



**WESTWOOD**  
FUNDING

## **SALES AND MARKETING AGREEMENT**

This Sales and Marketing Agreement (“Agreement”) is made and entered into on \_\_\_\_\_ (The “Effective Date”) by and between Westwood Funding Solutions LLC and its affiliates and assigns (Collectively, “WW”), located at 4601 Sheridan Street, Suite 501, Hollywood, FL 33021, and \_\_\_\_\_, (“Sales Partner”) located at \_\_\_\_\_.

**WHEREAS**, WW offers cash advance funding programs ("Programs") wherein commercial businesses ("Merchants") are offered the opportunity to enter into an agreement (“Agreement for the Purchase and Sale of Future Receivables” or "AFPSFR") to sell in the present (for an agreed upon purchase price, hereinafter referred to as the "Funded Amount," less applicable fees) a portion of Merchant's future receivables, purchased at a discount, until an agreed upon purchased amount has been received by WW (the quotient of such purchased amount over the Funded Amount hereinafter referred to as the "Factor Rate");

**WHEREAS**, Sales Partner wishes to market WW's Programs to Merchants and refer new Merchants to WW subject to the terms and conditions outlined herein;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, as well as other good and valuable consideration, the receipt and adequacy of which being hereby acknowledged, the parties hereby covenant, warrant and agree as follows:

1. **INDEPENDENT CONTRACTOR STATUS.** Nothing in this Agreement or in the performance thereof shall be construed to create any partnership, joint venture, or relationship of principal, agent of employer and/or employee by or between WW and Sales Partner (or by or between any of their respective affiliates). Sales Partner shall remain an independent contractor as defined by law and the Internal Revenue Service. Furthermore, Sales Partner acknowledges that it shall be solely responsible for the purchase and maintenance of employment and/or workers compensation insurance coverage related to its employees and that WW shall have no responsibility for any such coverage.

2. **SALES OFFICE.** Sales Partner shall be responsible for establishing its own sales office at its sole expense, independent of WW's offices, for the purpose of marketing WW's Program and other merchant funding products.

3. **OPERATIONAL EXPENSES.** Sales Partner shall be responsible for all expenses, without limitation, in conjunction with the operation of its office and its business including the computation and payment of all sales commissions earned by its sub-agents and/or sales representatives, if any, because of their sales. Sales Partner specifically acknowledges that WW shall not be liable in any manner for any payments due from Sales Partner to any person for any reason. WW shall not be liable for any withholding, social security, or unemployment taxes, or any similar taxes or other payments with respect to commissions paid to Sales Partner pursuant to the terms of this Agreement.

4. **SALES ACTIVITIES.** WW hereby authorizes Sales Partner to market WW's Programs to Merchants subject to the terms and conditions of this Agreement. Sales Partner shall be responsible for managing the activities of any of its sub-agents or sales representatives and shall be responsible for any action by any such sub-agents or sales representatives taken in conjunction with the marketing and sale of WW's Programs to Merchants.

5. **NON-EXCLUSIVITY.** The relationship created by this Agreement is non-exclusive.

6. **AGREEMENT FOR THE PURCHASE AND SALE OF FUTURE RECEIVABLES.** In every instance, WW shall supply the form of the Agreement for the Purchase and Sale of Future Receivables that shall be presented to each Merchant. Such Agreement for the Purchase and Sale of Future Receivables shall govern exclusively all the terms and conditions of WW's purchase of each such Merchant's future receivables.

7. **APPROVAL AND/OR TERMINATION OF MERCHANT.** WW shall have the absolute right to accept or decline any Merchant presented for approval. Sales Partner shall not represent to any Merchant, either orally or in writing, that Sales Partner has the authority to approve of any Merchant or agree to any AFPSFR with Merchant on behalf of WW. Sales Partner acknowledges and agrees that Sales Partner has no authority to bind or commit WW to provide funding to any Merchant. In addition, WW has the right to terminate any AFPSFR with any Merchant and/or declare Merchant in default, if such Merchant breaches any provision of that agreement.

8. **OWNERSHIP OF RELATIONSHIP.** Sales Partner is referring new Merchants to WW for consideration and agrees that upon submissions, WW establishes ownership of the relationships with such Merchants regarding future AFPSFRs, except as otherwise specified herein (See Paragraphs 30 and 31 herein), as well as ownership of and any/all documents and information received on the Merchants' behalf. Sales Partner agrees that it will not interfere with nor impede WW's securing new or Renewal AFPSFRs from any Merchant for any reason, provided however that Sales Partner shall retain the right to get any Merchant funded by any outside funding company to the extent that such outside funding company pays to WW in full any remaining balance due and owing to WW from such Merchant with respect to any existing AFPSFRs at the time of such outside funding. Should Sales Partner get any Merchant funded by an outside company after WW has funded such Merchant through a referral by Sales Partner, and such Merchant has a remaining balance under the existing AFPSFR, and such outside funding DOES NOT pay-off said remaining balance owed WW at the time is such outside funding, such funding shall be considered "Stacking." Stacking shall be deemed a breach of this agreement and is subject to termination of this agreement for cause under Paragraph 12; and, Sales Partner shall return to WW the commission paid to Sales Partner by WW on the initial AFPSFR as described in Paragraph 28 herein.

9. **INFORMATION ON MERCHANTS.** Sales Partner shall promptly notify WW of any legal, financial, or business change in any referred Merchant of which change Sales Partner has knowledge or becomes aware.

10. **EXCLUSIVE CLOSING PERIOD ON NEWLY REFERRED MERCHANTS.** It is agreed that Sales Partner will be given an exclusive closing period of seven (7) calendar days from the date of a fully executed contract of a newly referred Merchant in order for WW to fund the Merchant and complete WW's purchase and sale of the future receivables of such Merchant. The Sales Partner shall not have exclusivity of any kind until the contract sent on said Sales Partner's behalf has been fully executed. Should multiple Sales Partners submit applications for funding for the same Merchant, the first Sales Partner to get the contract sent on said Sales Partner's behalf executed by the Merchant(s) shall earn the exclusive closing period above. Should the Sales Partner not be able to facilitate funding in the exclusive closing period above, it is agreed that after such seven (7) calendar day period has elapsed any such newly referred Merchant will be classified as in buyer's remorse and may be closed by any sales entity in good standing with WW with no commission due to Sales Partner.

11. **TERM OF AGREEMENT.** The term of this Agreement shall begin on the Effective Date (appearing on the first page hereof) and will continue for an initial term of one (1) calendar year. After such initial term, this Agreement shall automatically renew for successive one (1) calendar year terms unless terminated by either party upon written notice, with or without cause. Either party may terminate this Agreement at any time and for any reason, with or without cause, upon thirty (30) calendar days prior written notice to the other party, as required in Paragraph 17. If the Agreement is terminated for cause, as defined in Paragraph 12 below, the termination shall be effective upon receipt of such notice. If WW terminates this Agreement without cause, Sales Partner will receive all commissions as provided in Paragraph 23 below or any amendments thereto. Paragraphs 14, 21, and 22 shall survive termination of this Agreement.

12. **TERMINATION FOR CAUSE.** This Agreement may be terminated additionally and immediately by WW for cause. Termination for cause reasons include but are not limited to: (i) a material breach by Sales Partner of any term of this Agreement; (ii) misfeasance, malfeasance, tortious interference by Sales Partner of an active AFPSFR between WW and Merchant; (iii) breach of the Mutual Non-Disclosure Agreement contained in Paragraph 22 below; or (iv) an assignment described below in Paragraph 15. In all such cases, all Merchant relationships shall remain with WW through completion of all obligations of Merchant pursuant to WW's AFPSFR. If WW terminates this Agreement pursuant to clause (i), clause (ii), or clause (iii) of this Paragraph 12 above, Sales Partner shall forfeit all rights it has to receive all future commissions from Merchant accounts, otherwise Sales Partner shall continue to receive future commissions pursuant to the terms hereof.

**13. LIMITATIONS ON COMMISSIONS.** Sales Partner acknowledges and agrees that Sales Partner has no right to any fees or profits earned by WW with respect to WW's providing any Program to a potential Merchant that was referred by Sales Partner, other than as set forth in Schedule A attached hereto. Sales Partner acknowledges and agrees that Sales Partner shall not be entitled to any compensation for any services provided by WW to any Merchant (other than the Programs) that result from the sales or marketing efforts of WW or any of its agents (other than Sales Partner). Sales Partner acknowledges and agrees that Sales Partner shall be entitled to no compensation relating to Merchants that are referred to WW and that execute any AFPSFR with WW after this Agreement has been terminated for any reason except for future AFPSFRs that constitute Renewal AFPSFRs for which Sales Partner shall earn a commission hereunder (to the extent not otherwise provided herein). Sales Partner acknowledges and agrees that Sales Partner has no unilateral right to charge any Merchant any additional fee of any kind or nature whatsoever arising out of, relating to, or otherwise connected with the Programs offered by WW. If Sales Partner desires to charge any Merchant any such additional fee, Sales Partner must first disclose such additional fee to WW before WW disburses any funds with respect to any AFPSFR entered into with any such Merchant. At the time of such disclosure, WW shall have the right to determine, in WW's sole discretion, whether or not such additional fee is acceptable to WW and whether the contemplated AFPSFR still meets WW's funding guidelines.

**14. NON-SOLICIATION.** Sales Partner agrees that during the term of this Agreement, and for a period of one (1) calendar year after the termination or expiration of this Agreement, Sales Partner shall not directly (or indirectly via others acting on behalf of Sales Partner) solicit any Merchant who has entered into any AFPSFR with WW for any product, service, or program that competes directly with WW's Programs (unless WW has decided to cease funding any such Merchant).

**15. ASSIGNABILITY.** With the written permission of WW, Sales Partner may from time-to-time delegate duties under this Agreement to subsidiaries or to other affiliates, provided however that Sales Partner shall remain liable to WW for any such duties and obligations. If Sales Partner seeks to sell or transfer its business, WW reserves the right to approve or deny the assignment of Sales Partner's rights and obligations under this Agreement to said buyer, WW reserving the option to terminate this Agreement for cause upon such sale or transfer. WW may subcontract, sublicense, assign, license, franchise, or transfer to any third party any right, duty or obligation WW has in connection with this Agreement without the consent or prior approval of Sales Partner.

**16. SEVERABILITY.** If any one or more of the covenants, agreements or provisions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the invalidity of such covenants, agreements or provisions shall in no way affect the validity or effectiveness of the remainder of this Agreement, and this Agreement shall continue in force to the fullest extent permitted by law, including the Mutual Non-Disclosure Agreement contained herein, shall survive termination of this Agreement.

**17. NOTICES.** Unless otherwise specified herein, any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and delivered personally, sent by an internationally recognized overnight air courier, or mailed by certified mail, return receipt requested, to the respective parties at the addresses set forth in the preamble to this Agreement. Notices shall be deemed received (i) on the business day it is delivered if delivered personally, (ii) on the business day after being sent by an internationally recognized overnight air courier, or (iii) five days after being sent, if mailed by first class certified mail, return receipt requested.

**18. WAIVERS.** No failure or delay by either party in exercising any of its rights hereunder shall operate as a waiver thereof or prevent either from demanding strict compliance thereof. Waiver of a breach of any provision of the Agreement shall not be deemed a waiver of any other breach of the same or different provision.

**19. LEGAL ACTION.** The parties agree that any breach of the Mutual Non-Disclosure Agreement, incorporated below would subject either party to irreparable harm for which money damages would not be a sufficient remedy. Accordingly, the parties agree that the injured party shall be entitled to injunctive or other equitable relief in addition to any other remedies that may be available to it at law or under the terms of this Agreement. Should either party institute

legal action, whether at law or in equity, arbitration, or mediation, to enforce any provisions hereunder, the prevailing party shall be entitled to receive from the other party all costs and reasonable attorney's fees, including, but not limited to fees for trial and appeals or other legal proceedings. The parties consent to the jurisdiction of Florida courts. This Agreement shall be interpreted according to the laws of the State of Florida.

20. **SECTION 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.

21. **MUTUAL INDEMNIFICATION.** Sales Partner and WW shall indemnify and hold each other harmless from any and all claims, damages and liabilities, including attorney's fees and costs of defense, arising from the services performed by either party or either party's negligent or fraudulent acts or failure to act in performing this Agreement (or breaching this Agreement). Sales Partner and WW warrant and represent that there has not been and shall not be any disclosure of trade secrets or confidential competitor information by either party to any third party. Sales Partner and WW further warrant and represent that they are not bound by any restrictive covenant or prior agreement with any third party which would prohibit either party from providing the services contemplated herein. Sales Partner and WW also warrant and represent that they are not under any restrictive covenant or prior agreement affecting any merchant that they introduce to one another.

22. **MUTUAL NON-DISCLOSURE AGREEMENT.** This Paragraph 22 shall constitute the "Mutual Non-Disclosure Agreement" agreed to by the parties:

- a. Definition of Confidential Information. "Confidential Information" means any information or compilation of information not generally known which relates to the disclosing party's existing or reasonably foreseeable business, including but not limited to any and all technical data, legal documents, trade secrets or know-how and information which relates to patents, patent applications, research, products, developments, inventions, processes, designs, drawings, engineering, formulae, markets, software (including source and object code), hardware configuration, computer programs, algorithms, regulatory information, business plans, agreements with third parties, services, customers and existing and potential customer lists, existing or potential suppliers, or marketing or finances of the disclosing party. Information, regardless of its source or whether provided in writing or orally, shall be treated as Confidential Information if it would, under the circumstance, appear to a reasonable person to be confidential or proprietary and all information identified as being "confidential" or "trade secret" shall be presumed to be Confidential Information. For the avoidance of doubt, the term Confidential Information shall include WW's marketing materials, AFPSFRs, marketing plans, and business plans for current and proposed services. Confidential Information does not include any of the foregoing items which: (i) prior to or after the time of disclosure becomes publicly known and made generally available other than as a result of any improper action or inaction of the receiving party; (ii) is approved in advance by a disclosing party, in writing, for release; (iii) is required to be disclosed in relation to the tax treatment and structure of the subject matter of this Mutual Non-Disclosure Agreement; or (iv) is required to be disclosed by applicable law or proper legal, governmental or other competent authority, provided that the party whose information is to be disclosed shall be notified sufficiently in advance of such requirement so that it may seek an appropriate protective order (or equivalent) with respect to such disclosure, with which the other party shall fully comply and provided further that in the event such protective order is not obtained, the receiving party shall disclose only that portion of the Confidential Information which its counsel advises that it is legally required to disclose.
- b. Non-Disclosure of Confidential Information. WW and Sales Partner each agree not to use any Confidential Information disclosed to it by the other party for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of, a Agreement for the Purchase and Sale of Future Receivables Transaction ("Transaction"). Neither party shall disclose or permit disclosure of any Confidential Information of the other party to third parties or to employees of the party receiving Confidential Information, other than directors, officers, employees, consultants and agents who are required to have the information in order to carry out the discussions regarding the Transaction or the

performance of this Agreement. Each party agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Mutual Non-Disclosure Agreement to have any such information. Such measures shall include, but not be limited to, the highest degree of care that the receiving party utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care.

- c. Return of Materials. Promptly upon request by the disclosing party, the receiving party will, and will direct its agents, to deliver to the disclosing party any written Confidential Information of the disclosing party and all copies or modifications thereof, except for that portion of the Confidential Information which consist of analysis, compilations, studies or other documents prepared by the receiving party or its agents, without retaining any copy thereof. That portion of Confidential Information or any modification thereof which consists of analysis, compilations, studies, or other documents prepared by the receiving party or its agents and that is not returned to the other party shall be destroyed and no copy thereof shall be retained and an authorized officer of such receiving party supervising such destruction shall certify in writing that such destruction has occurred.
- d. No Rights Granted. Nothing in this Mutual Non-Disclosure Agreement shall be construed as granting any rights under any patent, copyright, or other intellectual property right of either party, nor shall this Mutual Non-Disclosure Agreement grant either party any rights in or to the other party's Confidential Information other than the limited right to review such Confidential Information solely for the purpose of determining whether to enter into a proposed Transaction.
- e. Successors and Assigns. The terms and conditions of this Mutual Non-Disclosure Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Mutual Non-Disclosure Agreement, expressed or implied, is intended to confer upon any party other than the parties hereto or their respective successor and assigns any rights, rights remedies, obligations, or liabilities under or by reason of this Mutual Non-Disclosure Agreement, except as expressly provided in this Mutual Non-Disclosure Agreement.
- f. Remedies; Indemnification. WW and Sales Partner each agree that their obligations set forth in this Mutual Non-Disclosure Agreement are necessary and reasonable to protect the disclosing party and its business. WW and Sale Partner each expressly agree that, due to the unique nature of the disclosing party's Confidential Information, monetary damages would be inadequate to compensate the disclosing party for any breach by the receiving party of its covenants and agreements set forth in this Mutual Non-Disclosure Agreement. Accordingly, WW and Sales Partner each agree and acknowledge that any such violation or threatened violation shall cause irreparable injury to the disclosing party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the disclosing party shall be entitled (i) to obtain injunctive relief against the threatened breach of this Mutual Non-Disclosure Agreement or the continuation of any such breach by the receiving party, without necessity of proving actual damages, and (ii) to be indemnified by the receiving party from any loss or harm, including but not limited to attorney's fees, arising out of or in connection with any breach or enforcement of the receiving party's obligations under this Mutual Non-Disclosure Agreement or the unauthorized use or disclosure of the disclosing party's Confidential Information.

**23. COMMISSION SCHEDULE.** Subject to the other terms and conditions of the Agreement, WW and Sales Partner agree that Sales Partner's compensation for referral of Merchants procured by Sales Partner and funded by WW pursuant to an Agreement for the Purchase and Sale of Future Receivables shall be as set forth Schedule A attached hereto and incorporated herein.

**24. ADJUSTMENTS TO COMMISSION SCHEDULE.** WW may, in its sole discretion, in writing or verbally, elect to adjust offered Factor Rates, theoretical tum, maximum commissions, and any other relevant criteria for special competitive situations. Any such adjustments are to be considered special exceptions and not changes in WW

commission and/or Factor Rate policies. WW may at any time, in its sole discretion, deliver a new Schedule A to set forth any changes in WW's commission and/or Factor Rate policies going forward (which shall not apply to previously funded transactions).

**25. COMMISSION CALCULATION.** WW shall disclose the commission range to the Sales Partner in its initial written offer on a particular submission. The commission range offered shall be made in the complete discretion of WW; but, shall typically be between one (1) percentage point (Buy Rate) and (15) percentage points (Max Sell Rate) of the Funded Amount. As referenced in Paragraph 23 above, see Schedule A attached hereto.

**26. COMMISSION PAYMENT.** Commissions on AFPSFRs originated by Sales Partner will be paid to Sales Partner within fifteen (15) business days of Merchant's receipt of funds from WW. Payments will be made via ACH (direct deposit) or via fed wire into Sales Partner's designated account.

**27. WEEKENDS AND HOLIDAYS.** If any scheduled payment falls on a weekend or holiday, payment will be made the next business day.

**28. MERCHANT DEFAULT PROVISION.** If a Merchant should breach the AFPSFR within forty-five (45) calendar days of funding, the Sales Partner shall refund WW the full commission received by Sales Partner related to such Merchant. This includes any commission that the Sales Partner may have made to sub-agents or independent brokers within or outside of their organization. A breach of the AFPSFR by a Merchant shall include, but shall not be limited to: (i) wrongfully missing payments and/or becoming unresponsive pursuant to the terms of the AFPSFR; (ii) closing the Merchant's bank account without providing a new authorized bank account to WW; (iii) instructing the Merchant's banking institution to place a stop payment on WW's authorized ACH withdrawals; and/or (iv) utilizing a credit card processor not authorized by WW to wrongfully divert the receivables purchased by WW. If the full commission is not returned to WW within five (5) business days of requesting it, WW has the right to withhold such amount from future commissions or initiate an ACH debit for such amount directly from the account where funds were originally sent.

**29. PROCESSOR CONVERSION.** WW shall have the right to require that a Merchant's credit card processing be converted to a WW primary or friendly processor.

**30. AGED ACCOUNT MERCHANTS.** Once any referred Merchant has paid the entire right to receive balance on its last Agreement for the Purchase and Sale of Future Receivables with WW, any future deal consummated with such Merchant will be considered a new AFPSFR for which Sales Partner will ONLY BE eligible for payment of a new commission upon Sales Partner's submission of the Merchant's NEW application to WW. Once a Merchant has had no balance owed to WW, the Merchant shall also be eligible to sign a new AFPSFR with WW through any of WW's sales distribution channels (other than Sales Partner) with no money or commission due to Sales Partner.

**31. RENEWAL AFPSFR.** A "Renewal AFPSFR" occurs when a Merchant is funded additional money DURING an existing AFPSFR. WW reserves the right to promote the Renewal AFPSFR process and it will compensate Sales Partner according to the commission schedule described in Schedule A attached hereto; provided, however, notwithstanding anything in this Agreement to the contrary, the calculation of commission set forth in Paragraph 25 above for any Renewal AFPSFR shall be made with reference to the amount of funds actually disbursed to Merchant by WW as a result of such Renewal AFPSFR and not with reference to the Funded Amount stated in the AFPSFR (to the extent that the Funded Amount exceeds the amount of funds actually disbursed).

**32. AMENDMENTS AND WAIVERS.** With exception of products, Factor Rates, theoretical turn, and commission, this Agreement may be amended only with the written consent of WW and Sales Partner. WW reserves the right to make adjustments or changes to any published products, products offered, Factor Rates and theoretical turns, without consent from Sales Partner, provided that WW gives written notification of same to Sales Partner. Any amendment or waiver affected in accordance with this Agreement shall be binding upon the parties and their respective successors and assigns.

33. **ENTIRE AGREEMENT.** This Agreement and the attached Schedule A are the product of both parties hereto and constitutes the entire Agreement between such parties pertaining to the subject matter hereof, and merges with all prior negotiations and drafts of the parties with regard to the transactions contemplated herein. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly canceled.

34. **FACSIMILE, DIGITAL & ELECTRONIC ACCEPTANCE.** Facsimile, digital and electronic signature herein shall be deemed acceptance for all purposes and be binding on all parties.

35. **ADVICE OF COUNSEL.** Each party hereto acknowledges that it has carefully reviewed all of the provisions contained in this agreement prior to its execution, that each party has had the opportunity to seek the advice of an attorney of its choice, and that it has executed this agreement freely and voluntarily and believes this agreement to be fair, just, and reasonable.

36. **COMPLIANCE WITH STATE DISCLOSURE AND REGISTRATION LAWS.** Sales Partner covenants that it is aware of and will comply with any state laws concerning disclosure and registration relating to the merchant cash advance, sales based financing or receipt purchasing industries for any states from which Sales Partner solicits Merchant Applications, including without limitation California SB1235, Connecticut SB1032, Florida HB 1353, Georgia SB90, New York S5470, Utah SB183, and Virginia HB1027. Without limitation, this obligation includes:

- a. Filing all registrations required for independent sales officers or brokers under Virginia HB1027 and Connecticut SB1032.
- b. With respect to California SB1235 and New York S5470,
  - 1) Sales Partner shall promptly familiarize itself with the requirements of the California SB1235 and the rules issued by the California Department of Financial Protection and Innovation thereunder (the “**California Rules**”), and New York S5470 and the rules issued by the New York State Department of Financial Services thereunder (the “**New York Rules**”), which impose certain disclosure requirements in connection with commercial financing transactions in the amount of \$500,000 or less (in California) and \$2,500,000 (in New York), including without limitation to provide a prescribed disclosure form (a “Disclosure”) to any merchant applicant that applies from one of those states (a “Covered Merchant”) at the time of making an initial written offer of commercial financing, whether that offer is made by the provider (i.e., WW) or by a broker (i.e., Sales Partner) and thereafter obtaining the Covered Merchant’s signature on such Disclosure. Sales Partner shall also seek advice from regulatory counsel or compliance officers to ensure its compliance.
  - 2) For purposes of this Agreement, a Covered Merchant shall include a Merchant that makes any written representation that its business is principally directed or managed from California or New York, provides a business address in California or New York, or is incorporated in California or New York.
  - 3) Sales Partner represents, warrants and covenants that, before an executed Disclosure is received by WW from a Covered Merchant, Sales Partner shall not include in any written communication to a Covered Merchant in connection with a specific commercial financing offer, based upon information from or about the Covered Merchant, (1) a periodic payment amount, irregular payment amount or financing amount, and (2) any rate, price or cost of financing (including, without limitation, any total repayment amount) (collectively, “triggering terms”). “Information from or about the recipient”, as used herein, includes information about the Covered Merchant that informs the provider’s quote to the Covered Merchant, such as the Covered Merchant’s financial or credit information, but does not include the Covered Merchant’s name, address or general interest in financing. Sales Partner further agrees to supervise, train and monitor its employees, representatives and agents regarding this prohibition against including triggering terms in written communications to recipients before a Disclosure is provided to the Covered Merchant.

- 4) Sales Partner shall strictly comply with all written policies and procedures issued by WW from time to time with respect to compliance with California SB1235, the California Rules, New York S5470 and the New York Rules. Sales Partner shall not provide a specific single written commercial financing offer to a Covered Merchant until authorized by WW to do so after WW has obtained a signed Disclosure and WW gives Sales Partner written confirmation that WW has provided the disclosures to the Covered Merchant directly or through some other means.
- 5) If, and only if, WW asks Sales Partner to provide a Covered Merchant with a Disclosure instead of WW providing the Disclosure directly to the Covered Merchant, the following procedures shall apply.

Upon receipt of a copy of a Disclosure from WW in connection with a specific commercial financing offer to a Covered Merchant, and before Sales Partner communicates the offer to the Covered Merchant, Sales Partner shall promptly transmit the unaltered Disclosure received from the WW to the Covered Merchant and urge the Covered Merchant to promptly review it.

Within two (2) business days of the date that Sales Partner transmits Disclosure to a Covered Merchant, Sales Partner shall provide evidence of transmission of the Disclosure to WW in form and substance acceptable to WW, including the time of transmission of the Disclosure to the Covered Merchant. This may include, without, forwarding the email transmission or DocuSign transmission, with all original attachments from the email.

If the commercial financing transaction related to the disclosures is expected to be consummated, Sales Partner shall cause the Covered Merchant to sign a copy of the Disclosure (including by a natural person authorized to sign in the case of a Covered Merchant that is a legal entity) and shall immediately transmit the signed copy to WW in a manner acceptable to WW. Sales Partner acknowledges that the Rules provide that a commercial financing transaction shall not be consummated (and subject to satisfaction of all other conditions to consummation) unless and until WW has obtained a signed copy of the Disclosure related to the transaction.

- 6) Sales Partner acknowledges and agrees that WW may take any necessary or appropriate steps to confirm Sales Partner's compliance with its obligations under this section, including without limitation investigation of facts that may indicate that Sales Partner has not provided Disclosures to one or more Covered Merchant. Sales Partner further acknowledges and agrees that WW may immediately terminate the Agreement in the event WW in its sole discretion finds that Sales Partner has not complied with its obligations under this section, in which event Funder shall not be liable to pay any further Compensation and shall be entitled to be repaid any compensation paid in respect of Covered Merchants to whom Sales Partner did not comply with this section.
- 7) With respect to Florida HB 1353 and Georgia SB90, Sales Partner represents, warrants, and covenants that it will not (i) assess, collect or solicit an advance fee from a Merchant to provide services as a broker (other than soliciting the Merchant to pay for actual services necessary to apply for a commercial financing transaction, such as a credit check of an appraisal of security if such payment is made by check or money order payable to a party independent of Sales Partner),



(ii) make or use any false or misleading representation or omit any material fact in the offer or sale of services by Sales Partner, or engage in an act that operates or would operate as a fraud or deception upon any Merchant in connection with the offer or sale of the Sales Partner's services, (iii) make or use any false or deceptive representation in business dealings, or (iv) (for Florida only) offer the services of a broker in any advertisement without disclosing the actual address and telephone number of the business of the broker and the address and telephone number of any forwarding service the broker may use.

- c. Complying with any similar state laws or rules that have been passed or may in the future be passed, such as in the States of Illinois, Georgia or Maryland.
- d. Sales Partner acknowledges that it will be required to indemnify WW for any damages WW's incurs as a result of Sales Partner's failure to comply with state disclosure laws.

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed on its behalf by an appropriate officer thereunto duly authorized, as of the Effective Date set forth at the beginning of this Agreement.

**WESTWOOD FUNDING SOLUTIONS LLC:**

**SALES PARTNER:**

X \_\_\_\_\_

X \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

**SCHEDULE A: ISO COMPENSATION**

**ISO Compensation will be anywhere between one (1) and fifteen (15) points depending on the deal and the maximum up sell by the ISO. The point range offered to the Sales Partner on any given deal will be determined by WW at the time the initial offer is made. During the underwriting process, this point range may be changed by WW, in its sole discretion. Notice of this change shall be promptly provided to the Sales Partner, who shall acknowledge and accept the same prior to funding.**