DELINQUENT LOAN ACCOUNT

PURCHASE AND SALE AGREEMENT

BETWEEN

NCP FINANCE OHIO, LLC

(SELLER)

and

MK PAYMENT SOLUTIONS, INC.

(PURCHASER)

DELINQUENT LOAN ACCOUNT

PURCHASE AND SALE AGREEMENT

THIS DELINQUENT LOAN ACCOUNT PURCHASE AND SALE AGREEMENT (the "**Agreement**") dated as of September 2, 2020 (the "Effective Date").

BETWEEN:

MK PAYMENT SOLUTIONS, INC.
a corporation incorporated pursuant to the laws of Delaware ("**Purchaser**")

and

NCP FINANCE OHIO, LLC

("**Seller"** or "NCP", and, together with Purchaser, the "**Parties"** and each a "**Party**")

RECITALS:

WHEREAS, NCP entered into that certain Participation Purchase Agreement ("**Participation Agreement**") dated August 20, 2020 with Capital Community Bank, a Utah-chartered state bank, having its principal location in Provo, Utah ("Bank");

AND WHEREAS, pursuant to the Participation Agreement, NCP has purchased an economic interest in certain line of credit accounts originated by the Bank ("**Accounts**");

AND WHEREAS, pursuant to the Participation Agreement, on the delinquency of such Accounts (as further defined below, "**Delinquent Accounts**"), NCP shall acquire all of the sole legal, beneficial and equitable title of such Delinquent Accounts and all of the rights attendant therewith;

AND WHEREAS, after NCP acquires the Delinquent Accounts, NCP has the right to sell such Delinquent Accounts;

AND WHEREAS, NCP may desire to sell to Purchaser one or more of the Delinquent Accounts pursuant to this Agreement, and Purchaser desires to purchase from Seller such Delinquent Accounts to the extent offered by Seller for sale subject to and in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals and the terms, conditions and mutual covenants and agreements herein contained, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

(1) **Definitions and Construction**. In addition to definitions provided for other terms elsewhere in this Agreement and except as otherwise specifically indicated, the capitalized terms used in this Agreement shall have the following meanings and this Agreement shall be construed in accordance with the following rules of construction.

a. "**Account**" has the meaning ascribed to such term in the recitals.
b. "**Account Agreement**" means the form of loan agreement between Bank and Customer evidencing an Account.
c. "**Account Holder**" means the Bank's Customer who has an active Account.
d. "**Account Holder Data**" means, with respect to an Account, any information submitted by the Account Holder, including names, personal information and other information that is obtained.
e. "**ACH**" means the Automated Clearing House network.
f. "**Agreement**" means this Delinquent Loan Account Purchase and Sale Agreement.
g. "**Applicable Laws**" mean all federal and state laws and Regulations (and published court opinions interpreting such authorities), all rules promulgated by a Regulatory Authority that are applicable to the Accounts and/or the subject matter of this Agreement.
h. "**Bank**" has the meaning ascribed to such term in the recitals to this Agreement.
i. "**Banking Day**" means any day other than a day upon which Bank is authorized to be closed by Applicable Law or regulation.
j. "**Closing Date**" means each business day on which Purchaser purchases a Delinquent Account.
k. "**Confidential Information**" shall have the meaning ascribed to such term in Article 15 of this Agreement.
l. "**Customer**" means a customer of Bank for whom Bank has established an Account
m. "**Customer Information**" has the meaning assigned to such term in Section 10.8
n. "**Delinquent Account Offer Statement**" means a list, provided by Seller, or agent of the Seller, of all Delinquent Accounts that the Seller desires to sell to Purchaser.
o. **"Delinquent Accounts"** means an Account, upon the occurrence of any of the following: *** [Redacted Competitively Sensitive and Prejudicial Information]
p. "**Disclosing Party**" has the meaning assigned to such term in Section 10.2
q. "**Initial Term**" shall have the meaning ascribed to such term in Section 9.1 of this Agreement.
r. "**Party**" means either the Seller or the Purchaser and "Parties" means both the Seller and Purchaser.
s. **"Purchase Price**"- shall have the meaning ascribed to such term in Section 2.4 of this

Agreement

t. "**Purchaser**" has the meaning ascribed to such term in the preamble to this Agreement.

u. "**Purchase Statement Date**" means the date *** on which Seller, or Seller's agent, will provide Purchaser with a **Delinquent** Account Offer Statement of all **Delinquent** Accounts available for purchase on Closing Date. [Redacted Competitively Sensitive and Prejudicial Information]

v. "**Receiving Party**" shall have the meaning ascribed to such term in Section 10.2 of this Agreement.

w. "**Regulations**" mean the regulations issued by any Regulatory Authority, and all amendments thereto and official interpretations thereof.

x. "**Regulatory Authority**" means, as the context requires, the ACH, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the departments of banking (or similar department) of various states and any other Federal or state agency or authority having jurisdiction over Seller or Purchaser.

y. "**Renewal Term**" shall have the meaning ascribed to such term in Section 9.1 of this Agreement.

z. "**Shared Account Holder Data**" has the meaning assigned to such term in Section 4.1(2) of this Agreement.

(2) Each agreement referred to in the recitals and/or definitions above shall mean such agreement, together with all schedules, attachments and exhibits thereto all as amended, replaced, supplemented and modified from time to time to the extent permitted by the applicable provisions hereof and thereof. Each definition used in this Agreement includes the singular and the plural, and reference to the neutral gender includes the masculine and feminine where appropriate. References to the Applicable Laws or an order mean such Applicable Laws, or orders as applicable and as amended as of the time of determination. The headings to the Articles and Sections are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement. Except as otherwise stated reference to Articles, Sections and Schedules means the Articles, Sections and Schedules of this Agreement. The Schedules referred to throughout this Agreement are hereby incorporated by reference into, and shall be deemed a part of, this Agreement, provided that no Schedule that consists of a form of agreement or instrument shall be deemed to become effective until executed and delivered by the Parties. Unless the context clearly indicates otherwise, the word "**including**" when used in this Agreement means "**including but not limited to**", the word "**include**" means "**include, without limitation**", and the words "**hereof**", "**herein**", "**hereto**" and "**hereunder**" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Likewise, unless the context clearly indicates otherwise, the use of the word "transfer" and derivatives thereof shall include "**assign**" or "**assignment**" and derivatives thereof and the use of the words "**assign**" or "**assignment**" and derivatives thereof shall include "**transfer**" and derivatives thereof. This Agreement shall not be construed or interpreted against any person due to such person being deemed to have drafted it.

(3) Unless otherwise indicated, all references to dollar amounts in this Agreement are expressed in United States currency.

ARTICLE 2
PURCHASE OF DELINQUENT ACCOUNTS; PAYMENT TO SELLER; REPORTING TO SELLER

2.1 OFFER TO SELL

Pursuant to the terms of this Agreement, the Seller may offer to sell to the Purchaser any and all Delinquent Accounts. The Seller may offer to sell one hundred percent of the Delinquent Accounts, (which shall result in the Purchaser owning the sole legal, beneficial and equitable title to an Account) or another percentage as mutually agreed upon by both parties. Further, the Seller reserves the right to retain the Delinquent Accounts it purchases from Bank.

Purchaser hereby expressly acknowledges that pursuant to this Agreement, Seller may, at its sole discretion, elect to retain the Delinquent Accounts. In the event that Seller elects to sell the Delinquent Accounts, Seller shall ensure that all such Delinquent Accounts (i) are randomized; and (ii) have not been adversely selected by Seller, or Seller's Agent.

2.2 SALE AND PURCHASE

On or before each Purchase Statement Date, Seller, or Seller's agent on Seller's behalf, shall prepare and deliver to Purchaser a Delinquent Account Offer Statement identifying, setting out each Delinquent Account available for purchase by Purchaser on the Closing Date referenced in such Delinquent Account Offer Statement. Subject to and in accordance with the terms and conditions set forth in this Agreement, on each Closing Date, with respect to each Delinquent Account purchased by Purchaser during the Term, Seller hereby sells, transfers, assigns, sets over, and otherwise conveys to Purchaser, without recourse or set-off, representations and warranties (except as otherwise expressly provided herein), and without the need for further agreement or documentation, all of Seller's right, title and interest, whether now owned or hereafter acquired, in and to the Delinquent Accounts listed on Delinquent Account Offer Statement and Purchaser hereby purchases all of Seller's right, title and interest, whether now owned or hereafter acquired, in and to such Delinquent Accounts. Purchaser shall pay to Seller the Purchase Price for the Delinquent Accounts purchased hereunder in accordance with this Agreement.

2.3 REPORTING/NOTIFICATION

(1) On or prior to each Closing Date, to the extent permitted by Applicable Law, Seller, or Seller s's agent shall provide access or otherwise make available to Purchaser, or one of its designees, copies of the Account Agreements and Customer records relating to Delinquent Accounts.

(2) To the extent that such materials are in Seller or Seller's agent's possession, upon Purchaser's request, Seller or Seller's agent agrees to cause to be delivered to Purchaser, at

Purchaser's expense, account files on all Delinquent Accounts pursuant to this Agreement. Such account files will include the application for the Account, the Account Agreement, confirmation of delivery of the Account Agreement to the Customer, and such other materials as Purchaser may reasonably require (all of which may be in electronic form); provided that Seller may retain copies of such information as necessary to comply with Applicable Laws.

2.4 PURCHASE PRICE

On each and every Closing Date, provided that Seller's representations, warranties and covenants under this Agreement are true and correct on and as of each such Closing Date, Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, the Delinquent Accounts, including but not limited to, any and all proceeds from such Delinquent Accounts specified by Purchaser on each Purchase Statement Date at a purchase price (each, a "**Purchase Price**") as set out on Schedule A hereto.

2.5 PAYMENT SCHEDULE

The Purchase Price shall be paid to Seller on each applicable Closing Date. On each Closing Date, upon payment by Purchaser of the Purchase Price, the Seller shall automatically be deemed to have sold, transferred, assigned, set over and conveyed to Purchaser, without any recourse or right of set-off, the Delinquent Accounts purchased hereunder and Purchaser shall effectuate its purchase of the Delinquent Accounts by depositing the Purchase Price into an account designated by Seller.

ARTICLE 3
<u>OWNERSHIP</u>

3.1 DELINQUENT ACCOUNT OWNERSHIP

On and after each Closing Date, subject to Purchaser's payment of the Purchase Price on each such date, Purchaser shall be the sole owner for all purposes (e.g., tax, accounting, and legal) of the Delinquent Accounts purchased from Seller on such date and Purchaser shall be entitled to all of the rights, privileges, and remedies applicable to said ownership interest, including the right to pledge, transfer, sell, assign, or exchange the Delinquent Accounts, without any recourse or right of set-off. Seller does not assume and shall not have any liability to Purchaser for the repayment of any Delinquent Accounts. Seller agrees to make entries on its books and records to clearly indicate the sale of the Delinquent Accounts to Purchaser as of each Closing Date. Purchaser agrees to make entries on its books and records to clearly indicate the purchase of the Delinquent Accounts as of each Closing Date.

3.2 TRUE SALE

The Parties hereto intend that the purchase of Delinquent Accounts shall constitute a true sale by Seller to Purchaser that is absolute and irrevocable and not a secured borrowing. Prior to the commencement of purchases of Delinquent Accounts hereunder, the Seller shall cause its secured lenders to deliver assurances satisfactory to Purchaser in its reasonable discretion that the Delinquent Accounts purchased hereunder by the Purchaser shall be purchased free and clear of the liens in favor of the Seller's secured lenders. At any time and from time to time, each of Purchaser and Seller will promptly and duly execute or deliver or will promptly cause to be executed or delivered such further instruments and documents and take such further actions as are reasonably requested by the other for the purpose of obtaining or preserving the full benefits of this Agreement.

3.3 ACCOUNT FILES

Upon Purchaser's request, Seller agrees to cause to be delivered to Purchaser, at Purchaser's expense, copies of Account files on all Delinquent Accounts purchased by Purchaser pursuant to this Agreement. Such Account files will include the application for the Account, the Account Agreement, confirmation of delivery of the Account Agreement to the Customer, and such other materials as Purchaser may reasonably require (all of which may be in electronic form); provided that Seller shall retain copies of such information as necessary to comply with Applicable Law or Seller's internal document retention policies, which have been previously disclosed to Purchaser.

3.4 EQUITABLE OWNERSHIP

Purchaser is, and shall be considered for all purposes as, equitable and beneficial owner of each Delinquent Account purchased from Seller hereunder and Seller expressly disclaims any interest in such Delinquent Account.

3.5 SUBSEQUENT SECURITIZATION

After the purchase of the Delinquent Accounts, the Purchaser reserves the legal and equitable right, at their sole discretion, to subsequently securitize, sell or otherwise divest the Delinquent Accounts.

3.6 SALE AND PURCHASE AGREEMENT

THE PARTIES INTEND THAT THIS AGREEMENT CONSTITUTES A SALE AND PURCHASE OF THE DELINQUENT ACCOUNTS, INCLUDING ANY AND ALL OF THE DELINQUENT ACCOUNTS AND COLLECTIONS RELATED THERETO, AND SHALL IN NO WAY BE CONSTRUED AS A LOAN OR AN EXTENSION OF CREDIT BY PURCHASER TO SELLER OR THE CREATION OF A PARTNERSHIP, JOINT VENTURE OR ANY OTHER RELATIONSHIP BETWEEN THE PARTIES.

ARTICLE 4
OWNERSHIP OF ACCOUNT DATA

4.1 Ownership of Account Data.

(1) As among the Parties hereto, after the sale of the Delinquent Accounts to the Purchaser, the Account Holder Data, excluding the Shared Account Holder Data, shall be the property of and exclusively owned by the Purchaser.

(2) For the purposes of this Section, "**Shared Account Holder Data**" means the following items of Account Holder data: *** [Redacted Competitively Sensitive and Prejudicial Information]

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF SELLER

The Seller represents and warrants on the Effective Date, and on each Closing Date, to the Purchaser, and acknowledges that the Purchaser is relying upon such representations and warranties in entering into this Agreement, as follows:

a. This Agreement is valid, binding and enforceable against Seller in accordance with its terms and Seller has received all necessary organizational approvals, licenses, and registrations to enter into this Agreement and to perform its obligations hereunder.

b. Seller is a limited liability company duly formed, validly existing, and in full force and effect under the laws of the State of Ohio and is authorized and registered to do business in each state in which the nature of its activities makes such authorization or registration necessary or required. Seller is not affiliated with Purchaser or any affiliate of Purchaser.

c. Seller has the full organizational power and authority to execute and deliver this Agreement and perform all of its obligations hereunder.

d. Seller has entered into the Participation Agreement with the Bank and the Participation Agreement is in full force and effect. Seller is not, and will not be, in any material default under the Participation Agreement.

e. The provisions of this Agreement and the performance of each of Seller's obligations hereunder do not conflict with Seller's Articles of Organization, Operating Agreement, the Participation Agreement, or any agreement, contract, lease, or obligation to which Seller is a party or by which Seller is bound.

f. Neither Seller nor any principal thereof:

i. has been convicted of a felony (other than traffic offenses);

ii. has been or is currently subject to an IRS lien;

iii. has entered into any enforcement agreement, memorandum of understanding or other similar agreement with a governmental authority that has not either been disclosed in writing to Purchaser or, if the governmental authority prohibits disclosure of such agreement, does not materially impact Seller's ability to perform Seller's services under this Agreement and/or the Participation Agreement and provided that Seller has fully complied with the terms of such agreement;

iv. has been assessed a penalty or fine from a governmental authority other than penalties or fines publicized by such governmental authorities or otherwise disclosed in writing to Purchaser, other than fines or penalties which Seller was instructed by the governmental authority not to disclose; provided such undisclosed fine or penalty does not materially impact Seller s's performance of Seller's services under this Agreement and/or the Participation Agreement and Seller has corrected the issue that resulted in such fine or penalty; or

v. has or is bound by a restraining order, decree, injunction, or judgment in any proceeding or lawsuit alleging fraud or deceptive practices or illegal activity on the part of Seller or any principal thereof relating to the operations of Seller.

For purposes of this section the term "principal" of Seller shall include (i) any person directly or indirectly owning a ten percent or more equity interest of Seller, (ii) any officer, member or director of Seller and (iii) any other person having the power or authority to control Seller's business.

g. The amount payable under each Delinquent Account is not greater than the highest lawful amount permitted by Utah Law;

h. To the Seller's knowledge, solely as to the date the Account was originated, and without regard to changes between the date of origination and sale hereunder, each Delinquent Account was (i) originated by Bank in accordance with Utah Law; and (ii) was a genuine, valid, duly authorized, properly executed and enforceable Account, without defense or offset;

i. Seller, as of each Closing Date, has merchantable title to the Delinquent Accounts, including, but not limited to, all rights and economic and beneficial interest in and to the Delinquent Accounts and has not assigned, transferred, sold, participated or assigned any of its rights and economic interest in and to the Delinquent Accounts as of each Closing Date.

j. The proposed sale of the Delinquent Accounts does not involve, nor is it intended in any way to constitute the sale of a "security" within the meaning of Federal securities laws; and it is not contemplated that any filing will be made with the Securities and Exchange Commission or pursuant to the securities laws of any jurisdiction.

k. As of the date the Account was originated, and without regard to changes between the date of origination and sale hereunder, there were no suits, actions, arbitrations, or legal, administrative, or other proceedings or government investigations pending against the

Seller, or to the best knowledge of the Seller, threatened against the Seller, which in any way prohibited or restricted the sale by the Seller.

l. To the best knowledge of the Seller, as of each Closing Date, the Delinquent Accounts will be free and clear of any and all pledges, liens, encumbrances and other security interests of every kind whatsoever.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES OF PURCHASER

The Purchaser represents and warrants on the Effective Date, and on each Closing Date, to the Seller, and acknowledges that the Seller is relying upon such representations and warranties in entering into this Agreement, as follows:

1) This Agreement is valid, binding and enforceable against Purchaser in accordance with its terms, and Purchaser has received all necessary corporate approvals to enter into this Agreement and to perform its obligations hereunder. Purchaser is not required to obtain the approval of, or be licensed by, any Regulatory Authority to lawfully perform its obligations hereunder or if it is required, Purchaser has obtained, or will obtain prior to the commencement of the purchasing Delinquent Accounts, such approval or license and has provided, or will provide prior to purchasing, a copy to Seller.

2) Purchaser is a corporation duly formed, validly existing, and in good standing under the laws of the State of Delaware, and is authorized, registered, and licensed, or will be licensed prior to the commencement purchasing Delinquent Accounts (in a specific state), to do business in each state in which the nature of its activities makes such authorization, registration, or licensing necessary or required.

3) Purchaser has the full organizational power and authority to execute and deliver this Agreement and perform all of its obligations hereunder.

4) The provisions of this Agreement and the performance of each of Purchaser obligations hereunder do not conflict with Purchaser's Certificate of Incorporation, By-Laws or any agreement, contract, lease, or obligation to which Purchaser is a party or by which Purchaser is bound.

5) Purchaser acknowledges and agrees that (i) the proposed sale of the Delinquent Accounts does not involve, nor is it intended in any way to constitute the sale of a "security" within the meaning of Federal securities laws; and (ii) it is not contemplated that any filing will be made with the Securities and Exchange Commission or pursuant to the securities laws of any jurisdiction.

6) Neither Purchaser nor any principal thereof:

i. has been convicted of a felony (other than traffic offenses);

ii. has been or is currently subject to an IRS lien;

iii. has entered into any enforcement agreement, memorandum of understanding or other similar agreement with a governmental authority that has not either been disclosed in writing to Seller or, if the governmental authority prohibits disclosure of such agreement, that does not materially impact Purchaser's ability to perform Purchasers' services under this Agreement and provided that Purchaser has fully complied with the terms of such agreement;

iv. has been assessed a penalty or fine from a governmental authority other than penalties or fines publicized by such governmental authorities or otherwise disclosed in writing to Seller, and other than fines or penalties which Purchaser was instructed by the governmental authority not to disclose; provided such undisclosed fine or penalty does not materially impact Purchaser's performance of Purchaser's services under this Agreement and Purchaser has corrected the issue that resulted in such fine or penalty; or

v. has been or is bound by a restraining order, decree, injunction, or judgment in any proceeding or lawsuit alleging fraud or deceptive practices or illegal activity on the part of Purchaser or any principal thereof relating to the operations of Purchaser.

For purposes of this Section the term "principal" of Purchaser shall include (i) any person directly or indirectly owning a ten percent or more equity interest of Purchaser, (ii) any officer, member or director of Purchaser and (iii) any other person having the power or authority to control Purchasers' business.

ARTICLE 7
COVENANTS OF SELLER

Seller covenants and agrees with Purchaser and acknowledges that Purchaser is relying on such covenants in entering into this Agreement, as follows:

(1) Seller will comply with the terms of this Agreement.

(2) Seller, or Seller's agent, shall monitor compliance with Applicable Laws and promptly report any material non-compliance to Purchaser.

(3) Seller, or Seller's agent, shall promptly give written notice to Purchaser of any proceeding before a Regulatory Authority that would be reasonably likely to have a material adverse effect on Purchaser, or any investigation by a Regulatory Authority which may lead to such a proceeding, to the extent permitted by such Regulatory Authority.

(4) Seller, or Seller‘s agent, shall give written notice to Purchaser of any material adverse change in the business, properties, assets, operations or condition, financial or otherwise, of Purchaser and any pending or threatened litigation involving $250,000 or more, and of

all tax deficiencies and other proceedings before governmental bodies or officials affecting Purchaser.

ARTICLE 8
CONDITIONS PRECEDENT

8.1 Obligations of Purchaser:

The obligations of Purchaser under this Agreement are subject to the satisfaction of the following conditions precedent on or prior to each Closing Date:

(a) As of each Closing Date, no action or proceeding shall have been instituted or threatened against Purchaser or Seller to prevent or restrain the consummation of the transactions contemplated hereby, and, on each Closing Date, there shall be no injunction, decree, or similar restraint preventing or restraining such consummation;

(b) The representations and warranties of Seller set forth in Article 5 shall be true and correct in all material respects on each Closing Date as though made on and as of such date; and

(c) The obligations of Seller set forth in this Agreement to be performed on or before each Closing Date shall have been performed in all material respects as of such date by Seller.

8.2 Obligations of Seller

The obligations of Seller in this Agreement are subject to the satisfaction of the following conditions precedent on or prior to each Closing Date:

(a) As of each Closing Date, no action or proceeding shall have been instituted or threatened against Purchaser or Seller to prevent or restrain the consummation of the purchase or other transactions contemplated hereby, and, on each Closing Date, there shall be no injunction, decree, or similar restraint preventing or restraining such consummation;

(b) The representations and warranties of Purchaser set forth in Article 6 shall be true and correct in all material respects on each Closing Date as though made on and as of such date;

(c) The obligations of Purchaser set forth in this Agreement to be performed on or before each Closing Date shall have been performed in all material respects as of such date by Purchaser.

ARTICLE 9
TERM; TERMINATION; EARLY TERMINATION; SURVIVAL

9.1 Term/Renewal

The term of this Agreement shall be for a period of three (3) years commencing as of the date hereof (the "**Initial Term**"); provided, however, that either Party hereto may terminate this Agreement prior to the expiration of its term pursuant to the provisions of this Section 9. This Agreement shall be renewed automatically for successive three (3) year terms (each a "**Renewal Term**", collectively with the Initial Term, the "**Term**") unless the Party not wishing to renew provides the other Party with advance written notice of such non-renewal ninety (90) days prior to the end of the Initial Term or any Renewal Term. Additionally, if there is a termination of the Participation Agreement or the Bank requires that Seller cease using Purchaser, this Agreement shall terminate upon the effective date of such termination or cessation.

9.2 Termination

Each Party hereto shall have the right to terminate this Agreement immediately upon written notice to the other Party, if (i) the terminating Party determines in its commercially reasonable discretion that the activities of the Parties under this Agreement contravene, conflict with, are prohibited by, are improper under or are not permitted under any Applicable Laws; (ii) any Regulatory Authority having jurisdiction over the Delinquent Accounts, the Bank, Purchaser or Seller requires the terminating Party to terminate this Agreement; (iii) the terminating Party determines in its commercially reasonable discretion that continued operation of this Agreement may materially adversely affect the ongoing operations of the terminating Party or those of the terminating Party's affiliates; and in the event of a termination of this Agreement pursuant to this clause 9.2, the terminating Party shall provide the other Party hereto with a written explanation of the basis for such termination, or (iv) the terminating Party determines in its commercially reasonable discretion that continued operation of this Agreement may adversely affect the relationship between the terminating Party or any of its affiliates and any Regulatory Authority having jurisdiction over any of them. In addition, if there is a termination of the Participation Agreement or the Bank requires that Seller cease transacting with Purchaser, this Agreement shall terminate upon the effective date of such termination or cessation.

9.3 Termination Upon Default.

Either Party hereto shall have the right to terminate this Agreement upon occurrence of one or more of the following events:

i. failure by the other Party to observe or perform that Party's obligations to the other hereunder or to comply with any provision of this Agreement, so long as the failure or nonperformance is not due to the actions of the terminating Party;

ii. in the event any representation, warranty, statement or certificate furnished to either Party by the other Party in connection with this Agreement, or any separate material statement or document delivered or to be delivered hereunder by either Party hereto to the other Party, is materially false, misleading, or inaccurate as of the date made or delivered; or

iii. in the event a Party hereto (or an affiliate of such Party) defaults under any other agreement executed between the Parties hereto (and/or any of their respective affiliates) and such default continues beyond any applicable notice and cure period provided for such default under such other agreement.

The Agreement may be terminated pursuant to Section 9.3(i) above only if the default continues for a period of ten (10) days after the defaulting Party receives written notice from the other Party specifying the default in the case of a non-monetary default (other than a default related to a violation of a Rule, which shall have no cure period) or three (3) days after the defaulting Party receives written notice from the other Party specifying the default in the case of a failure to pay any amount when due hereunder.

In addition to any other right to terminate this Agreement, a Party may terminate this Agreement if the other Party hereto, or such other Party's principals (as defined in Section 5 or Section 6 above, as the case may be) is the subject of any of the following or if any of the following occurs with respect to such other Party or such other Party's principals: insolvency, inability to pay its debts as they become due, the filing of a voluntary bankruptcy petition, the filing of an involuntary bankruptcy petition which is not dismissed within thirty (30) days after filing thereof, dissolution or termination of its existence as a going concern, or the appointment of a receiver for any part of its property.

9.4 Effect of Termination.

Notwithstanding a termination of this Agreement for any reason, Purchaser's obligation to purchase Delinquent Accounts hereunder shall survive such termination for all Accounts originated prior to the effective date of such termination ("Trailing Accounts") and all of Seller's representations, warranties, covenants, and duties with respect to such Trailing Accounts shall survive termination of this Agreement.

ARTICLE 10
CONFIDENTIALITY AND DATA SECURITY.

10.1 Confidential Information

Each of the Parties acknowledges that the other Party possesses and will continue to possess information that has been developed or received by it, has commercial value in its business and is not in the public domain. For purposes of this Agreement, "**Confidential Information**" shall mean (i) all information of a Party marked "**confidential**," "**restricted**," "**proprietary**" or with a similar designation; (ii) Customer Information; (iii) business information regarding the business and operations of such Party, including, but not limited to information that relates to past, present, or future business affairs, financial matters, marketing, pricing, trade secrets, intellectual property, products, services, policies, and procedures; (iv) trade secrets, confidential knowledge, know-how, technical information, data or other proprietary information; and (v) this Agreement in accordance with Section 10.7 below.

10.2 Obligations.

Each Party (the "**Receiving Party**") will not use or disclose the Confidential Information of the other Party (the "**Disclosing Party**") except for the purpose for which it was disclosed, and the Receiving Party will use at least the same degree of care, but not less than reasonable care, to prevent disclosing to other persons the Confidential Information of the Disclosing Party as it employs to avoid unauthorized disclosure, publication or dissemination of its own information of a similar nature; provided, however, that Receiving Party may disclose such information to its employees, agents, subcontractors and vendors who have a need to know such information to carry out the purposes for which the Confidential Information was disclosed and who have an obligation to preserve such information's confidentiality. The Receiving Party shall be responsible for any breach by any such employee, agent, subcontractor or vendor of any such confidentiality obligations. At any time the Disclosing Party reasonably requests in writing, and in any event upon expiration or termination of this Agreement for any reason, the Receiving Party shall return to the Disclosing Party, or to the extent possible, irretrievably promptly destroy all Confidential Information in the Receiving Party's possession and certify in writing to the Disclosing Party its compliance with this sentence, unless retention of the Confidential Information is required by law or regulation. Any Confidential Information remaining in the possession of the Receiving Party after termination or expiration of this Agreement shall remain subject to the obligations of this Agreement.

10.3 Exclusions

Notwithstanding the foregoing, this Section 10.3 will not apply to any particular information of the Disclosing Party that the Receiving Party can demonstrate by documentary evidence: (i) was, at the time of disclosure to the Receiving Party, in the public domain; (ii) after disclosure to the Receiving Party, is published or otherwise becomes part of the public domain through no fault of the Receiving Party; (iii) was in the possession of the Receiving Party at the time of disclosure to it without being subject to another confidentiality agreement; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it; or (v) was independently developed by the Receiving Party without reference to Confidential Information or any part thereof of the Disclosing Party. In addition, the Receiving Party shall not be considered to have breached its obligations under this Section for disclosing Confidential Information of the Disclosing Party if, in the written opinion of the Receiving Party's counsel, such disclosure is required by legal process or pursuant to any applicable statute, rule or regulation, provided that, except with respect to securities laws disclosure obligations, the Receiving Party advises the Disclosing Party (prior to making such disclosure) in order that the Disclosing Party may object to such disclosure, take action to assure confidential handling of the Confidential Information, or take such other appropriate action to protect the Confidential Information.

10.4 <u>Loss of Confidential Information</u>

In the event of any disclosure or loss of, or inability to account for, any Confidential Information of the Disclosing Party, the Receiving Party will promptly notify the Disclosing Party.

10.5 <u>No Implied Rights</u>

Nothing contained in this Article 10 shall be construed as obligating a Party to disclose any particular Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights or license to the Confidential Information of another Party, except as otherwise provided herein. All Confidential Information shall remain the property of the Disclosing Party unless ownership is expressly transferred.

10.6 <u>Equitable Remedies</u>.

Each Party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Article 14, the Disclosing Party will be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a Party has breached (or attempted or threatened to breach) any such obligations, such Party will not oppose the entry of an appropriate order compelling performance by such Party and restraining it from any further breaches (or attempted or threatened breaches).

10.7 <u>Confidentiality of Agreement</u>.

Both Parties agree that the terms and conditions of this Agreement shall be treated as Confidential Information and that no reference to the terms and conditions of this Agreement or to activities pertaining thereto can be made in any form without the prior written consent of the other Party; provided, however, that, the general existence of this Agreement shall not be treated as Confidential Information and that either Party may disclose the terms and conditions of this Agreement: (i) as required by any court or other governmental body; (ii) as otherwise required by law including a Party's obligations under applicable securities laws; (iii) to legal counsel of the Parties; (iv) in confidence, to accountants, banks, proposed investors, and financing sources and their advisors; (v) in confidence, in connection with the enforcement of this Agreement or rights under this Agreement; (vi) to the lender's agent or (vii) in confidence, in connection with a merger or acquisition or proposed merger or acquisition, or the like.

10.8 <u>Security of Customer Information</u>

(1) Without limiting the generality of the terms of this Agreement, each Party agrees that it shall protect the privacy of the Customers non-public personal information, who are the obligors of a Delinquent Account, as such terms are defined in the Gramm-Leach-Bliley Financial Modernization Act (the "**Act**") and in Regulation P issued under the Act ("**Regulation P**") and specifically including Customer data and all records, files and media including such information ("**Customer Information**") to at least the same extent that Bank must maintain that confidentiality under the Act and Regulation P. Without limiting the generality of the foregoing sentence, neither

Party shall disclose any Customer Information to any third person, except as permitted by Applicable Law and/or as to such third persons under a similar confidentiality obligation as contained in this Agreement, and neither Party shall use any Customer Information except to perform its obligations described in this Agreement. Each Party shall establish administrative, technical and physical safeguards for Customer Information in its control or possession from time to time. Such safeguards shall be designed for the purpose of: (1) ensuring the confidentiality and security of such Customer Information, (2) protecting against any anticipated threats or hazards to the security or integrity of such Customer Information; and (3) protecting against unauthorized access to or use of such Customer Information that would result in substantial harm or inconvenience to any Customer. Such safeguards shall be established in accordance with Section 501 of the Act and the Interagency Guidelines Establishing Standards for Safeguarding Customer Information adopted pursuant to Section 501 of the Act.

(2) Each Party has designed and implemented an information security program that is designed to protect Customer Information applicable to it.

(3) The Parties will cooperate fully with each other regarding efforts to monitor compliance with this Agreement, including for example providing upon request and at no cost, copies or excerpts of audits, test results, or equivalent measures of the Party's efforts to protect the Confidential Information of the other Party provided that the details to be provided by a Party shall be subject to the obligations of confidentiality hereunder. Without limiting the generality of the foregoing, each Party shall (1) promptly notify the other Party of any incident that may result in the unauthorized use or access to the Confidential Information and specify the corrective action taken, and (2) immediately notify the other Party following discovery of any unauthorized access to computerized data that may, or may be reasonably believed to, have compromised the security, confidentiality or integrity of any Customer Information in any manner. Each Party agrees to reasonably cooperate with the other Party with respect to such Party's compliance obligations under Applicable Laws arising from such breach of security.

(4) Each Party shall have the right to conduct a security audit of the other Party's data processing systems upon five (5) business days' written notice, or to appoint an independent auditor to conduct such audit on its behalf.

ARTICLE 11
INDEMNIFICATION

11.1 Indemnification by Purchaser.

[Redacted Competitively Sensitive and Prejudicial Information]

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11.2 Indemnification by Seller.

[Redacted Competitively Sensitive and Prejudicial Information]

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ARTICLE 12
DUTY TO NOTIFY

(1) In the event of any dispute, controversy, or claim arising out of or relating to this Agreement or the construction, interpretation, performance, breach, termination, enforceability or validity thereof (hereinafter, a "**Dispute**"), the Party raising such Dispute shall notify the other promptly and in any event no later than sixty (60) days from the date of its discovery of the Dispute.

ARTICLE 13
GOVERNING LAW; ARBITRATION; CONSENT TO JURISDICTION.

a. Arbitration, Governing Law and Jurisdiction. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration administered by the American Arbitration Association (the "AAA") under its Commercial Arbitration Rules; provided, however, that a Party seeking specific performance hereunder may pursue such remedy in court. Any temporary or final judgment or award rendered by the arbitrator(s) may be entered in any state or federal court in Delaware, in accordance with the laws of the State of Delaware. A ll Parties expressly waive their right to a jury trial for any such claim. All Parties agree that any arbitration or litigation related to this Agreement or any Dispute between the Parties will be conducted in Delaware, unless the Parties mutually agree on another location. Each Party consents to subject matter jurisdiction, personal jurisdiction and venue in Delaware.

b. Injunctive and Other Relief. This agreement to arbitrate includes claims for injunctive relief, and the Parties agree that the AAA has the jurisdiction and authority to grant temporary or preliminary injunctive relief pursuant to Rule 38 of the AAA Commercial Arbitration Rules, but also subject to Rule 65(A) and (B) of the Court of Chancery of the State of Delaware. The Parties agree that the arbitrator(s) shall not have the power to award punitive or exemplary damages for any claim or controversy.

c. Fees and Expenses. The Parties agree that the AAA Commercial Arbitration Rules govern the award of attorney fees and expenses, and hereby expressly permit the AAA arbitrator or panel to award reasonable and necessary attorney fees and expenses in their discretion to the prevailing party in their discretion.

d. Confidentiality. At the request of either Party, the arbitration proceedings and any award or judgment will be conducted in the utmost confidentiality; in such case all documents, testimony and records shall be received, heard and maintained by the arbitrator or panel in confidence, available for inspection only by the Parties and their respective attorneys and experts, who agree to maintain such information in confidence, in accordance with Article 10 on Confidentiality above.

ARTICLE 14
INDEPENDENT CONTRACTORS

The Parties each agree that (a) they are independent contractors to each other in performing their respective obligations under this Agreement; and (b) neither Party shall hold any ownership or possess a leasehold interest in the other Party's offices or any personal property located therein. Nothing in this Agreement or in the working relationship established and developed pursuant to this Agreement or the Participation Agreement, shall be deemed or is intended to be deemed, nor shall it cause, either Party to be treated as partners, joint venturers, joint associates for profit or otherwise be deemed to create a relationship of agent and principal.

ARTICLE 15
SEVERABILITY

If any provision of this Agreement is held to be improper, invalid or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable and this Agreement shall be construed and enforced as if such improper, invalid or unenforceable provision never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the improper, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such improper, invalid or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in its terms to such improper, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

ARTICLE 16
SURVIVAL

All representations and warranties herein shall survive any termination or expiration of this Agreement.

ARTICLE 17
SUCCESSORS AND THIRD PARTIES

This Agreement and the rights and obligations hereunder shall bind and inure to the benefit of the Parties hereto and their successors and assigns. The obligations, rights and benefits hereunder are specific to the Parties hereto and shall not be delegated or assigned without the prior written consent of the other Party, which shall not be unreasonably withheld.

ARTICLE **18**
NOTICES

All notices, requests, and approvals required or permitted by this Agreement shall be in writing and addressed/directed to the other Party at the address/facsimile number below or at such other address of which the notifying Party hereafter receives notice in conformity with this Article 18. All such notices, requests, and approvals shall be deemed given upon the earlier of facsimile transmission or actual receipt thereof:

To TLS:	NCP Finance Ohio, LLC 205 Sugar Camp Circle Dayton, Ohio 45409 Fax No.: 937.586.9474 Attention: General Counsel
To Purchaser:	MK Payment Solutions, Inc. 69 Yonge St., Suite 1500, Toronto, ON M5E 1K3 Fax No.: 1.866.697.0062 Attention: General Counsel

ARTICLE 19
WAIVERS

Neither Party hereto shall be deemed to have waived any of its rights, powers or remedies hereunder except in an express writing signed by an authorized agent or representative of the Party to be charged with such waiver.

ARTICLE 20
ENTIRE AGREEMENT; AMENDMENTS

This Agreement (and the agreements referenced herein), and the addenda and schedules hereto constitute the entire Agreement between the Parties and supersedes all prior agreements, understandings, and arrangements, oral or written, between the Parties with respect to the subject matter hereof. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the Party against whom enforcement of any such modification or amendment is sought.

ARTICLE 21
COUNTERPARTS

This Agreement may be executed and delivered by the Parties hereto in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. In proving this Agreement in any judicial proceedings, it shall not be necessary to produce or account for more than one such counterpart signed by the Party against whom such enforcement is sought. Delivery of a signature hereto by facsimile transmission or by e-mail transmission of a document in the form of an Adobe portable digital file (PDF) shall be as effective as delivery of a manually executed counterpart hereof, and any such facsimile or PDF signature shall be treated as an original signature to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF this Agreement has been executed by the Parties as of the date first written above.

IN WITNESS WHEREOF, this Agreement is executed by the Parties' authorized officers and representatives and shall be effective as of the date first above written.

NCP FINANCE OHIO, LLC	MK PAYMENT SOLUTIONS, INC.
By: *(Signed) Chris Henn*	By: *(Signed) Clive Kinross*
Its: CEO	Its: CEO

SCHEDULE A

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[Redacted Competitively Sensitive and Prejudicial Information]