

# ProfitGuard Agreement

This agreement is entered into on this \_\_\_\_ day of \_\_\_\_ 2017 (the “Effective Date”), by and between **PROFITGUARD, L.L.C.**, a Michigan limited liability company, and \_\_\_\_\_ opening a new account or ordering credit services with an existing account.

ProfitGuard and Customer agree as follows:

1. Upon execution of this agreement, the Customer shall pay ProfitGuard the agreed upon sum of **\$ \_\_\_\_ for \_\_\_\_ units at \$ \_\_\_\_ per unit.** Upon receipt of said payment, ProfitGuard shall establish an account in the name of the customer (the “Customer Account”) which account shall either be credited the number of units elected for the credit services selected and or a 12-month subscription to receive the ProfitGuard Newsletter.
2. Provided there are sufficient units in the Customer Account and that all amounts due ProfitGuard are paid in full for the contract period, ProfitGuard shall furnish to Customer, on request, Credit Services as defined below (Credit Services):

Credit Services	Unit Cost
Domestic credit report view (view existing report on the platform)	1
Canadian credit report view (view existing report on the platform)	2
Credit limit guideline (credit limit amount set by analyst)*	1
Ask an analyst (direct contact with an analyst to answer specific questions)	1
Premium credit alert monitoring (analyst monitoring for the duration of the contract) **	5
Basic credit alert monitoring ***	Included when providing trade data
ProfitGuard Newsletter	Included with subscription
One-time set up fee	\$250

**\* Users will have 7 days to view analyst’s credit limit recommendation without additional charges.**

**\*\* Prorated based contract period**

**\*\*\* Basic credit alert monitoring includes system generated alerts based on changes to data parameters in the areas of news, bankruptcy, financials, business interruption and delinquency risk.**

Customer acknowledges that ProfitGuard may use one or more service providers in conjunction with providing Credit Services to Customer and Customer acknowledges that is has read, reviewed and agrees to be bound to all agreements and terms of any service providers and any amendments or changes to any agreements and terms of any service provider.

3. ProfitGuard will exercise its best efforts to deliver Credit Services / Newsletter requested by Customer in an expeditious and efficient manner, however, ProfitGuard shall have no obligation or liability to Customer for any delay or failure of ProfitGuard in its performance under this agreement.

4. Customer represents and warrants that it will request and use Reports / Newsletter (and the information contained in Credit Services / Newsletters received from ProfitGuard solely in connection with transactions involving the entity subject of the Credit Services / Newsletters and will not request or use Credit Services / Newsletters (and the information contained in Credit Services / Newsletters) for purposes that are tortious or prohibited by law. All Credit Services / Newsletters (and information contained in Credit Services / Newsletters) shall be maintained by Customer in strict confidence and will not be used or otherwise distributed to third parties, including the subject company contained in Credit Services / Newsletters, without ProfitGuard's prior written consent, except as required by law. Customer shall indemnify, defend and hold harmless ProfitGuard from and against any and all costs (including Attorney's fees), liabilities, claims and suits which may be threatened, incurred or asserted against ProfitGuard based upon the improper use or dissemination by Customer of Credit Services / Newsletters (or any information contained in Credit Services / Newsletters).
5. This Agreement shall be in effect for one (1) year from the Effective Date and shall automatically renew for successive one (1) year terms upon each anniversary of the Effective Date, unless terminated by either party upon sixty (60) days prior written notice. AT THE END OF EACH TERM AND/OR UPON TERMINATION OF THIS AGREEMENT, ANY UNITS REMAINING IN THE CUSTOMER ACCOUNT SHALL BE FORFEITED BY THE CUSTOMER. Upon renewal of this Agreement, the Customer shall owe ProfitGuard the sum as invoiced for the credit services selected or said other sum as the parties may agree in writing, which sum shall be due and payable by Customer upon being invoiced by ProfitGuard. Unless otherwise agreed to by the parties in writing, sums received by ProfitGuard from Customer shall entitle Customer's Customer Account to be credited with the number of units which corresponds to the service level paid for by Customer.
6. CUSTOMER ACKNOWLEDGES AND AGREES THAT PROFITGUARD DOES NOT AND CANNOT GUARANTEE OR WARRANT THE CORRECTNESS, COMPLETENESS, CURRENTNESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ITS CREDIT SERVICES/NEWSLETTERS (OR THE INFORMATION CONTAINED IN CREDIT SERVICES AND/OR NEWSLETTERS). CUSTOMER AGREES NOT TO HOLD PROFITGUARD LIABLE FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY PROFITGUARD'S NEGLIGENCE OR OTHER ACTS, ERRORS, OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, INTERPRETING, REPORTING, COMMUNICATING OR DELIVERING CREDIT SERVICES AND OR NEWSLETTERS.
7. CUSTOMER ACKNOWLEDGES AND AGREES THAT, DUE TO CHANGES OCCURRING EVERYDAY AND BECAUSE INFORMATION CONTAINED IN CREDIT SERVICES/NEWSLETTERS IS BASED UPON INFORMATION FROM OTHER SOURCES WHICH IS UPDATED AND REVISED ONLY ON A PERIODIC BASIS, THERE MAY BE ERRORS OR OMISSIONS IN CREDIT SERVICES/NEWSLETTERS. CUSTOMER ACKNOWLEDGES THAT EVERY BUSINESS DECISION TO SOME DEGREE REPRESENTS AN ASSUMPTION OF RISK AND THAT PROFITGUARD, IN FURNISHING CREDIT SERVICES/NEWSLETTERS, DOES NOT ASSUME CUSTOMER'S RISK. RECOGNIZING THIS, CUSTOMER SHALL USE CREDIT SERVICES/NEWSLETTERS AS A STARTING POINT, AND NOT AS THE SOLE FACTOR IN MAKING A CREDIT DECISION.

8. CUSTOMER AGREES THAT PROFITGUARD SHALL NOT BE LIABLE FOR GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER PROMISES NOT TO MAKE CLAIM AGAINST PROFITGUARD FOR EXEMPLARY (I.E., PUNITIVE) DAMAGES. PROFITGUARD'S LIABILITY, IF ANY, WILL BE LIMITED TO THE SUM PAID BY CUSTOMER PURSUANT TO PARAGRAPH 1 AND CUSTOMER WILL NOT MAKE CLAIM AGAINST PROFITGUARD FOR A GREATER AMOUNT. ANY DISPUTES ARISING OUT OF THIS AGREEMENT, OR THE RELATIONSHIP BETWEEN PROFITGUARD AND CUSTOMER, SHALL BE RESOLVED BY BINDING ARBITRATION, CONDUCTED IN THE STATE OF MICHIGAN, BY THE AMERICAN ARBITRATION ASSOCIATION, PURSUANT TO THEIR RULES AND PROCEDURES.
9. By submitting Information to ProfitGuard or its Service Provider, including credit references, comments, trade receivables data, or any Information that Customer inputs, posts, uploads, or transmits (collectively, "Content"), Customer is granting ProfitGuard and its Service Provider a royalty-free perpetual, worldwide license to use, display, distribute, reproduce, and reformat such Content in the products and services that ProfitGuard and its Service Provider provides to other Customers, without source attribution. If Customer participates in industry credit networks, after providing consent, Customer agrees its identity can be revealed within its chosen networks.
10. You agree that you may be permitted to use the PG logo notification badge on your invoices indicating that you report payment experiences to the PG credit network. You will not distribute these badges to any other entity and will only use these badges for your own invoices and only while you are a Customer of ProfitGuard or a contributor to the credit network.
11. You are responsible for any Content you submit to ProfitGuard or its Service Provider. ProfitGuard and/or its Service Provider retain the right, in our sole discretion, to review, edit or delete any material that we deem to be illegal, offensive or otherwise inappropriate. Your Blog postings should not be deemed private.
12. This Agreement sets forth the entire understanding and agreement between Customer and ProfitGuard and supersedes any prior or contemporaneous oral or written agreements or representations.
13. This Agreement may be amended or modified by ProfitGuard as may be necessary, as determined by ProfitGuard's business judgment. If ProfitGuard amends or modifies this Agreement the amended or revised version will be posted on ProfitGuard's website. Customer is responsible for regularly reviewing this Agreement. Continued use of the Credit Services by the Customer after the designated effective date of the amendment or modification shall constitute an acceptance and agreement to the amendment or modification by Customer. ProfitGuard does not agree to any attempted modification or amendment to this Agreement except as set forth above.
14. This Agreement shall be governed and construed in accordance with the laws of the State of Michigan irrespective of the residence, place of business or domicile of the Customer.

15. This agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.
  
16. All Users of the Credit Services, whether primary or secondary, are bound to the terms of this Agreement. It is the Customer's obligation to ensure that all persons making use of the Credit Services are aware of the terms of this Agreement.
  
17. The person accepting the terms of this Agreement on behalf of the customer represents and warrants that he or she is an authorized agent of Customer with the power and authority to bind Customer to this Agreement and that this agreement is binding upon Customer.

*Your relationship with ProfitGuard is governed by a legal agreement that describes the services and other aspects of your business relationship. These terms are very important and we can't provide access to the services we offer unless you agree to them. Read the agreement below and by indicating "ACCEPT" you are accepting the agreement, which may be modified or amended by ProfitGuard from time to time as necessary. You may want to print the agreement for your records.*