



ISO Agent Sales Agreement

This Sales Agent Agreement (the "Agreement") is made and effective as of this date, _____ 2018, by and between Blue Rain Management LLC DBA Blue Rain Management, a New York limited liability company located at 86107 Marengo St, Hollis, New York 11423 (Hereinafter "BRM") and _____, a _____ company (Agent).

WHEREAS, BRM purchases and outsources the purchase from merchants ("Merchants") a percentage of each future credit card, bank card and/or other banking deposits, checks or electronic deposits ("Preprocessing Receipts") due to the Merchants for an amount agreed to by BRM and the Merchants ("Program"); and

WHEREAS, Agent wishes to promote the Program, assist with its implementation and refer potential Merchants to BRM that may wish to participate in the Program, all subjects to the terms hereof;

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants by each of the parties hereto, the parties agree as follows:

1. **Agent Obligations.** Agent will market and promote the Program and assist interested parties in completing and submitting to BRM an application, in a form acceptable to BRM. Each merchant assisted by Agent shall comply in full with the requirements set forth in the rules and policies of BRM as they may exist from time to time. BRM will evaluate and, at its sole discretion, accept or deny such applications. Agent shall not be the exclusive sales agent of the Program for BRM. BRM may, at its sole discretion, retain the services of as many other sales Agents as it so desires.
2. **Agent Compensation.** In consideration for the services rendered by the Agent hereunder, BRM agrees to pay Agent in accordance with the Agent Compensation Schedule, set out in Schedule A hereto (the "Compensation"). Compensation shall be paid in respect of each Merchant location referred to BRM by Agent where Agent is the sole referrer, and which said Merchant has entered into a Merchant Agreement in a form prescribed by BRM ("Merchant Agreement") as a direct result of the referral by Agent.
 - a. If a Merchant has an Event of Default, as defined in the Merchant Agreement, (the "Defaulting Merchant") within 30 days of executing the Merchant Agreement then UFS shall be entitled to clawback any compensation paid to the Agent with respect to the Defaulting Merchant and any Ongoing Compensation, as defined in Schedule A, shall terminate.
 - b. If Agent breaches either one of the covenants in Paragraph 6(g), (h) or (i), then Agent immediately forfeits all rights under this Agreement and UFS shall be entitled to terminate any and all then-existing and future compensation owed to Agent with respect to all Merchants referred by Agent to BRM under this Agreement and BRM

shall be entitled to clawback any compensation paid to the Agent from the date of breach.

3. **Merchant Application and Agreement.** BRM (and only BRM) shall be authorized to accept, ratify, or finalize any Merchant Agreement. UFS may, at its sole and absolute discretion, decline to accept any Merchant to the Program for any reason whatsoever. Under no circumstances shall Agent hold out that it has any right to accept or decline a Merchant application nor shall it hold out or represent to any third party that it has the right to: (a) modify in any way or accept any Merchant Agreement; (b) include a Merchant in the Program; or (c) bind BRM legally or otherwise. No agreement made by or through Agent or its affiliates shall be legally or otherwise binding on BRM until accepted in writing by a duly authorized officer of BRM. Agent shall be solely responsible for any and all expenses incurred by Agent in performance of services hereunder including, but not limited to, expenses related to any Agent employees or consultants. Agent acknowledges and agrees that UFS may, at its sole discretion, amend the terms of the Program, including, without limitation, the pricing thereof without prior notice or consent from Agent.
4. **Agent Identification.** In the course of carrying out its obligations hereunder, Agent shall clearly identify itself with its own corporate name, but also disclose to all third parties that it is an agent of BRM for the promotion of the Program. Agent agrees that its actions and the actions of its shareholders, Affiliates (as defined below), directors, officers, employees, independent contractors, representatives, agents, principals, and associates under or in connection with this Agreement (collectively "Agent Parties") shall be governed, controlled, and directed by, and shall be in full compliance with, the terms hereof and shall at all times and in respect of all parties and third parties be construed as actions taken by Agent subject to the terms hereof. Agent shall be responsible to ensure that all Agent Parties are adequately trained to perform hereunder and conform to all of the provisions hereof. Agent covenants that Agent Parties will abide by all the obligations of the Agent.
5. **Representation and Warranties.** Each party hereto represents and warrants to and for the benefit of the other party that as of the date hereof and during the term hereof:
 - a. It is a corporation or limited liability company organized, validly existing and in good standing under the laws of the State where its principal office located;
 - b. It has full authority and corporate power to enter into this Agreement and to perform its obligations under this Agreement;
 - c. Its performance of this Agreement will not violate any applicable law or regulation or any agreement to which it may now be bound;
 - d. This Agreement represents its valid obligation and is fully enforceable against it;
 - e. It is not a party to any pending litigation that would have an impact on this Agreement and have never been fined or penalized by Visa, MasterCard, NACHA or any other association in the credit, payments or banking industry; and
 - f. It is not on the Member Alert to Control High-Risk merchants list of MasterCard or any other similar list.
6. **Agent Covenants.** Agent covenants that during the term of this Agreement and so long as it is bound by the non- interference provisions hereof, it shall:
 - a. Comply with any and all policies and guidelines established by BRM.
 - b. Where appropriate, inform potential Merchants that they are required to change credit card processors or bank accounts in order to participate in the Program;
 - c. Accurately describe the Program;

- d. Immediately inform BRM of any changes that become known to Agent in the address, ownership or business or operations of itself or of any Merchant;
 - e. Deliver to BRM all documents required as part of a Merchant Application together with each application, including, without limitation: A Merchant Agreement, application form, voided Merchant check, at least 6 months of Merchant bank statements, and any other documents required according to UFS guidelines, such as they may be from time to time;
 - f. Remain cognizant and in agreement that this Agreement may be terminated immediately by BRM upon breach of any obligation, covenant, representation or warranty set forth in this Agreement or if determined by UFS, in its sole discretion that Agent is causing a negative effect on the Program, BRM or its affiliates;
 - g. Not engage in any debt settlement, debt consolidation, merchant cash advance settlement, merchant cash advance relief or any other business or service that consults or advises merchants with respect to defaulting on (or with respect to an existing default on) their merchant cash advance from any purchaser of receivables; and
 - h. Not cause or solicit a successfully referred Merchant to terminate or alter its credit card processing or banking institution to another processor or bank, which has no contractual affiliation with BRM or any of its affiliates, as long as such merchant has a balance owed to BRM.
 - i. Not facilitate or cause the Merchant to accept any cash advance or loan or any other further form of financing or purchase of receivables in any form that relates to or involves the Merchant's Processing Receipts with any party other MR for the duration of this Agreement. MR may share information regarding this Agreement with any third party in order to determine whether Agent is in compliance with this provision.
7. **Term and Termination.** The term of this Agreement shall begin on the date appearing on the first page hereof and will continue for an initial term of one (1) year. After such initial term, this Agreement shall automatically renew for successive one (1) year terms unless terminated by either party upon ninety (90) days written notice prior to the end of the then current term. This Agreement may be terminated immediately by BRM upon breach by Agent of any of its obligations herein or if, as determined by BRM, Agent or any of Agent Parties causes a detrimental effect to the Program, BRM or any of its affiliates, other programs, officers, employees, or Merchants.
8. **Non-Interference.** During the term of this agreement, Agent and Agent Parties shall not themselves or permit any respective subsidiary, Affiliate, successor in the interest, or their respective officers, employees, agents or nominees (i) to interfere, in any manner whatsoever, either directly or indirectly by any arrangement whatsoever, with BRM's contractual relationship with any of the Merchants referred to BRM by Agent or any other merchant in BRM's program; (ii) to cause or attempt to cause any Merchant or other BRM client to terminate its relationship with UFS or utilize the services of any entity other than BRM. For the purposes of this Agreement the term "Affiliate" or "affiliate" shall mean, with respect to a specified party, any party that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified party.

9. **Non-Solicitation.** Throughout the term of this Agreement and for eighteen (18) months thereafter, none of Agent and Agent Parties, nor any of its affiliates shall hire or attempt to hire any of the current officers, employees, contractors or agents of BRM or any of its Affiliates, without the prior written consent of BRM.
10. **Remedies.** Without limiting the foregoing, in the event of a breach of Section 1, 3, 4, 5, 6 or 7 of this Agreement by Agent or any Agent Party, BRM shall be entitled to apply to a court of competent jurisdiction for an injunction to restrain such breach, without the need for bond, and BRM shall have no obligation to make any further Compensation or other payment to Agent that might otherwise come due after such breach. Any remedies hereunder shall be in addition to any other remedies available to BRM in contract, law or equity.
11. **Assignment; Successors; Amendments.** This Agreement shall inure to the successors and permitted assigns of the parties hereto. With the exception of amendments to the Program and Compensation, which may be made at the discretion of BRM, this Agreement may be amended only by a written agreement executed by both parties hereto.
12. **Confidential Information.** BRM may directly or indirectly disclose Confidential Information (as defined below) to the Agent in the course of negotiation of and performance of this Agreement. All such Confidential Information disclosed hereunder shall remain the sole property of BRM, and the Agent shall have no interest in, or rights with respect thereto, except as set forth herein. The Agent shall not, without the prior written consent of UFS, divulge, disclose or make accessible to any other person, firm, partnership, corporation or any other entity any such Confidential Information. The duty of confidentiality created by this section shall survive any termination of the Agreement. "Confidential Information" means all proprietary, secret or confidential information or data relating to BRM and its affiliates, operations, employees, products or services, clients, customers or potential customers. Confidential Information shall include customer lists, card member account numbers, pricing information, computer access codes, instruction and/or procedural manuals, and the terms and conditions of this Agreement.
13. **Notices.** Unless otherwise specified herein, any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and delivered personally or sent by internationally recognized overnight courier, registered or certified mail (postage prepaid with return receipt requested) to the address of BRM or Agent set forth below. Such notices or other communications shall be deemed received (i) on the date 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 sent by first class registered mail, return receipt if requested.

If to Agent:

Name:

Address:

City/ State/ Zip:

If to BRM:

Blue Rain Management, LLC

Attn: Moshe Mirsky

200 Park Ave #1700 New York, NY 10166.

Brooklyn, NY 11235

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to its principles of conflicts of laws) whose courts shall have sole jurisdiction over disputes arising hereunder.
15. **Whole Agreement.** This Agreement, including all schedules, exhibits and attachments hereto, sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written by any officer, partner, employee or representative of any party hereto. No amendment or modification to this Agreement, nor any waiver of any rights hereunder, shall be effective unless assented to in writing by both parties. Nothing in this Agreement, express or implied, is intended to confer or shall be deemed to confer any rights or remedies upon any persons or entities not parties to this Agreement.
16. **Relationship of Parties.** BRM and Agent are independent contractors hereunder and their relationship shall not be construed as any other form of employer/employee relationship, joint venture or partnership. BRM intends no contract of employment, express or implied, with either Agent or any Agent Party; neither Agent nor any Agent Party has obtained any right to employment or compensation as an employee or any other benefits of an employee by way of this Agreement. Agent agrees that it shall be solely responsible for the purchase and maintenance of employment or workers compensation insurance coverage related to its employees and that BRM shall have no responsibility for any such liabilities.
17. **Limitation of Liability; Arbitration.** BRM shall not be liable hereunder to Agent or any third party for any liquidated, indirect, consequential, exemplary or incidental damages (including damages for loss of business profits, business interruption, loss of business information, and the like) arising out of this Agreement even if the party at fault has been advised of the possibility of such damages. Any alleged breach by BRM or controversy or claim arising out of or relating to this contract that Agent may have against BRM shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The number of arbitrators shall be one. The place of arbitration shall be Brooklyn, New York. New York State law shall apply. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
18. **Severability.** If any provision hereof is for any reason determined to be invalid, such provision shall be deemed modified so as to be enforceable to the maximum extent permitted by law consistent with the intent of the parties as herein expressed, and such invalidity shall not affect the remaining provision of this Agreement, which shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

BRM – Signature x	Agent (ISO)- Signature x
Print Name:	Print Name:
Title:	Title:

