

Attachment for Financing Services From IBM

The terms of this Attachment modify or are in addition to and prevail over every section entitled "Marketing of Financing" of the applicable IBM Business Partner Agreement. When the IBM company we specify in the Profile or the Details of Our Relationship section, as applicable, under "IBM Financing Company" is an entity different from the IBM company with whom you contracted your IBM Business Partner Agreement, you agree that this Attachment constitutes a partial assignment of your agreement with IBM to this IBM Financing Company only in relation to the marketing of IBM Financing Services as defined herein. In such case, "we," "us," and "our" refer to this IBM Financing Company. For the purpose of this Attachment, "Machine", "Program" and "Service" also include those not covered by that which we approve you to market.

1. Definitions

Financing Agreements are the financing agreements under which we offer leases and loans to End Users.

Financing Services are lease and loan financing and asset recovery services offerings we make available to End Users.

2. Our Relationship

You are approved to market Financing Services to End Users under the terms of this Attachment. You may market them to End Users on our behalf, at prices and terms established by us.

All credit approval and Financing Services pricing, terms, and conditions approvals shall be our sole responsibility. You have no authority to negotiate with the End User the pricing, terms, or conditions of the Financing Agreements provided by us.

Neither party will act as agent for the other party for any purpose whatsoever. You are an independent contractor. This Agreement and the transactions contemplated within do not create a joint venture, agency, partnership, employer/employee relationship or joint enterprise of any kind.

2.1 If you acquire Products directly from IBM:

If IBM approves you on your Profile, you may market our Financing Services for Services and any associated products and services you market to the End User. If you market our Financing Services, we will pay you a fee as we specify to you in the Exhibit or an applicable Operations Guide.

We provide Financing Services to the End User under the terms of our applicable agreements signed by the End User. You agree, that for the items that will be financed 1) you will promptly provide us any required documents including invoices, with serial numbers, if applicable, 2) the supplier will transfer clear title to us, and 3) you will not transfer to us any obligations under your agreements with the End User.

We will make payment for the items to be financed when the End User has initiated financing and acknowledged acceptance of the items being financed. Payment will be made to you, or the supplier, as appropriate.

2.2 If you acquire Products from an IBM Distributor:

If IBM approves you in the Details or Our Relationship section, you may market our Financing Services for Products and Services and any associated products and services you market to the End User. If you market our Financing Services, IBM will pay a fee if specified in the Business Partner Financing Fee Schedule or the applicable Operations Guide.

IBM provides Financing Services to End Users under the terms of our applicable agreements signed by the End User. You agree that for the items that will be financed:

- a. you will promptly provide IBM, or your Distributor, as IBM specifies, any required documents including invoices, with serial numbers if applicable,
- b. the supplier will transfer clear title to IBM, and
- c. you will not transfer to IBM any obligations under your agreements with the End User.

IBM will make payment for the items to be financed when the End User has initiated financing and acknowledged acceptance of the items being financed. Payment will be made to you, your Distributor, or the supplier, as appropriate.

3. Responsibilities

Each party agrees that:

- a. we reserve the right, without liability to you, to discontinue or vary availability of Financing Services to you, a specific End User or End Users generally;
- b. we reserve the right not to accept, for any reason, all or part of any proposed Financing Services proposal;
- c. we may issue, without notice under this Attachment, additional Exhibits, which will apply to Financing Services proposals you submit to us following the effective date of such Exhibit;
- d. we have no right to affect your pricing of products and services and other items which are to be financed by us under the terms and conditions of the Financing Agreement; and
- e. you will not make any representations, warranties or promises of any type on our behalf to End Users or any other parties, unless specifically authorized by us.

3.1 Your Responsibilities

You agree:

- a. to designate a point of contact within your organization who will serve as the primary point of contact for matters relating to this business relationship with us;
- b. to encourage participation in education which we provide for your employees involved in the marketing of Financing Services;
- c. to assist us in obtaining financial information we require from a potential End User in order to perform a credit evaluation;
- d. to provide administrative assistance to ensure completion of transactions, e.g., provide us with information required to generate financing rates and financing contracts, including Machine configurations and descriptions of charges for programs and services, and ensure that documentation we require to initiate the financing transactions is executed by the End User;
- e. to present to each End User interested in obtaining financing for Products and Services, a Financing Services proposal, including but not limited to Financing Agreements, approved in advance by us. You will ensure that the End User clearly understands that Financing Services are being provided directly from us as lessor or financier;
- f. that even though our Financing Agreement states that it is an offer when signed by the End User, to ensure that the End User is made aware that their signature on our Financing Agreement is not binding on us unless and until the Financing Agreement is accepted by us in writing;
- g. to resolve any End-User issues or questions relating to supply and performance of Machines, Programs, or Services arising during your relationship with the End User;
- h. if you request that Program costs or fees be included in the Financial Services proposal and we approve and pay you directly, then all obligations concerning the Program and its use, remain between the End User and either you or the Program provider, and not us;
- i. in certain markets, to facilitate Program financing, for Programs for which you are the licensor you shall permit the End User to assign and us to accept all of the End User's license rights to use the Program and End User's obligation to make payments for such Program being financed by us as follows: We shall grant to the End User a non-exclusive nontransferable sublicense to use the Program for the period of the Financing Agreement. Upon End User's satisfaction of their obligations under the Financing Agreement, we shall assign the license back to the End User.
 - (1) Programs for which you are not the licensor but you are marketing to the End User, and for which the Program licensor agrees in writing to grant to us the necessary rights or the financing structure described above, may be included in this offering.
 - (2) As a condition of the Financing Agreement, the End User must agree to comply with the terms and conditions governing the use of the Program and satisfy any obligations of the licensor of the Program. If the licensor notifies us or it otherwise comes to our attention that End User has not complied with the terms and conditions governing the use of the Program or End User is in default under the Financing Agreement, we shall be entitled to terminate End User's right

to use the Program and to require the return or destruction of the Program and any supporting documentation;

- j. that, aside from the End User's obligation to pay us, no rights or duties as to the Program apply to us and you will take no action which contradicts this;
- k. to warrant to us that Machines to be marketed by you and financed by us are new and if not new, are identified as such and conveyed to us with good and valid title, free of all encumbrances;
- l. to warrant to us that you will remain fully responsible for all warranty and similar obligations, if any, to the End User in the same manner and to the same extent as if the End User acquired the products from you without any financing from us;
- m. to provide us with, or assist us in obtaining, your invoices and invoicing documentation for all Machines, Programs, and Services being provided to the End User and financed by us. Invoices must accurately provide description of the Machines (including their serial numbers), Programs and Services, End User name, invoice number, purchase or license amount and payee name and address;
- n. to report, collect and remit any taxes for which you are responsible levied in connection with your marketing of Machines, licensing of Programs, and providing of Services;
- o. to warrant to us that all services to be performed by you or your designees and financed by us were directly negotiated for by the End User and if for any reason the services are not performed you will immediately notify us;
- p. upon our request, provide us information, such as proof of shipment and delivery, about Products and Services you have provided and we have financed with an End User;
- q. to ensure that no misleading or false representations are made in relation to the Financing Services arrangements;
- r. to conform to any written advertising or similar guidelines that we may issue from time to time; and
- s. notify IBM if you become aware that a product, which is subject to the Financing Services that you marketed to an End User, was acquired by the End User from a party other than you or IBM.

3.2 Our Responsibilities

We agree to:

- a. designate a point of contact within our financing organization to serve as the primary point of contact for you;
- b. once approved by us, provide financing to your End Users for their Machines and Programs and Services;
- c. deliver financing proposals to you in a timely fashion;
- d. provide appropriate educational offerings for your personnel in order to help them more effectively market our Financing Services; and
- e. provide payment of the documented purchase price and programs and services charges for any financing transaction with the End User. Payment will be made during the settlement period upon our receipt of the required documentation.

4. Remuneration

If we offer you fees under this Attachment they shall be set forth in an Exhibit or an applicable Operations Guide for financing transactions for End Users in the U.S.

5. Trademarks

For purposes of this Attachment, if we authorized you to use our Trademarks, they may be used in association with Financing Services we approve you to market.

6. Termination

Termination of this Attachment will result in termination of the approvals specified in this Attachment, subject to the "Agreement Termination" section of the IBM Business Partner Agreement. However, either party may terminate this Attachment on one months' written notice to the other, and IBM may terminate this Attachment immediately, if the Business Partner Agreement between the parties ends.