

# Blacklist Collections, Inc.

Website: <http://blacklistcollections.com/>

Email: [support@blacklistcollections.com](mailto:support@blacklistcollections.com)

Tel: 718-540-5454

## **COLLECTIONS SERVICES AGREEMENTS**

This Agreement is entered on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between Blacklist Collections, Inc., with an address at \_\_\_\_\_, (hereinafter referred to as "Agency") and \_\_\_\_\_, with an address at \_\_\_\_\_ (hereinafter referred to as "Client").

WHEREAS, Client requires, from time to time, collection services on certain delinquent accounts, and WHEREAS, Agency is engaged in the business of performing collection services for third parties, and WHEREAS, Client wishes to retain Agency for the purpose of collecting debts owed to Client by third-party obligors i.e., the individual or entity legally liable to Client for payment of the balance on an account, and Agency agrees to be so engaged in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **REFERRAL OF ACCOUNTS FOR COLLECTION.** From time to time and in its sole discretion, Client shall refer legally due and owing unpaid credit accounts ("Referred Accounts") to Agency for collection of the outstanding balance due and Agency agrees to provide the collection services described in this Agreement on such Referred Accounts (the "Services"). Unless otherwise agreed to by the Parties in writing, those Referred Accounts placed by Client with Agency and the Services performed by Agency shall be governed by the terms and conditions of this Agreement.
2. **RIGHTS AND DUTIES OF CLIENT**
  - A. **Accounts Referred.** Client has the discretion to determine the number and types of accounts referred to Agency pursuant to this Agreement. Nothing in this Agreement shall be deemed or construed to mean that Agency has a right to receive a given volume level of accounts referred to Agency over any period.
  - B. **Non-Exclusive Nature of Agreement.** Agency understands and agrees that the relationship between Client and Agency is not an exclusive relationship and that Client shall have the right to retain other collection agencies to provide the same services for Client as are described herein. Client is not obligated to and makes no commitment of any kind to Agency as to any minimum number or dollar amount of accounts to be referred to Agency under this Agreement. However, once an account is referred to Agency, Client will cease all further attempts on such Referred Account and Client warrants that it shall not refer such Referred account to any other collection agencies and that no other collection agencies shall attempt to collect any such Referred Account while the Referred Account has been placed with Agency.
  - C. **Account Information.** Upon referral of an account to Agency for collection, Client will provide Agency with the following information relative to each Referred Account: the applicable creditor name and the required obligor information, including the obligor's name, address, phone number(s) and place of employment, if applicable; the Referred Account number and balance owing; pertinent account history, account memos and documentation ("Account Information"). Thereafter, Client shall provide, in a timely manner, all reasonably necessary assistance, information, and documents that Agency may need to respond to obligor validation requests or discovery inquiries relating to a Referred Account. Client further agrees to provide Agency with information concerning all direct payments, adjustments, and disputes on a Referred Account within a timely manner, not to exceed thirty (30) days.
  - D. **Bankrupt Referred Account.** Client shall promptly notify Agency if it receives notification, whether oral or written, of a bankruptcy of an obligor on a Referred Account.
  - E. **Recall of Accounts.** Client may recall, by written notice, any Account previously referred to Agency at Client's sole discretion and at any time and for any reason (a "Withdrawn Account"). When an account is recalled, Agency shall promptly, and within no more than three (3) business days of issuance of the recall notice, deliver all Account Information and media pertaining to the Withdrawn Account that Client may have provided to Agency. If litigation has been initiated on a Withdrawn Account but not brought to Judgment, Agency will cooperate in obtaining documentation needed to substitute legal counsel. If recall occurs after a Judgment has been obtained on a Withdrawn Account, Agency will provide Client with all relevant information pertaining to the judgment and will require its attorney on the Referred Account to execute a substitution of attorney if requested by Client. Client agrees to pay any reasonable outstanding legal fees and costs related to a Withdrawn Account at the time a Withdrawn Account is recalled. Notwithstanding Client's recall of any Referred Account, Agency shall retain the right to receive a Contingent Fee on any payment, settlement, insurance account or judgment earned on a Withdrawn Account, in accordance with the terms in Section 4.D, below, unless other arrangements are made with Client. This section is not a provision for cancelling this Agreement. Client agrees to pay any out-of-pocket costs, which are commercially reasonable and incurred by the Agency for legal or ancillary services performed on the Withdrawn Account. In addition, if Agency cancels all work on a Withdrawn Account and returns it to Client pursuant to this section, Client shall not resubmit such account to Agency without prior written notice.

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## **3. RIGHTS AND DUTIES OF AGENCY**

- A. **Legal Compliance.** Agency shall comply with and abide by all federal, state and local laws and regulations regarding collection agencies and/or governing the collection of debt and consumer credit reporting in the performance of the Services, including, but not limited, to (i) the Fair Debt Collection Practices Act (“FDCPA”) (16 USC 1601 et seq.); (ii) the Fair Credit Reporting Act (“FCRA”) (15 USC 1681 et seq.); (iii) the FACT Act; (iv) the Equal Credit Opportunity Act (16 USC 1691 et seq.); (v) the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. administered by the Federal Communication Commission; (vi) the Telephone Sales Rule, 16 C.F.R. § 310.1 et seq.; (vii) the Gramm-Leach-Bliley Act, as amended; (viii) Electronic Funds Transfer Act, 12 USC § 226 et. seq.; (ix) any rules promulgated by the Consumer Financial Protection Bureau (“CFPB”) or any other federal entity and required by Client; and (x) any comparable state or local versions of the foregoing (collectively, the “Collection Laws”).
- B. **Agency Personnel.** Services shall be performed only by Agency personnel who have been adequately trained and certified by Agency to provide Services in conformance with the terms of this Agreement, including but not limited to training on all Collection Laws, and the Agency’s Policies and Procedures for the Services (each, an “Agent” and collectively, the “Agents”). The Agents shall perform the Services under the direction, supervision, and control of Agency management. Additionally, Agency shall provide from time to time, upon reasonable request of Client, certification records of Agency personnel in accordance with this Section 3C.
- C. **Monitoring and Self Correction.** Because Collection Laws contain subjective legal standards that prohibit conduct that rises to the level of deceit or harassment, Agency agrees to monitor its Agents, employees, and vendors to ensure that their conduct is at all times lawful, honest, courteous, and business-like. Whenever Agency self-identifies any issues relating to and/or determines that it is not in compliance with Collection Laws it will immediately correct the conduct or condition that is causing the Agency not to be in compliance with such Collection Laws, whether such noncompliance is attributable to a process, procedure or the conduct of an individual Agent or employee of the Agency.
- D. **Communications with Obligors.** Upon any referral, Agency shall send an initial disclosure letter to obligors that conforms to all applicable state and federal laws including the debt validation requirements of the FDCPA and contains any required state or local disclosures. Agency shall fully and timely comply with all Collection Law requirements governing oral or written communications with obligors.
- E. **Trust Account.** Agency shall maintain a trust account at an FDIC-insured financial institution in trust for Client into which it shall deposit within two (2) business days of receipt, all payments it receives on Referred Accounts (the “Trust Account”), subject to later remittance to Client in accordance with Article 5, below. Agency shall provide Client with the bank location of the Trust Account, and upon demand, provide Client with account records, statements, and deposit receipts. However, for security reasons Agency shall not be required to disclose the Trust Account number to Client. Agency shall immediately notify Client of any changes in the location of the Trust Account. Agency shall not co-mingle funds of its other customers in the Trust Account. Client hereby authorizes Agency to act as Client’s attorney-in-fact for the sole purpose of accepting funds in payment of debts due Client which have been referred to Agency for collection, including endorsements of checks, money orders, and drafts payable to Client, or jointly to Client and Agency, for deposit into Agency’s Trust Account.
- F. **Settlements.** Client authorizes Agency to settle any Referred Accounts, within its reasonable discretion and in good faith to maximize recovery of the balance owing on the Referred Account, without written authorization by Client. Agency agrees to accept payments from obligors via check, debit, credit, recurring ACH, money order, or cash. Agency further agrees to permit obligors to make payment directly to Client on Referred Accounts at any time, provided such any such Referred Account is not in litigation, and subject to the reporting requirements as set forth in numbered paragraphs 2C, and 4B herein.
- G. **Legal Action.** Agency will not initiate any form of legal action on a Referred Account unless Client has approved such action in writing. If Agency seeks to initiate any such form of legal action, Client reserves the right to select the third-party vendor engaged to prosecute such action, and the respective process of legal action to be employed. Client reserves the right to interview any such third-party vendor before a Referred Account is placed with such third party for legal action, and to approve reasonable criteria for bringing such action. All Referred Accounts upon which Agency initiates permitted legal action will be subject to the Contingent Fee gross proceeds, as set forth in Article 4.A, below. Client will be responsible for all legal fees and court costs in connection with Referred Accounts upon which legal action has been authorized by Client. Client shall be reimbursed first for all court costs from any recovered proceeds from the Referred Account prior to calculation of the Contingent Fee. This provision shall not require Client to pay legal fees Agency may incur in connection with the defense of any claims asserted against Agency by an obligor or an alleged obligor, except under circumstances outlined in Article 11 below in which client may be responsible to indemnify the Agency for such claims.

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H. **Third Party Vendors.** Client has the right to review copies of any agreements with, contracts with, or information or any other work Agency has on any third-party vendor sought to be retained by Agency upon a Referred Account. Agency shall provide to Client such information or documents upon Client's reasonable request. Agency shall always inform Client of the retention of any third-party vendor before work is performed on behalf of the Client. Client reserves the right to reject the use of any third-party vendor at any time in its sole discretion. However, once Client has given approval for the use of any third-party vendor, Client may not revoke such approval without Cause on less than 60 days' notice.

I. **Bankrupt Referred Account.** Upon receipt of information that the obligor on a Referred Account has filed for bankruptcy or receivership, Agency shall immediately cease all efforts to collect on the Referred Account. Agency shall promptly transmit to Client all relevant information regarding the obligor's bankruptcy. If Agency receives written notice of the obligor's bankruptcy, Agency shall promptly transmit such notice to Client. If notice of a bankruptcy filing is provided verbally by the obligor or a third party, Agency shall attempt to obtain information regarding the jurisdiction in which the case has been filed and the case number assigned to the obligor. If bankruptcy information cannot be provided, Agency shall request the name and telephone number of the obligor's attorney and shall request from the attorney a copy of the filed Voluntary Petition or the §341 Notice.

J. **Military Referred Account.** Upon receipt of information that the obligor on a Referred Account is an active duty member of the United States Armed Forces, Agency may immediately cease all efforts to collect on the Referred Account. Agency shall promptly transmit to Client all relevant information regarding the obligor's active duty military status. If Agency receives written notice of the obligor's active duty military status, Agency shall promptly transmit such notice to Client. If notice of active duty military service is provided verbally by the obligor or a third party, Agency shall attempt to obtain information regarding the status of the obligor with respect to the United States Armed Forces. If active duty military status cannot be proven or disproven, Agency may request the name and telephone number of the obligor's attorney and may request from the attorney documentary evidence of active duty military service.

K. **Credit Bureau Reporting.** Agency agrees that any credit bureau reporting will be done in full compliance with the FCRA and all applicable statutes and regulations and Agency's policies and procedures related to same.

L. **Records.** Agency shall maintain records for all Referred Accounts, which shall contain at least the following information: date of referral, balance owing, records of all collection activity, all payments made on the Referred Account and Contingent Fee deducted. The foregoing information shall be provided upon reasonable request to Client at any time during normal business hours. In addition, the information shall be retained by Agency for the longer of (i) seven (7) years from the date of recall of a Referred Account by Client or closure for whatever reason (paid in full, settled, uncollectable, etc.) by Agency or (ii) any period required by law.

M. **Cooperation.** Notwithstanding and in addition to the rights and duties set forth in this Agreement, Agency agrees to provide any documentation, records, or evidence in its possession reasonably requested in writing by Client regarding all Referred Accounts, including affidavits, whether or not the Account is still placed with the Agency. This duty shall survive the termination of this Agreement.

**4. COMPENSATION.** As its sole compensation for performing the Services under this Agreement, Agency shall earn and be paid a Contingent Fee (as defined herein) for any money collected on a Referred Account of Client.

A. **Contingent Fee.** For the purposes of this Agreement, the "Contingent Fee" shall be ten percent (10%) of the gross amount of money collected by Agency on a Referred Account of Client, which Agency is authorized to calculate on the recovered proceeds and withhold from the money collected on any Referred Account as payment for its services under this Agreement. Pursuant to Article 3.G, above, any collection costs recovered, whether obtained in or out of court judgment shall not be included in the calculation of gross proceeds and Client shall be reimbursed first for all court costs from any recovered proceeds from the Referred Account prior to calculation of the Contingent Fee. Any interest awarded by a court or collected by Agency shall be included in the gross amount of money collected for purposes of calculating the Contingent Fee. The right of Agency to receive the Contingent Fee will apply, regardless of the collection activity conducted as of the date of payment, including whether the Referred Account has been placed with and reviewed by Agency's attorney(s), whether a demand letter from the attorney has been sent, or whether a statement of claim has been filed. Notwithstanding the foregoing, the amount of the Contingent Fee is subject to renegotiation throughout the term of the Agreement. Any changes to the amount of Contingent Fee agreed upon in this Agreement may only be modified by a written agreement signed by both Parties.

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**B. Direct Payments Made to Client.** Agency shall be entitled to receive the Contingent Fee provided for in Article 4.A on all money received on a Referred Account, whether paid to the Agency or to the Client. Client will use reasonable efforts to monitor any payments and/or settlements actually received directly from the obligor in connection with a Referred Account (a "Direct Payment"). Client shall notify the Agency on a regular basis of all Direct Payments, or if the Agency becomes aware of such payment, the Agency will notify Client. Client shall promptly pay to Agency via ACH or wire transfer to the Agency account as will be provided to the Client ("Agency Account"), the Contingent Fee due and payable on any Direct Payment. In the event Client fails to pay to Agency the Contingent Fee due and payable on any payments made directly to Client within seven (7) days of collection, Agency shall be entitled to calculate and invoice Client for said Contingent Fee. Client will provide Agency with a report of all Direct Payments received by Client (a "Direct Payment Statement"), which shall indicate (i) the Referred Account numbers for which Client received a Direct Payment of money, (ii) the amounts received, (iii) the Contingent Fee due and payable, and (iv) the confirmation of payment of the Contingent fee to Agency. The Direct Payment Statement will be submitted to Agency pursuant to the provisions for notice in this Agreement.

**C. Payments on Withdrawn Accounts.** If a Referred Account is recalled and withdrawn by Client prior to completion of collection by Agency (pursuant to the terms herein), Agency shall be entitled to and shall be paid a Contingent Fee on any payments received by Agency or by Client within thirty (30) days following the date of the recall of the Referred Account.

**5. REMITTANCE OF COLLECTED FUNDS; INVOICE AND PAYMENT OF CONTINGENT FEE.** Agency shall be responsible for collection of all payments made on a Referred Account and for remitting the proceeds and reporting to Client on all Referred Accounts as follows: Collections made by Agency on Referred Accounts will be deposited promptly into a trust account maintained in a reputable bank as described in Article 3.E. Such collections held in trust by Agency, shall be the property of Client and not available for any other use by Agency. All collections made by Agency on Client's accounts will be remitted net of Agency Contingent Fee by the 7th day of each calendar month. Remittance advice will be sent to Client no later than the 7th day of the for the previous month's collections. The remittance advice shall contain a list of the Consumer's name, account number, amount collected, and whether the payment was made directly to Agency or Client, and fee due Agency. Client agrees to remit monies due Agency within seven (7) days of receipt of remittance/invoice.

**6. REPRESENTATIONS AND WARRANTIES OF CLIENT TO AGENCY.** Client represents and warrants to Agency as follows:

- A. All Referred Accounts placed with Agency hereunder are lawfully due and owing, that they are owned by the Client (or its affiliates and customers) and that the Referred Accounts are not subject to any claim of fraud or otherwise wholly or partially invalid due to payment or settlement by the obligor or any other claim or defense.
- B. Information and data on the Referred Accounts is accurate to the best of Client's information and knowledge.
- C. Client is not aware of any disputes regarding the Referred Accounts, including any bankruptcy filing or expiration of the applicable statute of limitations.

**7. REPRESENTATIONS AND WARRANTIES OF AGENCY TO CLIENT.** Agency, for itself and its Agents, represents and warrant to Client as follows:

- A. Agency holds or shall obtain all state, local or other debt collection-related licenses as may be required for Agency or its employees to perform the Services hereunder (the "Licenses"), and, Agency has obtained any and all regulatory or governmental approvals necessary to provide the Services. Additionally, Agency shall not perform Services in any state or locality for which Agency does not have a License or for which registration is otherwise required in order for Agency Agents to lawfully perform the Services in that state or locality.
- B. Agency and its Agents shall comply with all applicable Collection Laws and shall utilize only acceptable legal means, methods, and procedures at all times in collecting the balances on Referred Accounts.
- C. Agency has a compliance management system in place and has a designated compliance officer or other person responsible for ensuring that Agency performs Services in compliance with all Collection Laws.
- D. Agency shall comply in all material respects with all laws applicable to Agency, as well as with all of the Service Level
- E. Agency shall maintain records of any disputes, threats of lawsuits or actual lawsuits involving any Referred Accounts or in the event that Agency is subject to examination or investigation by the CFPB.
- F. Agency further agrees to comply with all laws related to the confidentiality and protection of private data and understands that information submitted to it by Client is confidential, and that its duties to protect such data shall survive the termination of this Agreement.
- G. Agency shall refrain from any practices that may reasonably be expected to reflect adversely upon the reputation of Client.
- H. Agency has and will continue to take all necessary precautions and security measures so as to prevent any unauthorized access to client data, to Client's Systems and databases or to any other information supplied or made accessible by Client or Client's customer(s) to Agency.

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**8. VERIFICATION OF DEBT.** Client acknowledges that in connection with the collection of delinquent consumer debts, the FDCPA requires Agency to provide an obligor with verification of the underlying obligation if that request is made to Agency in writing by an obligor within thirty (30) days of Agency's initial communication with the obligor. The law prohibits Agency from collecting on any obligation once a verification request is made to Agency from the obligor until such time as said verification has been mailed by Agency to the obligor. Client acknowledges that in any situation in which it does not provide Agency with the requested verification, Agency can no longer legally attempt to collect the Referred Account. In such case, Client acknowledges that the Agency will return the Referred Account to Client upon request.

**9. TERMINATION OF AGREEMENT.** This Agreement shall be effective upon execution by each of Client and Agency and will continue in effect until terminated as provided herein.

**A. Termination without Cause.** This Agreement may be terminated without cause by either Agency or Client, upon giving the other Party thirty (30) days written notice prior to the stated date of termination.

**B Termination by Client with Cause.** Upon the occurrence of a Termination Event (as defined below) Client shall have the right to terminate this Agreement immediately by providing written notice of termination to Agency. This Right to Terminate shall exist as long as any Termination Event persists but shall no longer exist as soon as all Termination Events are cured or remedied. A Termination Event shall have occurred as to Client if:

- i. Agency dissolves, closes for business, terminates its existence, fails to pay debts, or make remittances to Client as they become due, files for bankruptcy (either voluntarily or involuntarily), applies for the appointment of a receiver or custodian, or makes an assignment for the benefit of creditors;
- ii. Agency is acquired by or merges into another Agency by which Client does not wish to be represented following such merger or acquisition. Should this Termination Event occur, Client shall have 30 days to terminate this Agreement upon this Termination Event occurring or this Termination Event shall be deemed cured;
- iii. Agency fails to perform any legal obligation or duty owed to Client or violates any of the terms or covenant set forth in this Agreement, including but not limited to Agency's failure to comply with any Collection Laws.
- iv. Any third party obtains an adverse decision against Agency regarding the improper handling of client funds; or
- v. Agency or any of its members, employees or agents commits an act amounting to dishonesty or breach of trust with respect to Client or any Referred Account during the term of this Agreement.

**C. Termination by Agency with Cause.** Upon the occurrence of a Termination Event (as defined below), Agency shall have the right to terminate this Agreement immediately by providing written notice of termination to Client. A Termination Event shall have occurred as to Agency if:

- i. Client dissolves, closes for business, terminates its existence, files for bankruptcy (either voluntarily or involuntarily), applies for the appointment of a receiver or custodian or makes an assignment for the benefit of creditors; or
- ii. Client fails to perform any material provision of this Agreement within thirty (30) days after having been provided a written description of its breach by Agency.

**10. RETURN OF ACCOUNTS AND REQUIRED INFORMATION.** Upon termination of this Agreement, with or without cause, Agency agrees to use its best efforts to cooperate with Client in such termination. Specifically, but not limited to, Agency shall return to Client all Referred Accounts, along with all Account Information and a current status report of all such Referred Accounts, within thirty (30) business days after the date of termination. If requested by Client, after this thirty (30) business day period, Agency shall provide Client with any additional information and/or status reports regarding the returned accounts that may be requested by Client, provided such request is reasonable. Within thirty (30) days following the date that Agency has returned all accounts and provided all status reports and information reasonably required by Client, Client shall remit to Agency any Contingent Fees earned by Agency pursuant to this Agreement but not previously paid. Notwithstanding the foregoing, Client agrees that Agency does not need to return to Client upon termination any non-bankruptcy account within the given time period if such a return would result in undue prejudice towards Client's interests; in such a case, Agency shall continue to work on such Referred Accounts until such time that it may safely transfer the account back to the Client.

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A. Retained Rights. Termination of this Agreement by either Party will not affect the collection enforcement or validity of any accrued obligations owing between the Parties as to any Referred Account. Notwithstanding the foregoing and termination for cause, Agency shall retain the right to receive the Contingent Fee on paying accounts, settlements, insurance accounts or judgments, as well as the right to recover any court costs advanced on said accounts.

## **11. INDEMNIFICATION.**

A. By Agency. Agency hereby agrees to indemnify, defend and to hold Client, its officers, directors, employees, agents, attorneys, subsidiaries, affiliated companies, parent companies, representatives, and successors and assigns, harmless from and against all claims, damages, costs, losses or liabilities, including, without limitation, reasonable attorneys' fees and expenses ("Losses") to the extent such Losses arise out of or are primarily related to (i) a breach by Agency of this Agreement including, but not limited to, Agency's failure to comply with all relevant Collection Laws, or (ii) any negligent or wrongful acts, errors, or omissions of Agency or its employees or agents in performing any obligation or duty it has under this Agreement; provided however, that Agency shall have no obligation to indemnify or hold Client harmless due to or arising out of an error in any information furnished by Client to Agency concerning a Referred Account.

B. By Client. Client agrees to indemnify, defend and hold Agency, its officers, directors, employees, agents, attorneys, subsidiaries, affiliated companies, parent companies, representatives, and successors and assigns, harmless from and against all Losses to the extent such Losses arise out of or are primarily related to (i) the negligent or wrongful acts, errors, or omissions of Client or its employees, agents affiliates, assigns or any creditor or prior account holder, or the employees or agents of any of them, in connection with this Agreement, including but not limited to errors or omissions in connection with information furnished by Client to Agency concerning a Referred Account, or (ii) any collection effort by Client or any other collection agency as to a Referred Account.

C. Notice. Client and Agency agree to notify the other party within three (3) business days of any claim, counterclaim, crossclaim, CFPB, FTC or other federal or state regulatory inquiry or complaint, or any other inquiry or complaint asserted against the other in connection with a Referred Account or group of Referred Accounts.

D. Defense. Each Party will assume its own proper responsibility in connection with any claims made by a third party against Client and/or Agency. Agency is an independent contractor and is solely responsible for the employment, acts and omissions, control and direction of its employees and agents. If the acts of the employees or agents of Agency are the proximate cause of any action brought against Client, Agency will assume full responsibility for the defense of said action and payment of any resulting judgment. If the acts of Client or Client's employees or agents etc. are the proximate cause of any action brought against Agency by third party, then Client will assume full responsibility for the defense of said action and payment of any judgment. The Party providing indemnification has sole discretion in its choice of counsel and may direct the litigation at its discretion.

E. Survival. The Parties agree that these provisions shall apply even in the event one or both Parties deem the cause of action at issue to be frivolous or otherwise unsupported by law. The indemnification obligations provided for in this section shall survive the termination of this Agreement.

**12. LIMITATION OF LIABILITY.** Except to the extent caused by the negligence, breach of this Agreement, or willful misconduct of Agency, Agency shall not be liable for any lost profits, consequential, exemplary, incidental, indirect, or special damages even if advised by Client of the possibility of such damages. Except to the extent as specifically set forth in this Agreement, Client shall not be liable for any lost profits, consequential, exemplary, incidental, indirect, or special damages even if advised by Agency of the possibility of such damages. The provisions of this section shall survive termination of this Agreement or any Amendment hereto.

**13. CONFIDENTIALITY.** The Parties agree that any and all Confidential Information (as defined herein) shall be used solely for the purposes of the lawful performance of this Agreement and shall not be used or disclosed to any third party except as authorized herein or by the Parties in writing.

A. Definition. As used in this Agreement, "Confidential Information" shall include (i) all information regarding a Referred Account or the obligor, (ii) each Party's proprietary information, trade secrets or other business information that is either identified as or should otherwise be reasonably understood to be of a confidential nature, as may be disclosed to the other Party in connection with the performance of this Agreement, and (iii) this Agreement and the nature, terms and conditions of this Agreement. In addition, Agency understands that it will be exposed to certain valuable and confidential information that is the exclusive property of Client or its affiliated Clients, including consumer financial information of obligors and related parties. Agency will be given access to this information solely for the purposes of effectively collecting the Referred Accounts. Agency shall not disclose to any third party any information disclosed by Client or acquired by Agency in the performance of services and neither shall the Agency permit any third-party access to such information.

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Agency agrees to keep confidential all information herein and or related to Client, its investors clients, debt owners, and the Referred Account obligors, including but not limited to the Privacy Provisions of the Gramm Leach Bliley Act of \_\_\_\_\_ for which Client or the Agency obtain or develop as a result of collecting Accounts. All such additional information is deemed Confidential Information under this Agreement and shall be used solely by Agency as necessary for the performance of Services under this Agreement.

B. Limited se. Each Party agrees it shall not, without the prior written consent of the other Party or as permitted by the terms and conditions of this Agreement, do any of the following i disclose any Confidential Information to any third party ii permit any third party access to such Confidential Information or iii use Confidential Information for any purpose other than collecting debt on the Referred Account s referred to Agency by Client.

C. Exceptions. The confidentiality obligations imposed on the Parties by this section shall not apply to Confidential Information which, through no fault of a Party i is required to be disclosed in order to comply with applicable laws and regulations, court orders or other process of law, ii is required to be made to any tax, banking or other regulatory authority, or legal or financial advisor of either Party, iii is made in connection with the sale or other transfer of any Account by a Party or its successors or assigns, iv is made to such Party's current or prospective lenders or investors, v was already known to that Party prior to disclosure of the same Confidential Information by the other Party or is independently discovered by the Party, vi subsequently becomes available to the public at large without a breach of this Agreement, or vii is supplied in the normal course of Agency's business under permissible use requirements.

D. Return of Confidential Information. At any time upon the request of Client, Agency shall return all Confidential Information concerning a Referred Account in its possession to Client. Upon termination of this Agreement, both Parties shall return the Confidential Information of the other Party to the Party to which the Confidential Information belongs.

E. Enforcement. In the event of any breach of the obligations under this Section, the Parties acknowledge that the Party adversely affected by the breach would have no adequate remedy at law to protect its Confidential Information, since the harm caused by such a breach could not be easily measured and compensated for in damages, and that in addition to such remedies as may be available, a Party may obtain in unctive relief including, but not limited to, specific performance.

. Confidentiality of Agreement. Client and Agency agree that this Agreement and its terms are strictly confidential and shall not be disclosed to any person, firm, corporation, or other entity, orally or in writing, except as may be necessary to comply with applicable laws and regulations, court orders or other process of law, confer with a financial advisor, tax preparer, or lawyer regarding the sub ect matter of this Agreement, or to enforce this Agreement.

G. Survival. The provisions of this section shall survive the expiration or any termination of this Agreement or any Addendum hereto.

**14. NO EXCLUSIVITY.** This is not an exclusive agreement. It is expressly understood and agreed by the Parties hereto that Client may choose to use the Services of Agency or not, at Client's sole election, and that Client is under no obligation to refer accounts to Agency and has no obligations to Agency except as set forth in the Agreement. It is further understood and agreed that Agency may solicit potential clients and recruit new business on its own and may perform collections services for other clients.

**15. INDEPENDENT CONTRACTOR.** Agency and Client understand, acknowledge, and agree that Client is not selling any accounts, or any underlying debt on the Referred Accounts, to Agency by virtue of this Agreement. Both Parties acknowledge that Client is retaining Agency as an independent contractor, as that term is defined by applicable state and federal law, including the Internal Revenue Code, for the exclusive purpose of collecting, on a contingency basis, delinquent balances outstanding on accounts owned by Client and referred to Agency hereunder. Client is not selling any accounts, or any underlying debt on the Referred Accounts, to Agency by virtue of this Agreement. Nothing in this Agreement, directly or indirectly, shall be deemed or construed as creating an employee/employer, agency, partnership, or joint venture relationship between Agency and Client. In that regard, the legal relationship of Client and Agency is limited to the terms and conditions of this Agreement, which includes any amendment hereto. Each party shall have the obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed, all work to be performed under this Agreement and shall be liable for all acts or omissions of its employees and agents in performing their respective obligations hereunder. No audit of Agency by Client or its designees for the purpose of determining Agency's compliance with the terms and conditions of this Agreement shall be deemed or construed to mean that Client or its customers are in any way managing the operational activities of Agency. Agency understands and agrees that it has complete control over the operation and decision making of its business.

**16. ENTIRE AGREEMENT.** The Parties acknowledge and agree that this Agreement constitutes the entire Agreement between them and shall supersede all prior agreements, understandings, writings, proposals, representations, and communications, oral or written, with respect to the subject matter hereof.

**17.FURTHER ASSURANCES.** Each party agrees to execute such other documents as may be necessary to implement or perform this Agreement.

718-540-5454



# Blacklist Collections, Inc.

Website: <http://blacklistcollections.com/>

Email: [support@blacklistcollections.com](mailto:support@blacklistcollections.com)

Tel: 718-540-5454

**18. SEVERABILITY.** If any provision of this Agreement is construed to be invalid, illegal, or unenforceable, for any reason, then the remaining provisions of this Agreement shall remain enforceable. Additionally, any failure by Client to enforce Agency's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

**19. AMENDMENTS.** This Agreement cannot be modified or amended except with the written consent of both parties. Such modification shall be in the form of an amendment, letter of understanding or written addendum to the Agreement.

**20. ASSIGNMENT.** Except as otherwise permitted herein, neither Party may assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, except in the instance of a merger, reorganization, consolidation, or sale of all or substantially all of Party's assets in any such case no prior written consent or consent of any kind is required. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any assignment in contravention of this provision shall be void.

**21. GOVERNING LAW AND VENUE.** This Agreement and any dispute or controversy arising hereunder or otherwise between the Parties to this Agreement shall be governed and construed in accordance with the laws of the State of New York, without reference to rules governing choice of law. The Parties agree that any legal proceeding of any nature brought by either Party against the other party to enforce any right or obligation under this Agreement or arising out of any matter pertaining to this Agreement, shall be submitted for trial, without a jury, before the federal or state courts located in New York, NY. The Parties further agree that the federal and state courts located in New York, NY shall have exclusive jurisdiction and the Parties further agree to waive any dispute or defense regarding such jurisdiction, including any claims of forum non-conveniens.

**22. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which, when taken together, shall be one and the same document. Each Party may rely upon a "pdf" counterpart of this Agreement signed by the other Party with the same effect as if such Party had received an original counterpart signed by such other Party.

718-540-5454





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**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Agreement in duplicate on the date above written.

BLACKLIST COLLECTIONS, INC.

\_\_\_\_\_  
BY:  
TITLE:  
(CLIENT)

\_\_\_\_\_  
BY:  
TITLE:  
(AGENCY)

718-540-5454



blacklist  
collections