

## INDUSTRY TRADE IDENTIFICATION PROGRAM (ITIP) AGREEMENT

This Industry Trade Identification Program Agreement ("Agreement") is made and entered into on \_\_\_\_\_, \_\_\_\_\_ (the "Effective Date") by and between Experian Information Solutions, Inc., an Ohio corporation, acting by and through its Business Information Solutions group ("Experian") and \_\_\_\_\_, a(n) \_\_\_\_\_ corporation ("Member").

For good and valuable consideration and intending to be legally bound, Member and Experian hereby agree as follows:

### 1. General Provisions

A. *Application.* This Agreement applies to Member's participation in a data-sharing arrangement which is maintained by Experian as a part of its provision of business credit services for the industry trade group indicated below ("Trade Group").

B. *Term.* The term of this Agreement (the "Term") starts on the Effective Date as noted above and, subject to the provisions of Subsections 8 A and 8.B, ends on the date Member is no longer a contributor of its Member Data (defined below) to Experian's Business Information Services database ("Experian's Database").

C. *Description of Data.* For purposes of this Agreement, the term "Member Data" means Member's credit experience records pertaining to its customers worldwide. "Data" or "Experian Data" means Member Data that has been provided to Experian and subsequently incorporated by Experian into Experian's Database.

D. *The Exhibit.* Simultaneously with the signing and delivery of this Agreement the parties have initialed an exhibit (the "Exhibit") to this Agreement. The Exhibit is an integral part of this Agreement and is hereby incorporated into this Agreement by this reference.

### 2. Membership Election

Member hereby elects to become a member of the Trade Group, and Experian agrees to maintain the Trade Group, subject to the terms of this Agreement.

### 3. File Building

A. *Member Data Contribution.* Member will make the Member Data and updates thereto available to Experian at Member's expense during the Term in accordance with the schedule set forth in Item 1 of the Exhibit.

B. *Type of Data; Format.* Member will use its best efforts to assure that the Member Data will contain the information described in the Data Extract Guide and that such Member Data is in the format described in Item 3 of the Exhibit.

C. *Verification.* On Experian's request, Member will promptly verify the Member Data it has contributed.

### 4. Maintenance of Trade Group

A. *Other Members.* Experian will use reasonable efforts to enter into agreements comparable to this agreement pursuant to which other companies in Member's industry will become members of the Trade Group and contribute data for the use of Experian and Trade Group as herein provided.

B. *Incorporation of Member Data.* Experian, at its expense will incorporate the data received from members of the Trade Group into Experian's Database promptly after Experian's receipt thereof in the format required.

C. *Member Identification.* Experian will issue an identification code to each member of the Trade Group. Unless otherwise noted in section 10 of this Agreement,

Experian will provide each member of the Trade Group with a directory of the identification codes issued for all the Trade Group members ("Trade Group Directory"). Experian will not provide Trade Group identification codes or the Trade Group Directory to users of Experian Business Information Services which are not members of the Trade Group, or to non-disclosing Trade Group Members without the Trade Group's authorization.

D. *Provision of Identification Information.* Unless otherwise required by the Trade Group, Experian will append to each trade line reported by a Trade Group member that member's corresponding identification code, so that a Trade Group member seeing the Trade Group Directory can identify trade lines reported by other Trade Group members.

E. *Member Obligations.* Member agrees that any and all information derived from the Trade Group shall be used for the sole purpose of managing commercial credit risk. Member also agrees that any and all information derived from the Trade Group shall not be used for sales and/or marketing purposes, and that any use, other than managing commercial credit risk, shall be cause for termination of participation in the Trade Group in accordance with Subsection 8.C below.

F. *Other Obligations.* Experian will have no obligations with respect to the Trade Group except those set forth in this Section 4. Member acknowledges and agrees that Experian has no responsibility for the administration of the Trade Group and hereby releases Experian from any and all liability arising out of, or relating to any actions or omissions to act by such group or any of its members.

### 5. Data Ownership

Member acknowledges that upon its contribution and Experian's incorporation of Member's Data into Experian's Database, the Member Data, once incorporated, will become Experian Data and the exclusive property of Experian. Notwithstanding the foregoing, Member shall retain its interest in the Member Data, in its original form. Experian may use the Experian Data for any purpose, including but not limited to preparing credit reports, statistical analyses and marketing lists, provided, however, Experian will not use the Experian Data to provide third parties with a list created for the purpose of setting forth all, or a substantial portion, of Member's customers.

### 6. Warranties

A. *Member Warranty of Title.* Member warrants to Experian that Member has the full legal right to provide its Member Data to Experian for Experian's use under the terms of this Agreement, and that no such use by Experian will infringe any patent, copyright, or other right of any third person.

B. *Accuracy.* Member will use reasonable care to assure the accuracy of its Member Data, and Experian will use reasonable care to assure the accuracy of the information it reports, but neither party guarantees the accuracy, currency or completeness of such Member Data or Data or information. Member will use reasonable care in collecting and providing its Member Data; the Member Data will be fit for loading onto Experian's systems and will contain the information specified in the Exhibit and Member has sufficient means to comply with

the amount of Member Data to be provided to Experian as set forth in the Exhibit.

C. *Compliance.* Each party warrants that it will comply fully with all applicable laws in its use of the information provided through the Trade Group.

D. *Survival.* The foregoing warranties will survive the expiration, termination, or cancellation of the Agreement.

**7. Limitation of Liability**

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, UNDER NO CIRCUMSTANCES WILL EITHER PARTY HAVE ANY OBLIGATION OR LIABILITY TO THE OTHER HEREUNDER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE 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.

**8. 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.* This Agreement may be terminated by mutual agreement at any time, but only by a written agreement which refers expressly to this Agreement and is signed by both parties. This Agreement may be terminated at any time by either party (and Experian may thereby elect to discontinue the Trade Group) for any reason on sixty (60) days' written notice to the other party. This Agreement may also be terminated 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, and (3) the breaching party has failed to cure such breach within thirty (30) days after receipt of the demand.

C. *Dispute Resolution.* The parties agree that they will resolve any dispute arising out of or relating to this Agreement

in a binding arbitration conducted under the auspices of the American Arbitration Association in Orange County, California. This Agreement shall be interpreted in accordance with the laws of the State of California.

D. *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.

E. *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 Member without the prior written consent of Experian.

F. *No Third Parties.* Neither this Agreement nor any provisions set forth herein is intended to, or shall, create any rights in or confer any benefits upon any person other than the parties hereto.

G. *Complete Agreement.* This Agreement sets forth the entire understanding of Member and Experian with respect to the subject matter herein and supersedes all prior letters of intent, agreements, covenants, arrangement, communications, representations, or warranties, whether oral or written, by any officer, employee, or representative of either party relating thereto.

**9. Membership Disclosure Option.** Unless indicated below, for purposes of expanding and building Trade Group, Member hereby authorizes Experian to share with other potential members that Member is participating in this group and reports data to Experian. Disclosure Not Authorized: \_\_\_\_\_ Initials: \_\_\_\_\_

**10. Member Identification Option** – Unless indicated below, Member agrees to have their identity disclosed to other Trade Group Members who access the Trade Group. Identification Not Authorized: \_\_\_\_\_ Initials: \_\_\_\_\_

**IN WITNESS WHEREOF,** Member and Experian have signed and delivered this Agreement.

**Experian Information Solutions, Inc., acting through its Business Information Solutions Group**

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

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

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

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

\_\_\_\_\_  
Print or Type Name of Member

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

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

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Address for Notice:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

**EXHIBIT  
TO  
INDUSTRY TRADE IDENTIFICATION PROGRAM AGREEMENT**

**Item 1:** Time of Performance - Date on which Data is to be first provided to Experian: \_\_\_\_\_ In File \_\_\_\_\_  
Frequency with which updates of the data are to be provided to Experian: Monthly X Quarterly \_\_\_\_\_

**Item 2:** Address to which Member will Send Data:  
Experian Information Solutions, Inc.  
Business Information Solutions group – Tape Library  
611 Experian Parkway  
Allen, TX. 75013  
E-mail – [bis.data@experian.com](mailto:bis.data@experian.com)

**Item 3:** Data Format - Member will provide data in an acceptable Experian format on:

_____ Zipped E-Mail with Excel, Access or Text File	_____ CD/DVD
_____ FTP (User ID and Password will be issued)	_____ 3.5" Diskette
_____ 3480 Tape Cartridge	_____ 3490 Tape Cartridge
_____ 1/4" Cartridge (QIC)	_____ Other: _____

**Item 4:** NACM Transfer: – Member hereby authorizes their local NACM to forward their A/R & collection data to Experian:  
YES \_\_\_\_\_ NO X Initials: \_\_\_\_\_

Add to Group #(s):  
Air Cargo/Transportation -148 \_\_\_\_\_  
Advertising Media – 147 \_\_\_\_\_  
Apparel Group - \_\_\_\_\_  
National Financial Services Group - \_\_\_\_\_  
Factoring Group - X \_\_\_\_\_  
Giftware Group - \_\_\_\_\_  
30 Day Foodservices – 160 \_\_\_\_\_  
7 Day Foodservices – 161 \_\_\_\_\_  
Other: \_\_\_\_\_ group # \_\_\_\_\_  
Other: \_\_\_\_\_ group # \_\_\_\_\_

Initials for Member: \_\_\_\_\_ Initials for Experian: \_\_\_\_\_

Send signed original Agreements and Exhibits to:

Experian Information Solutions, Inc.  
Attn: Contracts Department  
475 Anton Blvd Building D  
Costa Mesa, CA 92626

**For Experian's Internal Use Only:**

Preamble & Subscriber #(s): \_\_\_\_\_  
Contributor #(s): \_\_\_\_\_  
Assign Member #(s): \_\_\_\_\_  
ITIP – Only Available: Yes \_\_\_\_\_ No X \_\_\_\_\_  
Experian Representative: \_\_\_\_\_  
Direct \_\_\_\_\_ Distributor \_\_\_\_\_ Agent \_\_\_\_\_  
Reseller \_\_\_\_\_ NRC X \_\_\_\_\_