

Terms of Use

Updated: November 14, 2019

C2FO – Supplier Terms And Conditions

By registering as a user of the Site or the Service, you, as an individual and as an authorized representative of the company you represent, (“**You**”) represent and warrant that you are accessing the Service on behalf of the company whose information you provided during the registration process (the “**Supplier**”).

You hereby represent and warrant that you have the authority to legally bind the Supplier, and that you are duly authorized to enter into this Agreement on behalf of the Supplier. The Service is provided to you at the website www.C2FO.com (the “**Site**”). The Site, the Service and any other services provided by Pollen, Inc. (“**C2FO**”) related to the Site or the Service are intended for use only by the Supplier and its Authorized Users.

Access to and use of the Services by Supplier and its Authorized Users is conditioned upon acceptance of this Agreement. By clicking the “**I AGREE**” button below, you accept and consent to be bound by the then-current terms of use on behalf the Supplier (the “**Agreement**”) and further represent and warrant that this Agreement creates a binding contract between C2FO and the Supplier. C2FO and the Supplier may be referred to individually as a “**Party**” and collectively as the “**Parties**”.

DEFINITIONS. The following are the definitions that apply in this Agreement.

1.1 “Accelerated Payment” means the individual varying of agreed payment terms for a specified non-disputed invoice resulting in accelerated payment in exchange for a discount on the invoiced amount through the Service which is documented in an Award File.

1.2 “Affiliate” means with respect to a Party, any corporation or other entity that controls, is controlled by, or is under common control with, a Party.

1.2 “Authorized Supplier” means a third party supplier to Buyer who: (i) is authorized by Buyer to use the Service and access the Buyer marketplace; and (ii) has agreed to all terms and conditions in accordance with allowable usage.

1.3 “Authorized User” means a user who is Authorized by Supplier to access and use the Service on behalf of the Supplier.

1.4 “Award File” means an electronic file compiled of awarded offers of additional discount from Authorized Suppliers to the Buyer to accelerate payment of Buyer-

approved invoices, resulting in discounts to face value.

1.5 “Buyer” means a means a party that has contracted with C2FO for purposes of processing non-disputed invoices from the Supplier through the C2FO working capital marketplace to provide accelerated payment of a non-disputed invoice in exchange for a discount on the invoiced amount.

1.6 “C2FO Market Closing” means the time identified on the Site at which the working capital market closes and the early payment award status is confirmed during each local business day.

1.7 “Confidential Information” is any non-public information provided by the disclosing Party (“**Disclosing Party**”) to the Party receiving the information (“**Receiving Party**”). Confidential Information means the following:

- (i) With regard to C2FO, all C2FO Information, software, inventions, know-how, ideas, programs, apparatus programs, and Intellectual Property Rights related to, connected with or arising out of the Service;
- (ii) With regard to Supplier, any non-public information regarding the business or business partners of Supplier, in whole and in part; and
- (iii) With regard to either Party, the terms, conditions, pricing and other contents of this Agreement, any other information, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, data compilations, processes, designs, drawings, engineering, hardware configuration information, marketing or finances.

Notwithstanding the foregoing, Confidential Information does not include Market Statistics, and information, data or know-how which:

- (i) Is in the public domain at the time of the disclosure or becomes available to the public thereafter without restriction, and not as a result of the act or omission of the Receiving Party;
- (ii) Is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure;
- (iii) Is lawfully in the possession of the Receiving Party at the time of the disclosure;
- (iv) Is approved for release by written authorization of the Disclosing Party; or
- (v) Is developed independently and separately by the Receiving Party without use of the Disclosing Party’s Confidential Information.

1.8 “Content” means any data, information or materials provided to C2FO by or relating to Supplier, in any media known now or in the future, for use with the Service.

1.9 “Data Protection Laws” means all laws (including the Data Protection Act 1998) that relate to the processing or the security of Personal Data and which are

applicable to the processing of Personal Data by C2FO.

1.10 “Force Majeure” means events or conditions beyond a Party’s reasonable control, including, without limitation, acts of common enemy, earthquakes, floods, fires, epidemics, terrorist attacks, embargoes, strike, fire, governmental acts or orders or restrictions, acts of God, lack of internet availability beyond the demarcation of the Service (e.g. issues related to backbone peering point, DNS, or root server issues), inability to secure products or services from third parties, or any other reason where failure to perform is not caused by the negligence of the nonperforming Party.

1.11 “Information” means any technical, or business information in written, graphical, oral, or other tangible or intangible forms, including but not limited to specifications, drawings, tools, samples, reports, compilations, records, data, computer programs, drawings, models, and secrets.

1.12 “Intellectual Property Rights” means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force.

1.13 “Market Statistics” means any summarized, derivative, aggregated, de-identified, or non-attributable statistical information associated with Transaction Information (e.g. supplier registration/participation rates, segmentation analysis, offer activity, invoice load trending analysis and industry, sub-industry and geographical trending analysis) that may be combined with other information to optimize, construct, provide or improve C2FO’s performance, modeling, products or services.

1.14 “Party” or “Parties” means, individually or collectively, as the case may be, C2FO and Supplier and any and all permitted successors and assigns.

1.15 “Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company, a government or any political subdivision or agency thereof, or any other entity.

1.15 “Proxy Offer” is an offer made to the Buyer on behalf of Supplier and with Supplier’s authorization by C2FO.

1.16 “Residual Data” means all data (e.g. duplicate information shared between Buyer and Authorized Suppliers through the Service, including invoice information, discount proposals, dates and project numbers associated with purchase orders and invoices), for suppliers who register and/or participate in the Services, and

related Award Files.

1.17 “Sanctions” means economic, trade or financial sanctions, requirements, or embargoes imposed, administered, or enforced from time to time by any Sanctions Authority.

1.18 “Sanctions Authority” means the United States (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, and the Bureau of Industry and Security of the U.S. Department of Commerce), the United Kingdom (including, without limitation, Her Majesty’s Treasury), the European Union and any EU member state, the United Nations Security Council and any other relevant sanctions authority.

1.19 “Sanctioned Jurisdiction” means, at any time, a country or territory that is, or whose government is, the subject of Sanctions.

1.20 “Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list maintained by any Sanctions Authority, or (b) any Person located, organized or resident in a Sanctioned Jurisdiction.

1.21 “Service” branded as **“C2FO”** means C2FO’s proprietary electronic invoice prepayment discount market-based application services platform, related tools, and other services accessed and used by Buyer (pursuant to this Agreement) and its Authorized Users to offer, accept, and document (in the form of Award Files) the acceleration of payment at a discount to face value of non-disputed invoices, including any successor or replacement or future services offering the same or more functionality than its predecessor.**1.22 “Software”** means (i) any proprietary C2FO computer software program or application, or those of its third party licensors, utilized by C2FO in the establishment, operation, and/or the provision of the Service including any proprietary schema, data processing or storing applications, tools, methodologies, databases and (ii) all source code, documentation, updates, upgrades, and derivative works thereof.

1.23 “Supplier Services” means any consultancy services such as implementation, training or support to be provided by C2FO as set out in the signup process or as agreed between the Supplier and C2FO in writing from time to time.

1.24 “Transaction Information” means all data, Content, and information generated or posted through the Service that is disclosed directly or indirectly to C2FO by any party, but shall not include any information which was at the time of disclosure within an enumerated exception to the definition of Confidential Information.

2. SERVICE ACCESS

2.1 Use. C2FO hereby grants the Supplier a non-exclusive, non-transferable, limited right to permit Authorized Users to access and use the Service, subject to the

following restrictions: (i) the Supplier may use the Service solely for the Supplier's own internal business purposes; and (ii) the Supplier shall not (A) make any copies of all or any portion of the Service; (B) sell, sublicense, distribute, rent, lease or assign the Service to any other person or entity; (C) modify, reverse engineer, decompile, disassemble, translate, alter or create derivative works based on the Service; (D) except for Authorized Users, permit any third party to use the Service; (E) create Internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on the Supplier's or its Authorized Users' own intranets or otherwise for its own internal business purposes, (F) send spam or other duplicative or unsolicited messages in violation of applicable laws, (G) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights, (H) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (I) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (J) attempt to gain unauthorized access to the Service or its related systems or networks.

2.2 Access to the Service. C2FO shall provide access to the login screen to Supplier on the instruction of, and on behalf of, the Buyer, and Supplier shall be permitted to create a unique login credential ("**User Name**" and "**Password**") to be confidential and used by Authorized Users to access the Services. The Supplier will be solely responsible and liable for all activities that occur under any User Name and Password created by to the Supplier. The Supplier shall immediately notify C2FO of any unauthorized use of any User Name or Password and C2FO shall take such action as it deems appropriate to address the unauthorized use. The Supplier agrees on its own behalf, and agrees to require its Authorized Users, to access the Service in a secure manner in compliance with C2FO's reasonable standards established from time to time which currently require, to the extent applicable, use of web browsers utilizing 128 bit SSL encryption.

3. SCOPE, AVAILABILITY AND MODIFICATIONS

3.1 Scope of Service. The Service is intended to enable transactions between the Supplier and Buyers as principals and C2FO does not act for or represent in any way either the Supplier or any Buyers. C2FO is not a party to, third party beneficiary of, or a guarantor of performance with respect to any transaction, agreement or arrangement concluded between the Supplier and any Buyer using the Service. Specifically, (i) C2FO does not control the quality, safety, legality or availability of the content or services accessed through the Service, the terms and conditions on which the Content, goods, and/or related services accessed are provided, or the

Supplier's compliance with any agreement that it may execute with a Buyer; (ii) C2FO undertakes no duties to receive or distribute any payments agreed by the Supplier and any Buyer; and (iii) under no circumstances shall C2FO in any manner obtain an interest in, or otherwise be deemed to be within the chain of title of, any Content, goods, and/or related services accessed by the Supplier. Supplier acknowledges that C2FO takes no responsibility for the terms and conditions governing the provision of any Supplier Content, goods, and/or related services. The Supplier shall address any issues arising from any transaction, agreement or arrangement concluded between the Supplier and any Buyers using the Service exclusively with the relevant Buyer and shall not hold C2FO responsible or liable in any way for the actions or omissions of any Buyers. The Supplier agrees that all C2FO market closings will be held on a business day for the respective Buyer.

3.2 Effect of using the Service. The Supplier acknowledges and agrees that the effect of using the Service results in the Buyer making an Accelerated Payment to Supplier. By agreeing to the Accelerated Payment, the Supplier agrees to accept the Accelerated Payment as full and final settlement of any invoice that is subject to an Accelerated Payment and thereby satisfying in full any amount owed pursuant to such invoice. The Supplier acknowledges that the Buyer is a third party beneficiary of this Section 3.2 and the Buyer may enforce the provisions contained herein. Supplier acknowledges that they may be required to submit documents to the Buyer in order to comply with local market tax regulations. In the event any requested documents are not provided in the timeline specified by either the Buyer or Pollen Inc., the Supplier may not receive early payment of their invoice(s). Supplier further acknowledges that the annual percentage calculation associated with a Supplier discount offer for Accelerated Payment within the Service uses the Bankers Rounding technique and has a tolerance of one-eighth (1/8th) of one (1) percent.

When accelerated invoices relate to Buyers from the UK, the award file requires a Supplier, where appropriate, to post an adjustment to VAT records. The Supplier may treat the award file as an appropriate document to adjust VAT records pursuant to Regulation 24 of SI 1994/2518. Please note that the responsibility of ensuring an accurate VAT adjustment is posted rests solely with the Supplier and is not C2FO's responsibility because the information on the award file is based on what the Buyer has previously uploaded into the Service. In particular, where the Supplier has not charged VAT on the original invoice, but the award file shows an amount of VAT adjustment, it is the Supplier's sole responsibility to ensure that no adjustment is made to your VAT records.

As applicable, Supplier designates C2FO as a limited purpose agent to issue credit notes (including in the form of a modified Award File) on behalf of Supplier

signifying the acceptance of discount through the Service in return for an Accelerated Payment. Supplier confirms that such credit notes relating to Accelerated Payments are properly recorded in Suppliers books of accounts.

3.3 Proxy Offer. Supplier agrees that C2FO may act as a limited purpose Authorized User on behalf and direction of a Supplier Authorized User (including by email, text, voice, and/or Service configuration) to offer or accept Accelerated Payments. Proxy Offer is provided as an optional service program for the convenience of the Supplier. As such, C2FO is not under any commitment to provide a Proxy Offer and may stop providing the program at any time in its sole discretion.

3.4 Availability of Service. Supplier acknowledges and agrees that the availability of the Service is subject to the availability of connection services and functions to and within the Internet and that the Internet is not fault-tolerant. Accordingly, C2FO shall not have any liability for any breach of any representation, warranty or covenant of this Agreement that arises out of or relates to the unavailability of such connection services and other network functions for whatever reason.

3.5 Modification of Service. The Supplier understands and agrees that C2FO may modify the Service, their names, or the manner in which the Service is made available, and that those modifications may create differences in how the Supplier accesses the Service. The Supplier further understands and agrees that, upon reasonable advance written notice to the Supplier, C2FO reserves the right to replace any of the Service.

3.6 Supplier Services. Where agreed to in the sign-up process or as otherwise agreed between the Parties, C2FO will provide the Supplier Services to the Supplier.

3.7 Indemnity. The Supplier shall indemnify, defend and hold harmless C2FO and its directors, officers, members, managers and employees from and against all claims, actions, liabilities, losses, expenses, damages and costs (including reasonable attorneys' fees), that may at any time be incurred by reason of claim from any third party arising out of or relating to a breach of this Agreement by the Supplier; any claim from a Buyer arising out of the Supplier's use or misuse of the Service, or any claim that is inconsistent with a Supplier's representations or warranties to C2FO contained in this Agreement.

4. PROPRIETARY RIGHTS

4.1 Title to Technology. All Intellectual Property Rights pertaining to C2FO, the Software, Market Statistics and the Service, in whole or in part, shall be, vest with and remain the exclusive property of C2FO and its third party licensors. The Supplier shall not on its' own behalf or on behalf of any third party violate C2FO's Intellectual Property Rights.

4.2 Market Statistics. Supplier agrees that C2FO may use Transaction Information to create Market Statistics.

4.3 Title to Content. All title, right, and interest in and to any Content submitted to C2FO in the course of providing the Service shall remain the property of the applicable Supplier or other third party owners. If all or part of any Content becomes the subject of an actual or threatened lawsuit or if C2FO believes such Content may violate a third party's Intellectual Property Rights or applicable law, C2FO will immediately be entitled to remove such Content without incurring any liability to the Supplier. All title, right and interest in and to content licensed by C2FO from third party licensors and utilized in the process of providing the Service, if any, shall remain the exclusive property of C2FO or its third party licensors.

4.4 Suggestions. C2FO shall have a royalty-free, worldwide, perpetual and irrevocable license to use or incorporate into the Service any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by the Supplier and its Authorized Users relating to the Service.

4.5 Supplier's license to C2FO. Supplier hereby grants a limited, non-transferable license to C2FO for C2FO to use the Supplier's name, logos and trademarks to identify the Supplier as a user of the Site and the Services for C2FO's marketing and public relations purposes, including marketing materials, advertisements, customer lists, press releases, presentations, and publications during the term of this Agreement. C2FO must obtain the Supplier's prior written consent for any other uses of Supplier's name, logos, and trademarks, such consent not to be unreasonably withheld or delayed.

5. CONFIDENTIALITY AND DATA PROTECTION

5.1 Nondisclosure of Confidential Information. Each Party shall retain the other Party's Confidential Information in the strictest confidence (need to know basis) and shall not disclose such Confidential Information to any third party. Each Party agrees: (i) to use the Confidential Information only for the purposes of this Agreement and as expressly permitted by this Agreement; (ii) not to make copies of or store Confidential Information or any part thereof except as expressly permitted by this Agreement; (iii) to reproduce and maintain on any copies of any Confidential Information such proprietary legends or notices (whether of Disclosing Party or a third party) as are contained in or on the original or as the Disclosing Party may otherwise reasonably request; and (iv) to treat this Agreement as Confidential Information. The Receiving Party shall notify the Disclosing Party in writing of any known unauthorized use, possession or disclosure of Confidential Information of the Disclosing Party. The Disclosing Party shall have the sole right (but shall be under no obligation) to take legal or other action against any third party with

respect to any such unauthorized use, possession or disclosure of Confidential Information of the Disclosing Party, and the Receiving Party shall cooperate with the Disclosing Party in such effort.

5.2 Remedies. The Parties agree that, notwithstanding any other section of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to preliminary and permanent injunctive relief, as well as money damages. Nothing stated herein shall be construed to limit any other remedies available to the Parties.

5.3 Disclosures to Governmental Entities. If Receiving Party becomes legally obligated to disclose Confidential Information by any governmental entity as a result of court order, subpoena or similar legal action ("**Compelled Disclosure**"), the Receiving Party will give the Disclosing Party (if allowed) prompt written notice. The Receiving Party will cooperate with the Disclosing Party's reasonable efforts to quash, modify or challenge the Compelled Disclosure, and will disclose only such information as is legally required. Notwithstanding anything herein to the contrary, a Compelled Disclosure is not considered a breach of Section 5.1 above.

5.4 Data Protection. To the extent C2FO processes any Personal Data as a result of providing the Service, the Supplier agrees that C2FO does so as Data Processor and that the Supplier is the Data Controller in relation to such Personal Data and in relation to such Personal Data: (i) C2FO will process such Personal Data for the sole purpose of providing the Service in accordance with the terms of this Agreement and any lawful written instructions reasonably given to C2FO by Supplier from time to time; and (ii) Supplier will have in place appropriate technical and organizational security measures against unauthorized or unlawful processing of such Personal Data and against accidental loss or destruction of, or damage to, such Personal Data. For the purposes of this Agreement, the terms "**Personal Data**", "**Data Processor**" and "**Data Controller**" shall have the same meaning as set out in the Data Protection Act 1998.

5.5 International Data Transfers. C2FO and Supplier agree that any Personal Data processed as a result of providing the Service will be hosted or stored in the United States of America by C2FO's Affiliate. In respect of such Personal Data, C2FO represents and warrants that it has taken appropriate measures to comply with applicable Data Protection Laws in respect of such Personal Data.

6. TERM AND TERMINATION

6.1 Term. This Agreement shall become effective on the date the Supplier or any Authorized User first registers on the Site and agrees to these terms and shall continue in force so long as the Service is being provided by C2FO to the Supplier.

6.2 Termination for Cause. C2FO may terminate this Agreement if (a)(i) the

Supplier defaults under this Agreement; (ii) such default is not cured within three (3) business days after notice of default is provided to the Supplier; or (b) the Supplier terminates or suspends its business activities, becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or becomes subject to any bankruptcy or insolvency proceeding under any applicable law.

6.3 Termination for Convenience. Either Party may terminate this Agreement at any time for any reason at its sole discretion by providing the other Party no less than thirty (30) days advance written notice thereof.

6.4 Effect of Termination. Upon termination of this Agreement consistent with the terms herein, C2FO may immediately discontinue Supplier's access to and use of the Service. Supplier shall promptly discontinue use of any Service and destroy any Confidential Information that Supplier has received from C2FO. For a period of not less than seven (7) years post-termination, C2FO may keep one (1) copy of all Residual Data for archival, litigation, regulatory, financial and audit tracking purposes in accordance with standard data security, audit and accounting practices. C2FO is not required to affirmatively purge delete or purge any records in backup or archival systems kept in the normal course of business.

6.5 Survival. Notwithstanding any termination of this Agreement, Sections 5.1 – 5.3 ("Confidentiality") shall survive for a period of five (5) years, Section 9.3 ("Employee Solicitation") shall survive for a period of one (1) year, while Sections 3.6 ("Indemnity"), 4 ("Proprietary Rights"), 7 ("Disclaimer; Warranty; Limitation of Liability"), and 8.5 ("Governing Law") shall survive termination of this Agreement indefinitely. All other rights granted hereunder will cease upon termination.

7. DISCLAIMER; WARRANTY; LIMITATION OF LIABILITY.

7.1 Disclaimer. To the maximum extent allowed by law and except as unambiguously and expressly set forth in this Agreement, the Supplier Services are provided "as is" and C2FO specifically excludes and disclaims all implied warranties, conditions and representations (including relation to quality, skill and care and fitness for a particular purpose) connected with, related to or arising out of this Agreement and any representation, condition or warranty that access or use of the Service will be error-free, secure or uninterrupted, or that information or content will be accurate or timely.

7.2 Supplier's Warranty. Supplier represents and warrants that (i) its Authorized Users have authority to act on behalf of the Supplier; and (ii) all Transaction Information or other materials submitted by the Supplier to C2FO hereunder will not (A) infringe on any third party's rights, including any Intellectual Property Rights,

(B) violate any applicable law, statute, ordinance or regulation; or (C) contain viruses, trojan horses, worms, time bombs, cancel bots or other similar harmful or deleterious programming routines. Supplier warrants that: (i) it is duly organized, validly existing and in good standing under applicable law; (ii) it has the power and authority to execute, deliver and perform under this Agreement; and (iii) this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.

7.3 Limitation of Liability. To the maximum extent allowed by law, in no event will C2FO (and any C2FO subcontractor) be liable for any loss of profits or revenue, loss of business, loss of anticipated savings, loss of use, business interruption, loss of data or costs of procurement of substitute goods, technologies or services, cost of cover or punitive or exemplary, or and direct, indirect, special, incidental or consequential damages of any kind in connection with or arising out of the furnishing, performance of or use of the Service or Supplier Services, whether alleged as a breach of contract or tortious conduct, including negligence, even if the Supplier has been advised of the possibility of such damages. In addition, C2FO (and any C2FO subcontractor) will not be liable for any damages caused by delay in delivery or furnishing the Service or Supplier Services. C2FO's aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement, will not, in any event, exceed the greater of fees actually paid by Supplier to C2FO pursuant to this Agreement during the six (6) months prior to the occurrence of the breach or incident asserted as causing damage or \$100.00.

7.4 Exclusion. Nothing in this Agreement excludes the liability of C2FO for death or personal injury caused by C2FO's negligence or for fraud or fraudulent misrepresentation.

8. GENERAL

8.1 Compliance. Supplier agrees that: (i) it will provide to C2FO any information in its possession related to an Authorized User who may be a Sanctioned Person; (ii) if C2FO determines in its commercially reasonable discretion that any Authorized User is a Sanctioned Person, C2FO may deactivate the Sanctioned Person as an Authorized User; (iii) Supplier shall comply with all relevant laws and regulations, anti-bribery/corruption, anti-money laundering and export control laws, and tax information reporting requirements applicable to this Agreement; (iv) if Supplier is listed as a Sanctioned Person, Supplier will notify C2FO; and (v), if C2FO determines in its commercially reasonable discretion that Supplier is Sanctioned Person, C2FO

may deactivate the Supplier and no further invoices for the Supplier will be submitted to the Service.

8.2 Notices. Any notice required or permitted under the terms of this Agreement shall be delivered in person, by fax, overnight courier service, or mailed by first class, registered, or certified mail, postage prepaid, if to the Supplier: to the address supplied by the Supplier during the sign-up process or if to C2FO: Attention: C2FO – Legal Notices, 2020 West 89th Street, Suite 200, Leawood, Kansas 66206. All such notices shall be deemed to have been given upon receipt.

8.3 Third party rights. Save as expressly provided for in this Agreement, this Agreement does not confer any rights on any person not a Party to this Agreement.

8.4 Employee Solicitation. Neither Party shall, directly or indirectly, for itself, or on behalf of any other person, firm, corporation or other entity, whether as principal, agent, employee, stockholder, partner, member, officer, director, sole proprietor, or otherwise, solicit, participate in or promote the solicitation of the other Party's employees or independent contractors to leave the employ or service of the other Party, during the period such employee or independent contractor is working with the other Party and for one (1) year immediately following the period for which such employee or independent contractor last performed services for the other Party.

8.5 Assignment and subcontracting. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Supplier, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of C2FO. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors and assigns. Notwithstanding anything to the contrary, C2FO shall have the right to subcontract any of its obligations hereunder to third parties.

8.6 Governing Law. This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of the State of Delaware, USA, without reference to conflict of laws principles.

8.7.1 Arbitration. If any dispute arises in connection with this Agreement, the dispute will be resolved by arbitration under the Rules of Arbitration of the International Chamber of Commerce ("Rules") by three (3) arbitrators appointed in accordance with the Rules, without recourse to the ordinary courts of law. Notwithstanding the foregoing, either party may, without waiving any other rights or remedies available to it, seek any interim or preliminary relief from a court of competent jurisdiction necessary to protect the rights or property of the filing party pending the completion of arbitration. Once the arbitration hearing is commenced, it shall remain in session during the normal business hours for each following

business day, until concluded. Each party shall pay all of its own arbitration costs, including, without limitation, attorney and professional fees, costs and expenses during the arbitration. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and reasonable attorney's fees from the other party. Each party consents to the personal and subject matter jurisdiction of the arbitration proceedings as provided herein and waives any defense based upon forum *non conveniens* or lack of personal or subject matter jurisdiction. The parties agree that the arbitration, the award and its terms, and the arbitrator's written opinion shall be and remain confidential.

8.7.2 Arbitration Location. If Supplier is organized, resides, or has an office in the United States or Canada, the juridical seat and venue ("**Venue**") of the mediation, and arbitration if any, shall be conducted in Kansas City, Kansas, USA in accordance with the Rules. If Supplier is organized, resides, or has an office in India, the Venue of the mediation, and arbitration if any, shall be conducted in Delhi in accordance with the Rules. If Supplier is not organized in, does not reside in, and does not have an office in the United States, Canada, or India, the Venue of the mediation, and arbitration if any, shall be conducted in London, United Kingdom or in the Republic of Singapore, at the discretion of Supplier, in accordance with the Rules.

8.7.3 Arbitration Remedies. The award and any order of the arbitrators shall be final and binding on all parties to such arbitration, and judgment thereon may be entered in a court of competent jurisdiction. The arbitrators shall have no power to award non-monetary or equitable relief of any sort or to make an award or impose a remedy that (i) is inconsistent with this Agreement or (ii) could not be made or imposed by a court deciding the matter in the same jurisdiction. The arbitrator has no authority to conduct any form of representative or class-wide proceedings, may not consolidate more than one person's claims, and is restricted to resolving individual disputes. Discovery shall be permitted in connection with the arbitration only to the extent, if any, expressly authorized by the arbitration panel upon a showing of a reasonable need by the party seeking discovery. Except for the breach of C2FO's proprietary rights, no action, regardless of form, arising out of this Agreement may be brought by either party more than one (1) year after the cause of action has occurred.

8.8 Independent Contractors. The relationship of C2FO and the Supplier established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed or implied to give either Party the power to direct or control the day-to-day activities of the other or constitute the Parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

8.9 Terms. This Agreement is subject to change by C2FO without notice, and

Supplier agrees to abide by the Agreement in effect each time that Supplier accesses the Services. The revised Agreement will be effective when posted.

8.10 Miscellaneous. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction: (i) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law; and (ii) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect. The failure of either Party to enforce at any time any of the provisions of this Agreement shall not be deemed to be a waiver of the right of either Party thereafter to enforce any such provisions. Except for any obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by Force Majeure. Section headings are for ease of reference only and do not form part of this Agreement. The Supplier acknowledges having read the terms and conditions set forth in this Agreement, understands all the terms and conditions, and agrees to be bound thereby. No employee, agent, representative, or Affiliate of C2FO has authority to bind C2FO to any oral representations or warranty concerning the Service. Any written representation or warranty not expressly contained in this Agreement will not be enforceable.

8.11 Governing Language. This Agreement is entered into in the English language. Any translation prepared for any reason shall be a non-binding accommodation of no legal effect, and the English version of this Agreement shall govern. All communications with respect to this Agreement shall be in the English language. All actions brought under this Agreement and mediation and arbitration proceedings shall be conducted in English, and all documents, other than third-party documentary evidence, submitted to the arbitrators or used in support of either party shall be in English. Without limiting the generality of this Section 8.8, each of the Parties acknowledges that: (i) it shall not assert any claim based upon any translation or any discrepancy or purported discrepancy between such translation and this English-language version of this Agreement; and (ii) any such translation shall not be used to interpret this Agreement.

8.12 Additional Specific Terms.

8.12.1 The following applies to your Agreement if You are a Cass Information Systems, Inc. customer:

In the event Buyer makes an Accelerated Payment to Supplier on a non-disputed invoice displayed as eligible in the Service ("**Invoice**") and the related vendor ("**Vendor**") subsequently disputes that payment of the Invoice or the Vendor

otherwise fails to reimburse Buyer for that payment for any reason including bankruptcy (an **"Invalid Payment"**), Supplier agrees that (a) it will repay the Invalid Payment to Buyer upon demand, and (b) in order to facilitate such repayment, at Buyer's election, Buyer may either (i) apply the Invalid Payment in satisfaction of one or more other Supplier Invoices (which may or may not relate to the Vendor involved with the Invalid Payment), or (ii) withdraw (by ACH "right of debit" or other means) the amount of the Invalid Payment directly from Supplier's account into which it was deposited (in which case Supplier shall reimburse Buyer directly within 48 hours of receipt of Buyer's request for the amount of the Invalid Payment to the extent it was not recovered directly from Supplier's account). In any event, Supplier's right of recovery related to the Invalid Payment shall be against Vendor only and not against Buyer. Hereinafter, the methods of recovery available to Buyer pursuant to subsections (i) and (ii) are referred to as **"Recovery Methods."** Supplier shall reimburse Buyer immediately upon request, through reapplication of a prior payment, application against subsequent bills or through direct payment, for any payment by Buyer to Supplier of Invoices assigned by Supplier to a third party. In the event of an assignment by Supplier of Vendor Invoices to a third party, Supplier will indemnify, defend and hold harmless Buyer and its affiliates from any and all losses, damages, liabilities, claims or costs (including but not limited to attorneys' fees and costs) arising out of any payment by Buyer to Supplier of an assigned Invoice (collectively, **"Assignment Losses"**).

8.12.2 The following is inserted as the second sentence of Section 3.2 of your Agreement if You are a Telefónica Group vendor:

For the avoidance of doubt, the discount shall solely affect the related non-disputed invoices and shall not affect any other obligations between Supplier and Buyer, or between Supplier and a Buyer Affiliate.