



MERCHANT PROCESSING TERMS & CONDITIONS

SECUR-CHEX Check Services Terms & Conditions

The following Check Services Terms & Conditions apply only if MERCHANT has agreed to accept SECUR-CHEX® Check Services.

THIS AGREEMENT is made by and between First American Payment Systems, L.P. ("SECUR-CHEX" or "BANK") and "MERCHANT," whose name and address are stated on the Merchant Application & Agreement and shall become effective upon approval by SECUR-CHEX. BANK may adjust or amend the Maximum Guarantee Amount with or without notice to MERCHANT prior to approving the Agreement.

WHEREAS, SECUR-CHEX is engaged in the business of providing electronic check conversion, verification and if elected, guarantee for participating MERCHANTS under the programs herein described;

WHEREAS, MERCHANT wishes to participate in this check conversion, verification and/or guarantee program under the rules and in accordance with this agreement established by SECUR-CHEX; and

NOW, THEREFORE, in consideration of the mutual obligations and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties agree to the following:

AGREEMENTS

1. Qualifying Check Requirements/Limitations to Guarantee. In order for MERCHANT to receive guaranteed payment from SECUR-CHEX for any product, MERCHANT must ensure that the check and/or the original conversion receipt meets all of the Qualifying Check Requirements included in this Agreement:

- (a) Check must have received a valid authorization code;
- (b) The check must not have been previously negotiated or voided;
- (c) The check must be drawn on or payable through a federally insured depository financial institution, be machine readable MICR-encoded with the bank routing number, account number and check serial number printed on check;
- (d) The check must be drawn on the consumer's personal, non-corporate demand deposit account. A corporate check is defined as 1) "checks or sharedrafts that contain an Auxiliary On-Us Field in the MICR line"; and 2) "checks or sharedrafts in an amount greater than \$25,000", or 3) as defined by NACHA ACH Rules;
- (e) MERCHANT shall obtain a written customer authorization (ie. original conversion receipt) in a form acceptable to SECUR-CHEX for each check transaction submitted for electronic conversion;
- (f) The date of the check and the date of the inquiry must be the same and must be the current date;
- (g) The check writer's name must be imprinted by the bank on the check;
- (h) The address must appear on the check. If there is a Guarantee Conversion – No Image relationship then it must appear on the original conversion receipt. P.O. Boxes are not acceptable for listed address. If it is not listed on the check it must be legibly handwritten on the check and original conversion receipt and match the address on the identification required;
- (i) All checks must be completely filled out by the check writer and made payable to the MERCHANT business name;
- (j) MERCHANT shall not accept any third party items or checks made payable to "cash" or "bearer" and MERCHANT shall not accept a traveler's check, money order, payroll check, counter check or sight draft;
- (k) The amount in words and figures must coincide and must match that of the inquiry amount;
- (l) The non-corporate check and the original conversion receipt must be signed by an individual whose name is imprinted on the check;
- (m) The signature on the check and/or original conversion receipt must correspond to the signature contained on the identification presented;
- (n) Check writer's work phone number must appear on the check or the original conversion receipt. If there is no work number, then the home phone number must appear or the words "no work phone" and "no home phone." The phone number may be legibly written if it is not imprinted;
- (o) MERCHANT must make an inquiry on the consumer's valid identification and receive an approval code obtained from SECUR-CHEX. The only acceptable forms of valid identification are a state issued drivers license or state issued identification card. Military and student I.D.s are not acceptable;
- (p) MERCHANT shall not submit a check for goods or services that are not concurrently provided to the customer, including, service contracts or similar transactions, or for goods or services provided to a third party;
- (q) Consumer's driver's license identification number and state of issue must appear on the front of the check or the original conversion receipt;
- (r) Checks must be accepted at the physical address shown on the Merchant Application & Agreement;
- (s) Checks must be for full amount or final payment amount of goods or services exchanged;
- (t) Any alterations on the checks must be initialed by the check writer;
- (u) MERCHANT shall not knowingly submit or convert a check on an account that SECUR-CHEX previously denied authorization;
- (v) MERCHANT is responsible for collecting all taxes at the time of sale and shall be responsible for paying all taxes collected to the appropriate authorities in a timely manner;
- (w) Checks or converted checks where only cash is exchanged, even if the check is payable to MERCHANT, will not be guaranteed;
- (x) SECUR-CHEX will not guarantee payment for checks or converted checks returned for the following reasons: i. "stop payment" checks; ii. "Customer Advises Not Authorized, Notice Not Provided, Improper Source Document, or Amount of Entry Not Accurately Obtained from Source Document"; iii. "forgery", "lost" or "stolen" checks, unless an affidavit of forgery is provided with the submission form for the claim on

these checks; iv. "signature irregular", "counterfeit", "refer to maker" or "tax levy" checks;

(y) MERCHANT must deliver transactions to SECUR-CHEX, the day the check was authorized; and

(z) Any fees assessed by SECUR-CHEX, which are unpaid, will invalidate ANY guarantee coverage.

Any check or conversion items that do not meet the requirements listed above will be deemed ineligible for guarantee, even if an authorization number is obtained. In the event a claim is paid and through collection or investigation of such claim SECUR-CHEX determines that the check did not meet the Qualifying Check Requirements or that the check fails under any requirements or procedures contained in this Agreement, SECUR-CHEX may debit the MERCHANT's account without notice the amount of such claim and send notice to MERCHANT following such action. MERCHANT's violation of any of the above procedures may invalidate coverage and all funds in the MERCHANT's account may be placed on hold.

2. Guaranteed Conversion. If MERCHANT has marked the Guaranteed Conversion box on the MERCHANT Application & Agreement, then MERCHANT wishes to participate in the electronic check conversion with guarantee services provided by SECUR-CHEX. In accordance with the terms of this Agreement, SECUR-CHEX shall provide electronic check conversion services and guarantee payment to the MERCHANT for each check accepted by the MERCHANT during the term of this Agreement which meets the Qualifying Check Requirements in an amount up to, but not exceeding, the maximum guarantee amount designated herein (the "maximum guarantee amount").

If MERCHANT participates in the Guaranteed Conversion program, SECUR-CHEX may require MERCHANT, at its sole discretion, to provide the original conversion receipt for any transaction. The original receipt must meet the Qualifying Check Requirements, as described in this Agreement, and the legibly printed name and phone number for the check writer must appear on the authorization slip. If MERCHANT fails to provide original receipt within fourteen (14) days of request, SECUR-CHEX will not guarantee the converted item if dishonored for any reason. The maximum guarantee amount SECUR-CHEX will guarantee for Guaranteed Conversion is one thousand five hundred dollars (\$1,500.00).

3. Check Guarantee (Paper-Based). The following provisions apply only to MERCHANTS participating in the Check Guarantee (Paper-Based) program. All checks which meet the Qualifying Check Requirements received between the 1st and prior to the 15th of the month will be paid to the MERCHANT on the 1st of the following month or the first business day thereafter. All checks which meet the Qualifying Check Requirements received between the 16th and prior to the last day of the month will be paid to the MERCHANT on the 15th of the following month or the first business day thereafter. All checks must be deposited within three (3) business days of receipt. SECUR-CHEX reserves the right, at its sole discretion, to deny any claims for payment for checks submitted thirty (30) days after the date of the authorization or issuance. SECUR-CHEX reserves the right to investigate any check presented for payment and withhold payment pending resolution of any matters associated with determining whether or not the check meets the Qualifying Check Requirements. The maximum guarantee amount SECUR-CHEX will guarantee for Check Guarantee is one thousand five hundred dollars (\$1,500.00).

4. Check Guarantee for Corporate Checks (Paper-Based). The following provisions apply only to MERCHANTS participating in the Check Guarantee for Corporate Checks (Paper-Based) program. In addition to the Qualifying Check Requirements, all Corporate Checks must be approved with the correct and current business phone number as answered and listed in the business' name. Business checks approved in any other manner will be excluded from guarantee coverage. The valid I.D. of the person presenting the business check must be written on the check. All checks which meet the Qualifying Check Requirements received between the 1st and prior to the 15th of the month will be paid to the MERCHANT on the 1st of the following month or the first business day thereafter. All checks which meet the Qualifying Check Requirements received between the 16th and prior to the last day of the month will be paid to the MERCHANT on the 15th of the following month or the first business day thereafter. All checks must be deposited within three (3) business days of receipt. SECUR-CHEX reserves the right, at its sole discretion, to deny any claims for payment for checks submitted thirty (30) days after the date of the authorization or issuance. SECUR-CHEX reserves the right to investigate any check presented for payment and withhold payment pending resolution of any matters associated with determining whether or not the check meets the Qualifying Check Requirements. The maximum guarantee amount SECUR-CHEX will guarantee for Corporate Checks is one thousand five hundred dollars (\$1,500.00).

5. A La Carte. The following options are available under the A La Carte - Custom Features for Check Guarantee (Conversion and Paper-Based) program for an additional fee:

(a) Bank Fee Reimbursement: Any check submitted for a claim with an itemized statement from MERCHANT's bank showing the fees charged for the unpaid item will be paid the fees charged by MERCHANT's bank in addition to the qualifying amount of the check submitted for a claim. The bank form must clearly show the fees, identify the item on which fees are paid, and state the bank name to qualify for this feature. No copies of the bank form are acceptable; it must be an original bank notice. This benefit has a maximum guarantee amount of twenty-five dollars (\$25.00) per item submitted for claims. All other Qualifying Check Requirements must be followed in order to qualify for this benefit.

(b) No Fault Coverage: Any check or check conversion which meets the Qualifying Check Requirements submitted for a claim, will be paid, even if the item is missing one or more of the following guarantee requirements: date not current; the amount in words and figures does not agree; the check writer's home phone and work phone numbers or the words "no home phone" and "no work phone" do not appear on the check; check writer's date of birth, identification number, state of identification or approval

MERCHANT PROCESSING TERMS & CONDITIONS

Check Services Terms & Conditions, continued

code obtained do not appear on the check; or any alterations not initialed by the check writer. Only the exceptions listed apply to this benefit. All other Qualifying Check Requirements must be followed in order to qualify for this benefit.

(c) 7 Day Claims Pay: All check claims submitted that meet the Qualifying Check Requirements will be paid within seven (7) days of receipt of the MERCHANT's claims by SECUR-CHEX. All other Qualifying Check Requirements must be followed in order to qualify for this benefit.

(d) Stop Payment Coverage: Any check or check conversion which meets the Qualifying Check Requirements submitted for a claim that is marked "stop payment" will be paid like any other claim, up to ten percent (10%) of the maximum guarantee amount of guarantee. SECUR-CHEX will contact the check writer to determine if a dispute exists between MERCHANT and the check writer. In the event that the check writer confirms a dispute, then MERCHANT must assist SECUR-CHEX in validation and collection efforts, to the extent SECUR-CHEX requests such assistance. In the event MERCHANT does not assist, as requested by SECUR-CHEX, then any payment on the claim will be reversed and an ACH debit made to MERCHANT's DDA account on file with SECUR-CHEX. All other Qualifying Check Requirements must be followed in order to qualify for this benefit.

To qualify under any of the A La Carte - Customized Check Guarantee programs, MERCHANT must meet the Qualifying Check Requirements, follow all procedures and comply with the terms of this Agreement.

6. Electronic Check Conversion. If MERCHANT has chosen Electronic Check Conversion, then MERCHANT understands that SECUR-CHEX will provide check verification, electronic check conversion, and certain collection services and will not guarantee or be liable in any way for any returned checks of MERCHANT or its customers for any reason. MERCHANT also agrees and understands that SECUR-CHEX does not in any way guarantee the accuracy, timeliness or validity of the check verification process and further understands that a valid authorization code IS NOT a guarantee of payment from check writer.

7. Check Verification (Paper-Based). If MERCHANT has chosen Check Verification (Paper-Based), then MERCHANT understands that SECUR-CHEX will provide check verification only and will not guarantee or be liable in any way for any returned checks of MERCHANT or its customers for any reason. MERCHANT also agrees and understands that SECUR-CHEX does not in any way guarantee the accuracy, timeliness or validity of the check verification process and further understands that a valid authorization code IS NOT a guarantee of payment from check writer.

8. Additional Locations. MERCHANT must complete an Additional Location Form for each additional MERCHANT location. MERCHANT expressly agrees and acknowledges that each MERCHANT location shall be governed by these Merchant Processing Terms & Conditions and the Merchant Application & Agreement, including and without limitations the rates and fees described therein, which may be amended from time to time.

9. SECUR-CHEX Bank Verification Statement. Upon initial installation of new equipment or reprogramming of existing equipment, MERCHANT agrees to the following: (i) MERCHANT shall run a test transaction to ensure equipment functionality, (ii) Verify the accuracy of receipt information, and (iii) MERCHANT shall verify proper deposit into MERCHANT's DDA accounts in no less than four (4) banking days and no more than six (6) banking days from the time of the first valid customer transaction. MERCHANT shall immediately notify SECUR-CHEX in writing of any failure of the above within ten (10) banking days. Failure to notify SECUR-CHEX within said time frames shall result in SECUR-CHEX being relieved of any liability and responsibility for any equipment failure or misrouted funds.

10. Term; Termination. This Agreement shall continue in full force and effect for a term of three (3) years from acceptance by BANK/SECUR-CHEX. If SECUR-CHEX services are added as an additional service to an existing BANK Credit Card Processing Agreement in good standing, your SECUR-CHEX approval date will reflect the approval date of the existing Credit Card Processing Agreement. Thereafter, the Agreement will automatically renew for additional one-year periods unless terminated per this paragraph or other provisions of the Agreement. The initial term of this Agreement shall commence upon SECUR-CHEX's acceptance hereof (as evidenced by SECUR-CHEX's performance hereunder) and continue until either (i) terminated by MERCHANT by giving at least thirty (30) days, but no more than ninety (90) days, written notice of non-renewal to SECUR-CHEX with termination effective at the end of the applicable term or (ii) terminated by SECUR-CHEX, with or without cause or reason, and with or without notice. The written notice must contain MERCHANT's signature as it appears on the Merchant Application & Agreement in order to be accepted. Termination by SECUR-CHEX for any service may result in the termination of all services. If this Agreement is terminated by MERCHANT prior to the end of the term or by SECUR-CHEX as a result of MERCHANT's breach, SECUR-CHEX will be entitled to recover and MERCHANT shall pay on demand, an early termination fee of no less than one hundred dollars (\$100.00)* for each MERCHANT location. At its sole and absolute discretion, SECUR-CHEX may also assess liquidated damages in connection with such termination, which shall be the average monthly fees paid by MERCHANT to SECUR-CHEX for the last 12 months (or the number of months this Agreement has been in effect, if less than twelve months) times the number of months remaining in the term, plus any and all additional losses (including consequential damages, costs, expenses and other liabilities) incurred by SECUR-CHEX in connection with such termination. MERCHANT and SECUR-CHEX agree that: (a) the award of liquidated damages is to provide a means of compensation for SECUR-CHEX in the event of a breach by MERCHANT in the form of early cancellation or non-adherence to exclusivity requirement; (b) SECUR-CHEX's damages would be difficult or impossible to prove; and (c) the amount of liquidated damages set forth herein is a fair and reasonable estimate of SECUR-CHEX's damages resulting from any breach or improper termination by MERCHANT. BANK may withhold payment of any monies due MERCHANT to insure that all obligations of MERCHANT are satisfied. MERCHANT remains liable for any and all unpaid amounts due under this obligation or related to this entire Agreement. *ARKANSAS MERCHANTS - early termination fee is fifty dollars (\$50.00).

11. Rules and Regulations. MERCHANT agrees to be bound by all state and federal laws. This Agreement shall also be subject to the Operating Rules of the National Automated Clearing House Association. MERCHANT agrees not to submit any check or conversion transaction that will violate applicable state and federal laws or rules of the National Automated Clearing House Association. Such rules and regulations incorporated herein by this reference and may be amended from time to time. Any violation in these laws or rules may be subject to fines by the governing body.

12. Transaction Records. If MERCHANT has chosen Electronic Check Conversion with Guarantee - Image, MERCHANT agrees to electronically capture, store, and deliver to SECUR-CHEX an image of each check, daily. MERCHANT agrees to retain the original conversion receipt for a period of two (2) years and shall make available, upon request by SECUR-CHEX, a copy of such receipt. In addition, MERCHANT agrees to balance and deliver to SECUR-CHEX all transactions on each POS terminal used, by midnight of the day SECUR-CHEX authorizes the transaction. MERCHANT acknowledges that failure to deliver transactions on the day the check was authorized, will delay funds being deposited and may result in a loss of guarantee coverage.

13. Debit/Credit Authorization. MERCHANT hereby grants authorization to SECUR-CHEX to credit and/or debit MERCHANT's account for chargebacks, fees imposed and for claim reimbursement payments pursuant to automated electronic debit or credit via the automated clearinghouse ("ACH"). MERCHANT agrees to provide a preprinted voided check for proper and accurate set up of bank and account information as well as ACH. MERCHANT will maintain sufficient funds in account to satisfy all obligations, including fees, contemplated by this Agreement. Any change in account status or information or lack of funds during any attempted ACH shall give SECUR-CHEX the right to terminate this Agreement immediately without notice to MERCHANT. MERCHANT acknowledges that SECUR-CHEX will monitor MERCHANT's daily deposit, chargeback and settlement activity. MERCHANT agrees that SECUR-CHEX has a right of offset and may take all steps necessary to collect amounts owed by MERCHANT. These steps include offsetting uncollected amounts against amounts due to MERCHANT under this, or any other BANK agreement. In addition, MERCHANT agrees that SECUR-CHEX may, upon reasonable grounds, divert the disbursement of MERCHANT's funds for any reasonable period of time required to investigate unusual or suspicious activity. SECUR-CHEX shall have no liability for any losses, claims or damages, which MERCHANT may attribute to said diversion of funds. All diverted funds shall be deposited immediately into a non-interest bearing account and will not be released until such time as suspicious transactions have been resolved to the satisfaction and at the sole discretion of SECUR-CHEX.

14. Offset and Security Interest. MERCHANT hereby grants SECUR-CHEX a right of offset against any amounts now or hereafter owing to MERCHANT under this or any other agreement with BANK or held by BANK and agrees that all such amounts may be applied to payment of any obligations now or hereafter owing by MERCHANT to SECUR-CHEX, whether due or not, and in such order as SECUR-CHEX may elect, and for this purpose SECUR-CHEX may withdraw via ACH or otherwise hold or apply any accounts, funds or amounts in its discretion. In addition to and independent of all other rights and remedies available to SECUR-CHEX, including, without limitation, the right of offset, whether created by this Agreement or otherwise, MERCHANT hereby grants to SECUR-CHEX a security interest in all accounts, funds, and amounts of any description whatever, whether now or hereafter owing to MERCHANT under this or any other agreement with BANK, and all proceeds thereof, to secure payment of any obligation now or hereafter owing from MERCHANT to SECUR-CHEX, and with respect to the security interest herein granted, SECUR-CHEX shall have all of the rights and remedies of a secured party under the Uniform Commercial Code. MERCHANT authorizes SECUR-CHEX to file such financing statement, as SECUR-CHEX may deem appropriate to perfect the security interest granted herein. MERCHANT agrees to provide additional collateral or security upon the request of SECUR-CHEX. The rights of SECUR-CHEX under this security interest shall be independent of and cumulative of any rights of offset. All of the rights of SECUR-CHEX shall survive the termination of this Agreement.

15. Schedule of Fees and Compensation of SECUR-CHEX. Attached to this Agreement under the section of the Agreement entitled "SECUR-CHEX Check Services" and incorporated herein by reference is a schedule of fees that contains a programming fee, a voice authorization fee, a transaction fee, a guarantee rate fee, a minimum per check fee, a monthly minimum fee, a statement fee, an uncollectible item fee and any other fee(s) in effect at the signing of this Agreement. Without limiting the foregoing, SECUR-CHEX shall have the absolute and unconditional right to introduce new fees or increase fees, with or without notice, for any reason when deemed appropriate in SECUR-CHEX's sole discretion. SECUR-CHEX shall have the right to adjust charges as necessary to offset any direct or indirect increase to SECUR-CHEX in the costs of providing services hereunder including, but not limited to, costs associated with collection and administration of returned checks, fees charged by other providers in processing, increases in the cost of living index or changes in rules, regulations, or operating procedures of the National Automated Clearing House Association or other applicable association/organization, charges for changes to merchant accounts or information, adjustments in foreign exchange rates, or any additional requirement imposed by any federal or state governmental agency or regulatory authority, or due to any increases in processing costs charged to SECUR-CHEX. Such charges shall, without prior notice, become effective as of the date of charge. Without limiting the foregoing, SECUR-CHEX shall have the absolute and unconditional right to introduce new fees and increase fees for any reason when deemed appropriate in SECUR-CHEX's sole discretion. MERCHANT understands and agrees that SECUR-CHEX reserves the right to assess any associated fees not previously specified in the "SECUR-CHEX Check Services" section of the Merchant Application & Agreement that are billed to SECUR-CHEX as a result of the device(s) or software used by MERCHANT communicating with any third party host. SECUR-CHEX may charge a fee not less than thirty-five dollars (\$35.00) for a change of depository bank account or a change of name by MERCHANT. Upon any request from MERCHANT for copies of file information, account research, or other information, SECUR-CHEX may charge fees for such services, including per hour fees as determined by SECUR-CHEX.

MERCHANT PROCESSING TERMS & CONDITIONS

Check Services Terms & Conditions, continued

Any fees assessed by SECUR-CHEX, which are unpaid, will invalidate ANY guarantee coverage. Fees not collected within the month of billing will accrue interest at the maximum rate allowed by law per month, beginning on the first day of the month following the billing month until all fees and accrued interest are paid in full. Each month SECUR-CHEX shall provide the MERCHANT with an itemized statement containing accumulated conversion and guarantee charges based on MERCHANT's inquiries and the amount of such statement shall be paid by MERCHANT to SECUR-CHEX via ACH. In the event the ACH for collection of fees owed to SECUR-CHEX is rejected by the MERCHANT's bank, MERCHANT agrees to pay SECUR-CHEX a reject fee of no less than thirty dollars (\$30.00) and no more than fifty dollars (\$50.00). These fees shall be paid by MERCHANT to SECUR-CHEX via ACH. MERCHANT must notify SECUR-CHEX in writing of any errors on any statement within ninety (90) days after statement is made available on which the error or problem appeared or failed to appear. MERCHANT agrees to examine all statements upon receipt and to verify all credits and debits to any account against all transaction, bank statements and other information indicating activity of SECUR-CHEX and MERCHANT subject to or relating to this Agreement or SECUR-CHEX's obligations hereunder. Save and except SECUR-CHEX's right to funds owed SECUR-CHEX under this Agreement or SECUR-CHEX's right to funds incorrectly paid to MERCHANT, if no notice of error is received within the ninety (90) day period, the account shall be deemed correct and MERCHANT shall have no recourse for errors. National Automated Clearing House Association fines assessed as a result of MERCHANT failing to follow procedures will be passed through to the MERCHANT.

16. MERCHANT Cooperation. MERCHANT and its employees shall cooperate with SECUR-CHEX's collection efforts, including working with local law enforcement, on checks and converted items guaranteed hereunder and further acknowledges full assignment of all rights in and to the instrument to SECUR-CHEX and its assigns. SECUR-CHEX shall have the right to pursue collection, including the filing of suit, if necessary, of any guaranteed item hereunder. In addition, the MERCHANT agrees to sign a separate assignment form on any instrument, as well as provide any documentation associated with the transaction, upon request by SECUR-CHEX. MERCHANT hereby agrees that failure to provide requested documents will result in the non-guarantee of a returned item.

17. Responsibility and Liability of MERCHANT. MERCHANT shall assume the responsibility and the risk of ascertaining the validity and comparing signatures of any identification presented to MERCHANT in connection with the making of a check in which a check conversion or guarantee authorization has been obtained by SECUR-CHEX. MERCHANT understands that SECUR-CHEX cannot and does not warrant the connectivity, performance of equipment, or quality of services as a result of any data or voice connections, or similar type service. MERCHANT agrees that SECUR-CHEX is not responsible for, and MERCHANT accepts full responsibility for issues that may arise when utilizing data or voice connections, or similar service, including but not limited to; failure to obtain authorizations, batching, settlement, equipment, equipment/Software installation, communications, downloads and internet connectivity. Further, MERCHANT acknowledges it will not make any claim against SECUR-CHEX for any losses or damages, including, but not limited to, loss of income, loss of revenue, economical loss, consequential, direct, indirect, special, exemplary, or punitive relating to the use or connectivity of any data or voice connections, or similar services.

18. Record Retention. MERCHANT understands that it is a federal violation for MERCHANT to process debit requests against a consumer bank account without the electronic check writer's expressed authority and consent. MERCHANT shall retain all records related to this authorization, including all sales and credit receipts, original conversion receipt and the authorization agreements for a period of two (2) years following the date of the transaction. MERCHANT shall produce such original records within twenty (20) days of request by SECUR-CHEX.

19. Use of MERCHANT Name. MERCHANT hereby authorizes SECUR-CHEX to utilize, in advertisements or otherwise, the name of MERCHANT as being a SECUR-CHEX user.

20. Collection Reimbursement. Checks which meet the Qualifying Check Requirements up to the maximum guarantee amount are paid an amount equal to the full face value of the check. Checks which meet the Qualifying Check Requirements over the maximum guarantee amount are paid up to the maximum guarantee amount. For collections made by SECUR-CHEX, which are in excess of the maximum guarantee amount, MERCHANT will receive a reimbursement payment equal to seventy percent (70%) of such excess collection. Collection attempts on all checks over the maximum guarantee amount will be limited to ninety (90) days from the date of submission of the claim on the check. MERCHANT agrees that SECUR-CHEX shall be entitled to all collection costs, damages and fees against the check writer or account holder that are allowed by law. If MERCHANT collects directly from the check writer on a previously paid claim, the claim amount and a collection fee will be debited from MERCHANT's account via ACH.

21. Goodwill of a Returned Item. SECUR-CHEX, in its discretion, may voluntarily reimburse MERCHANT for a specific Returned Item. SECUR-CHEX's election to reimburse a Returned Item(s) shall not act as a waiver of SECUR-CHEX's right to decline to pay any other Returned Items.

22. Attorneys' Fees and Costs. MERCHANT shall be liable for and shall indemnify and reimburse SECUR-CHEX for any and all attorneys' fees, arbitration cost, and other costs and expenses paid or incurred by SECUR-CHEX in the enforcement hereof, including but not limited to, collecting any amounts or obligations due from MERCHANT.

23. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas applicable to agreements made and to be performed entirely within such state without regard to the conflicts of law principles of such state. The parties hereby agree that venue of any action under this agreement shall be exclusively in the state courts of Tarrant County, Texas.

24. Arbitration. Any dispute, controversy, or claim arising out of or relating to this Agreement, including any breach hereof, shall be resolved by arbitration in the

City of Fort Worth, Tarrant County, Texas, pursuant to the Federal Arbitration Act and administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

25. Amendment. SECUR-CHEX has the right to amend this Agreement, by notice to MERCHANT. Any amendments shall become effective no earlier than ten (10) days from date of notice.

26. Assignment. Subject to SECUR-CHEX's right of amendment upon notice, any of the terms, provisions, representations, warranties, covenants, or conditions hereof may be amended, only by a written instrument executed by all parties hereto, or, in the case of a waiver, by the party waiving compliance. The failure of any party at any time to require performance of any provision hereof shall not constitute a waiver and in no manner affect the right to enforce the same. The rights and obligations of MERCHANT hereto may not be assigned or ownership of MERCHANT transferred without the prior written consent of SECUR-CHEX.

27. Indemnification. MERCHANT does hereby indemnify and hold harmless SECUR-CHEX from and against any claims, damages, actions, costs or expenses, including reasonable attorney's fees and costs of court for any breach by MERCHANT or any of its employees, agents, independent contractors or customers, of any provision of this Agreement, for failure to submit checks which meet or do not meet the Qualifying Check Requirements, and for third party claims resulting from or arising out of, SECUR-CHEX exercising any rights under this Agreement, or in connection with, the indemnifying party's failure to comply with the terms of this Agreement. The indemnification provisions herein shall survive the termination of this Agreement.

28. Limitations on Liability. SECUR-CHEX shall be responsible for the performance of ACH processing services as a third-party provider in accordance with the terms of this Agreement. MERCHANT agrees that SECUR-CHEX shall not be responsible for any errors, acts, omissions, negligence, failures to act, intentional conduct, delays or losses unless caused by SECUR-CHEX's gross negligence or willful misconduct. Any liability of SECUR-CHEX shall be limited to the amount of fees paid by MERCHANT to SECUR-CHEX for check conversion or check guarantee services for the previous twelve (12) months. In no event shall SECUR-CHEX be liable for punitive, special, consequential or indirect damages in connection with any service performed under this Agreement. SECUR-CHEX's limitations of liability shall survive termination of this agreement.

29. Limitation of Damages. SECUR-CHEX shall not be liable for special, consequential, exemplary, or punitive damages. In no event shall SECUR-CHEX's cumulative liability to MERCHANT hereunder, including as a result of SECUR-CHEX's or any processor's own negligence, breach or error, exceed the amount of processing fees paid by MERCHANT to SECUR-CHEX for the transaction in question.

30. Waiver. The parties and any guarantor expressly waive the right and agree not to bring or participate in any class or collective action (or other representative action) or any joinder or consolidation of claims with respect to any dispute arising out of or relating to this Agreement. ALL PARTIES TO THIS AGREEMENT HEREBY **WAIVE TRIAL BY JURY** IN ANY ACTION, PROCEEDING, SUIT, CLAIM, COUNTERCLAIM OR THIRD PARTY CLAIM BROUGHT BY THE PARTIES HERETO ON ANY MATTER ARISING OUT OF OR OTHERWISE RELATED TO OR CONNECTED WITH THIS AGREEMENT.

31. Guarantor Any guarantor hereby guarantees performance of all obligations of MERCHANT and agrees that SECUR-CHEX may require performance of any obligation of MERCHANT hereunder directly from guarantor.

32. Taxes. MERCHANT shall pay and be responsible for all sales, use, value added, and other taxes and duties, of whatever nature levied or imposed as a result of this Agreement or in connection with any services hereunder.

33. Counterparts. This Agreement may be executed in counterparts, including facsimile counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.

34. Severability. In the event that any provision of this Agreement or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this Agreement will continue in full force and effect and the illegal, invalid or unenforceable provision is modified to give effect to the original intent consistent with being valid and enforceable under applicable law.

35. Notices. All written notices under this Agreement shall be delivered to:

SECUR-CHEX
100 Throckmorton Street, Suite 1800
Fort Worth, TX 76102

If to MERCHANT, the proper notice shall be the address stated on the records of SECUR-CHEX.

Any notice of termination of this Agreement must be in writing and must contain MERCHANT's signature, as it appears on the Merchant Application & Agreement.

36. Survival. Any and all provisions of this Agreement that impose or could be construed to impose a continuing obligation, duty, or requirement upon MERCHANT including, but not limited to indemnification, offset and limitation on liability, shall survive the expiration or termination, for any reason, of this Agreement.

37. Entire Agreement. This Agreement, when executed by both SECUR-CHEX and MERCHANT, shall constitute the entire agreement as between the parties, and shall supersede and cancel all prior offers and negotiations whether in writing or otherwise.