

## EXPERIAN/FAIR, ISAAC CREDIT SCORING SERVICES AGREEMENT

This **Credit Scoring Services Agreement**, ("Agreement"), dated: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ between \_\_\_\_\_ ("Subscriber") and Experian Information Solutions, Inc. and Fair, Isaac Corporation (collectively "Experian/Fair, Isaac").

For good and valuable consideration and intending to be legally bound, Subscriber and Experian/Fair, Isaac hereby agree as follows:

### 1. General Provisions

**A. Subject of Agreement.** The subject of this Agreement is Subscriber's purchase of certain credit scoring services known as the "Experian/Fair, Isaac Model" from Experian/Fair, Isaac.

**B. Application.** This Agreement applies to all uses of the Experian/Fair, Isaac Model by Subscriber during the Term (as defined below).

**C. Meaning of Experian/Fair, Isaac Model.** For purposes of this Agreement, the term "Experian/Fair, Isaac Model" means application of a risk model developed by Experian and Fair, Isaac Corporation which employs a proprietary algorithm and which, when applied to credit information relating to individuals with whom Subscriber has a credit relationship or with whom Subscriber contemplates entering into a credit relationship will result in a numerical score; the purpose of the models being to rank said individuals in order of the risk of unsatisfactory payment.

**D. Term.** The term of this Agreement (the "Term") is the period consisting of the Initial Term and, if this Agreement is renewed, the Renewal Term(s), as follows:

(1) *Initial Term.* The "Initial Term" is the period beginning at 12:01 a.m. on the date written above and ending at 11:59 p.m. on the day before the first anniversary of that date.

(2) *Renewal Term(s).* Unless one or both of the parties delivers written notice of such party's (parties') intent not to renew no later than thirty (30) days before the end of the Initial Term, this Agreement will renew automatically and without further action by either party for an additional one-year period (a "Renewal Term"). Thereafter, this Agreement will continue to renew automatically unless and until either party delivers nonrenewal notice no later than thirty (30) days before the end of a Renewal Term. This Agreement will terminate without further action by either of the parties in the event Subscriber discontinues use of the Experian/Fair, Isaac Model.

### 2. Experian/Fair, Isaac Model

**A. Generally.** Upon request by Subscriber during the Term, Experian/Fair, Isaac will provide Subscriber with the Experian/Fair, Isaac Model.

**B. Time of Performance.** Experian/Fair, Isaac will use commercially reasonable efforts to provide the Experian/Fair Isaac Model as expeditiously as possible

and in a timely manner; *provided, however*, Experian/Fair, Isaac will have no liability to Subscriber hereunder for delays in providing such Experian/Fair, Isaac Model.

**C. Warranty.** Experian/Fair, Isaac warrant that the Experian/Fair, Isaac Model is empirically derived and demonstrably and statistically sound and that to the extent the population to which the Experian/Fair, Isaac Model is applied is similar to the population sample on which the Experian/Fair, Isaac Model was developed, the Experian/Fair, Isaac Model score may be relied upon by Subscriber to rank consumers in the order of the risk of unsatisfactory payment such consumers might present to Subscriber. Experian/Fair, Isaac further warrants that so long as it provides the Experian/Fair, Isaac Model, it will comply with regulations promulgated from time to time pursuant to the Equal Credit Opportunity Act, 15 USC Section 1691 *et seq.* THE FOREGOING WARRANTIES ARE THE ONLY WARRANTIES EXPERIAN/FAIR, ISAAC HAVE GIVEN SUBSCRIBER WITH RESPECT TO THE EXPERIAN/FAIR ISAAC MODEL AND SUCH WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EXPERIAN/FAIR, ISAAC MIGHT HAVE GIVEN SUBSCRIBER WITH RESPECT THERETO, INCLUDING, FOR EXAMPLE, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Subscriber's rights under the foregoing Warranty are expressly conditioned upon Subscriber's periodic revalidation of the Experian/Fair, Isaac Model in compliance with the requirements of Regulation B as it may be amended from time to time (12 CFR Section 202 *et seq.*).

### 3. Fees

**A. Generally.** In consideration of Experian/Fair, Isaac's performance of the Experian/Fair, Isaac Model, Subscriber will pay Experian/Fair, Isaac fees (the "Fees") as agreed upon in writing by Subscriber and Experian/Fair, Isaac from time to time.

**B. Taxes.** Subscriber will be solely responsible for all Federal, state, and local taxes levied or assessed in connection with Experian/Fair, Isaac's performance of the Experian/Fair, Isaac Model, other than income taxes assessed with respect to Experian/Fair, Isaac's net income, for which income taxes Experian/Fair, Isaac will be solely responsible.

**C. Method of Payment.** Periodically during the Term, Experian/Fair, Isaac will deliver to Subscriber invoices reflecting Fees (including taxes) for which Subscriber is responsible hereunder. Subscriber will pay Experian/Fair,



Isaac the amounts indicated on such invoices within thirty (30) days after the invoice date. Subscriber's obligation to pay Fees shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, set off, counterclaim, recoupment, defense (other than the defense of payment itself) or other right Subscriber may have or allege to have against Experian/Fair, Isaac for any reason whatsoever. If Subscriber does not pay any undisputed portion of invoiced Fees within the thirty (30) day period described above, then Subscriber will also pay interest on the unpaid amount at the rate of one and one-half percent (1.5%) per month or the highest rate permitted by law, whichever is less.

#### 4. Intellectual Property

**A. No License.** Nothing contained in this Agreement shall be deemed to grant Subscriber any license, sublicense, copyright interest, proprietary rights, or other claim against or interest in any computer programs utilized by Experian/Fair, Isaac or any third party involved in the delivery of the Experian/Fair, Isaac Model.

**B. Subscriber Use Limitations.** By providing the Experian/Fair, Isaac Model to Subscriber pursuant to this Agreement, Experian/Fair, Isaac grants to Subscriber a limited license to use information contained in reports generated by the Experian/Fair, Isaac Model solely in its own business with no right to sublicense or otherwise sell or distribute said information to third parties.

**C. Proprietary Designations.** Neither party will use, or permit their respective employees, agents and subcontractors to use, the trademarks, service marks, logos, names, or any other proprietary designations of the other party, the other party's affiliates or any third party involved in the provision of the Experian/Fair, Isaac Model, whether registered or unregistered, without such party's prior written consent.

#### 5. Compliance and Confidentiality

**A. Compliance with Law.** In performing this Agreement and in using information provided hereunder, both parties will comply with all Federal, state, and local statutes, regulations, and rules applicable to consumer credit information and nondiscrimination in the extension of credit from time to time in effect during the Term.

**B. Confidentiality.** Each party will maintain internal procedures to minimize the risk of unauthorized disclosure of information delivered hereunder. Both parties will take reasonable precautions to assure that such information will be held in strict confidence and disclosed only to those of their respective employees whose duties reasonably relate to the legitimate business purposes for which the information is requested or used and to no other person. Without limiting the generality of the foregoing, each party will take suitable precautions to prevent loss, compromise, or misuse of any tapes or other media containing consumer credit information while in the possession of either party and while in transport between the parties.

**C. Proprietary Criteria.** Under no circumstances will Subscriber attempt in any manner, directly or indirectly, to discover or reverse engineer any confidential and proprietary criteria developed or used by Experian/Fair, Isaac in performing the Experian/Fair Isaac Model.

**D. Consumer Disclosure.** Notwithstanding any contrary provision of this Agreement, Subscriber may disclose the scores provided to Subscriber under this Agreement to credit applicants, when accompanied by the corresponding reason codes, in the context of bona fide lending transactions and decisions only.

#### 6. Indemnification and Limitations

**A. Indemnification of Experian/Fair, Isaac.** Subscriber will indemnify, defend, and hold Experian/Fair, Isaac harmless from and against any and all liabilities, damages, losses, claims, costs, and expenses (including attorneys' fees) arising out of or resulting from any nonperformance by Subscriber of any obligations to be performed by Subscriber under this Agreement, *provided that* Experian/Fair, Isaac have given Subscriber prompt notice of, and the opportunity and the authority (but not the duty) to defend or settle any such claim.

**B. Indemnification of Subscriber.** Experian/Fair, Isaac will indemnify, defend, and hold Subscriber harmless from and against any and all liabilities, damages, losses, claims, costs, and expenses (including attorneys' fees) arising out of or resulting from any nonperformance by Experian/Fair, Isaac of any obligations to be performed by Experian/Fair, Isaac under this Agreement, *provided that* Subscriber has given Experian/Fair, Isaac prompt notice of, and the opportunity and the authority (but not the duty) to defend or settle any such claim.

**C. Limitation of Liability.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, UNDER NO CIRCUMSTANCES WILL EITHER PARTY HAVE ANY OBLIGATION OR LIABILITY TO THE OTHER OR TO ANY END USER HEREUNDER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES INCURRED BY THE OTHER PARTY, REGARDLESS OF HOW SUCH DAMAGES ARISE AND OF WHETHER OR NOT A PARTY WAS ADVISED SUCH DAMAGES MIGHT ARISE. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EXPERIAN/FAIR, ISAAC TO SUBSCRIBER EXCEED THE FEES PAID BY SUBSCRIBER PURSUANT TO SECTION 3.A DURING THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF SUBSCRIBER'S CLAIM.

#### 7. Miscellaneous

**A. Amendments.** This Agreement may be amended at any time, but only by written agreement which refers expressly to this Agreement and is signed by both parties.

**B. Termination and Cancellation.** This Agreement may be terminated by either party upon thirty (30) days prior written notice to the other party. This Agreement shall terminate automatically in the event the Standard Terms and Conditions Agreement or other similar

agreement which is entered into between Experian and Subscriber is terminated or canceled for any reason. This Agreement may be canceled unilaterally by either party, but only if and when (1) the other party has breached a material obligation under this Agreement, (2) the party desiring to terminate has delivered to the breaching party a written demand that the breaching party cure the breach, (3) the breaching party has failed to cure such breach within thirty (30) days after receipt of the demand, and (4) the party desiring to terminate then delivers to the breaching party written notice of cancellation.

**C. Waivers.** Either party may at any time waive compliance by the other with any covenants or conditions contained in this Agreement, but only by written instrument signed by the party waiving such compliance. No such waiver, however, shall be deemed to constitute the waiver of any such covenant or condition in any other circumstance or the waiver of any other covenant or condition.

**D. Successors.** This Agreement shall be binding upon and inure to the benefit of the successors of each of the

parties hereto, but shall not be assignable by Subscriber without the prior written consent of Experian/Fair, Isaac.

**E. Third Parties.** Subscriber acknowledges that the Experian/Fair, Isaac Model results from the joint efforts of Experian Information Solutions, Inc. and Fair, Isaac Corporation. Subscriber further acknowledges that Experian/Fair, Isaac have a proprietary interest in said Model and agrees that either Experian Information Solutions, Inc. or the Fair, Isaac Corporation may enforce those rights as required.

**F. Complete Agreement.** This Agreement sets forth the entire understanding of Subscriber and Experian/Fair, Isaac with respect to the subject matter hereof and supersedes all prior letters of intent, agreements, covenants, arrangements, communications, representations, or warranties, whether oral or written, by any officer, employee, or representative of either party relating thereto.

**IN WITNESS WHEREOF,** Subscriber and Experian/Fair, Isaac have signed and delivered this Agreement.

**Experian Information Solutions, Inc.  
and Fair, Isaac Corporation**

By: \_\_\_\_\_  
Signature (Duly Authorized Representative Only)

Name: \_\_\_\_\_  
Print

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

Address for Notice:  
Experian Information Solutions, Inc.  
475 Anton Boulevard  
Costa Mesa, CA 92626  
Attn: General Counsel

\_\_\_\_\_  
Print or Type Full Legal Name of Company

By: \_\_\_\_\_  
Signature (Duly Authorized Representative Only)

Name: \_\_\_\_\_  
Print

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

Physical Address for Notice:

Attn: \_\_\_\_\_