural include the singular and vice versa; (b) references to any person include such person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement; (c) references to one gender include all genders; (d) "including" is not limiting; (e) "or" has the inclusive meaning represented by the phrase "and/or"; (f) the words "hereof", "herein", "hereby", "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement; (g) section, clause, Exhibit and Schedule references are to this Agreement unless otherwise specified; and (h) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof.
20. **Failure or Delay.** No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or privilege hereunder operates as a waiver thereof; nor does any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege. No notice to or demand on any Party in any case entitles such Party to any other or further notice or demand in similar or other circumstances.
21. **Further Assurances.** The Parties will deliver such further instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement.
22. **Governing Law.** This Agreement shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of Illinois, without regard to any conflicts of laws provision. Further, this Agreement shall not be submitted to a Federal or state court, arbitration forum, or other tribunal, outside of the County of Cook in the State of Illinois.
23. **Authority to Bind Company.** By assigning an Account to AFM for AFM Collection Services, the Client representative acknowledges and agrees that he or she has authority to bind Client.
24. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to AFM Collection Services and supersedes all prior agreements, letters of intent, understandings, negotiations and discussions of the Parties, whether oral or written. If any term, provision, covenant or condition of this Agreement is held to be invalid, void, or otherwise unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. This Agreement shall apply to all matters referred to AFM before or after January 1, 2017.

[END OF TERMS AND CONDITIONS]