

FACTORING AND SECURITY AGREEMENT

THIS AGREEMENT made effective as of the ____ day of _____, _____.

BETWEEN:

[NAME OF SELLER]

[address]
(the "Seller")

- and -

[NAME OF BUYER]

[address]
(the "Buyer")

1. Purpose of Agreement

Seller wishes to obtain a cash injection of \$##,###.## by factoring, selling and assigning to Buyer certain accounts receivable of Seller as outlined in Schedule "A" ("Accounts") in accordance with the terms of this Agreement, at a limited discount below face value and on limited recourse, as set in this Agreement.

2. Representations, Warranties And Covenants By Seller

As an inducement for Buyer to enter into this Agreement, and with full knowledge that the truth and accuracy of the representations and warranties of Seller in this Agreement are being relied upon by Buyer, Seller represents and warrants that the following statements are true and correct, and covenants that the same will remain true and correct for so long as any amount remains owing to Buyer hereunder:

- (a) Seller is properly licensed and authorized to operate its business.
- (b) Seller is, at the time of purchase by Buyer, the lawful owner of and has good and undisputed title to the Accounts purchased by Buyer.
- (c) No Customer shall have right of set-off, abatement or reduction whatsoever in respect of any Account.
- (d) Each Account offered for sale to Buyer is an accurate statement of indebtedness by Customer to Seller for a certain sum which is due and payable on or before [date].
- (e) Each Account offered for sale to Buyer is an accurate statement of a bona fide sale, delivery and acceptance of merchandise or performance of service by Seller to Customer, or other good and valid liability of the Customer in question to the Seller.
- (f) The execution and delivery of this Agreement by Seller has been duly authorized by all necessary corporate acts on the part of Seller and is enforceable against Seller in accordance with its terms.
- (g) Seller does not own, control or exercise dominion over, in any way whatsoever, the business of any Customer whose Account is to be factored by Seller to Buyer.
- (h) Seller will not, under any circumstances or in any manner whatsoever, interfere with any of Buyer's rights under this Agreement.
- (i) Seller will not change or modify the terms of the original Account with Customer unless Buyer first consents to such change in writing. For example, Seller may not extend credit to a Customer beyond sixty (60) days without prior written consent from Buyer.
- (j) Seller will not permit any lien, security interest or encumbrance, including any statutory deemed trust, to be created upon the Accounts in priority to the right, title and interest of Buyer therein.

- (k) Seller will provide Buyer with title to the Accounts free and clear of all liens, charges, security interest or deemed trusts, will obtain such discharges or postponements from prior secured creditors as may be necessary to do so, and will ensure that the first use on any funds advanced by the Buyer will be to get clear title to the Buyer as required under this clause, including but not limited to paying all outstanding Seller payroll and source deduction related liabilities. The security interest herein granted shall be a first charge on the Collateral, and the Seller will obtain such discharges or postponements from prior secured creditors as may be necessary to do so. Buyer may withhold completing the advance referred to above until such time as the terms of this clause have been complied with.
 - (l) Seller acknowledges receipt of a signed copy of this Agreement.
3. **Transfer and Assignment of Initial Accounts**