

Creative Cash Flow Solutions Inc.

221 Broadway, First Floor, 11701

Phone: 631-691-0666 • Fax: 631-691-0669 • E-mail: info@useachek.com

Merchant Service Agreement (See checklist on back page before completing)

Please Send Chexcollect Welcome Kit

Merchant Information

Legal Business Name:			Fed Tax ID#:		
DBA Name:			State Tax ID#:		
Physical Address:			# of Locations:		
City:	State:	Zip Code:	# of Employees:		
Mailing Address:			Date Established:		
City:	State:	Zip Code:	Days/Hours of Operation:		
Type of Business (Industry):		SIC Code			
Primary Telephone:	E-mail Address:	FAX:	Telephone # for Customer Service		
Main Contact:		Title:			

Type of Ownership: Sole Proprietor Partnership LLC Corporation Government Non-Profit Other: _____

Schedule of Service and Fees for ACH Transactions (official use only)

Monthly Service Package: \$	ACH NSF Return Item Fee: \$	SpeedChex ATM Verification (Opt): \$
Hardware: \$	ACH Administrative Return Fee: \$	Paper Draft Transaction Fee: \$
Set-Up Fee: \$	ACH / Draft Discount Fee: %	Reversals/Cancellations: \$25.00/ea
Application Fee: \$	ACH Per Transaction Fee: \$	Illegal Items: \$100.00/ea.
Total: \$	Online CHEXcollect Monitoring Service: \$	Centralized Return Fee: \$

Services (check all that apply) SpeedChex E-Processing Chexcollect Paper Draft Check Conversion
(ChexViaPhone / Recurring)

Funds Settlement Period
 Five Days
 Other: _____

Do not collect any NSF fee from our customers. Collect: \$ _____ from our customers or amount allowed by the state law.

Officer Information

Primary Officer/Owner Name		Title	Ownership %	Social Security #	Residence Phone #
Residence Address	City	State	Zip Code	E-mail Address	
Secondary Officer/Co-Owner Name		Title	Ownership %	Social Security #	Residence Phone #
Residence Address	City	State	Zip Code	E-mail Address	

Transaction Debit Account Information

Bank Name:		Bank Contact Person:	
Phone #:		FAX #:	
Routing #:	Account #:		

Trade References

Company	Contact Name	Phone / Fax	E-mail
1.			
2.			
3.			

Signature: _____ Date: _____

AS TO ACH ELECTRONIC FUNDS TRANSFER SERVICES:

You, the Merchant(s) (Receiver(s)) named in the Merchant Service Agreement, would like us, Creative Cashflow Solutions (CCFS), or our authorized Agent, to provide you Automated Clearing House (ACH) services as a Third Party Processor of CCFS transactions. These transactions will be placed through a bank with whom we have a relationship, who will be acting as the Originating Depository Financial Institution (ODFI). We will debit money (Debit Entry) for the purpose of collecting Automatic Payments from the accounts of your Merchants (Check Writers) and/or credit money (Credit Entry) for the purpose of paying your accounts receivable in accordance with the terms of this Agreement, the Operating Rules ("Rules") of the National Automated Clearing House Association ("NACHA"), and the applicable Federal Regulations (Regulations) governing CCFS transactions. The terms of this Agreement do not limit your obligation to comply with the Rules. "Entry" or "Entries" shall mean either a Credit Entry or a Debit Entry. To provide CCFS services according to the Rules and Regulations, CCFS and you agree as follows:

Merchant Responsibilities Authorization

You will obtain authorization from your Check Writers prior to debiting and/or crediting their account. You will maintain records of the authorization as necessary to resolve disputes. The authorization must be maintained by you for a period of two (2) years after the termination of the authorization, or for the period specified by the Rules. CCFS reserves the right to audit all accounts. Without proper authorization your funds can be frozen indefinitely.

Submitting Entries

(A) On line merchants will create a file containing Entries in a format acceptable to CCFS. You may electronically transmit your file to CCFS Host Processing System or deliver the file to CCFS during CCFS' business hours, as in (B) below.

(B) All other merchants will fax or mail signed authorization forms in a format acceptable to CCFS.

Representations

You represent and warrant that with respect to all Entries we originate for you that (i) each Check Writer has authorized the debiting and/or crediting of its account (ii) each Entry is for an amount agreed by the Check Writer and (iii) Entry is in all other respects properly authorized. You agree to indemnify us for any losses, liabilities, costs or expenses we suffer or incur as a result of any breach of these representations and warranties. If you receive notice that any pre-notification has been rejected, you will not initiate any entry until the cause for rejection has been corrected and another pre-notification has been submitted and accepted. You shall cease initiating entries immediately upon your receiving actual or constructive notice of the termination or revocation of authority.

Identifying Numbers

You understand that we may rely solely on identifying numbers provided by you to determine the bank and account of Check Writer even if the numbers identify a bank or account holder different from the one you identified by name. You will indemnify us for any losses, liabilities, costs or expenses we suffer or incur as a result of an incorrect account or other identification.

Regulatory Compliance

Merchant bears the final responsibility to ensure that the Merchant's policies and procedures meet the requirements of the Rules and Regulations. CCFS is very concerned that there be no problems with compliance. Merchant is encouraged to consult Merchant's counsel regarding compliance of authorization and payment procedures whenever there is any doubt about compliance.

Notice of Erroneous or Unauthorized Transfers

You agree to regularly and promptly review all entries and other communication sent to you and to immediately notify CCFS if you discover any discrepancy between your records and those provided by CCFS, the ODFI or your bank, or with respect to any transfer that you believe was not authorized by you. If you fail to notify CCFS within 14 calendar days after the date that CCFS mails or provides a statement of account or other report of activity to you, you will be responsible for all losses or other costs associated with any erroneous or unauthorized transfer.

CCFS Responsibilities

Accepting Transactions

(A) CCFS will accept on line entries in the CCFS format via electronic transmission on a 24-hour basis, or office delivery during normal business hours of CCFS.

(B) CCFS will accept all other entries via facsimile on a 24-hour basis, or office or mail delivery during normal business hours of CCFS.

(C) Merchant does not have the right to cancel or amend an entry after submission to the ACH.

Originating Transactions

CCFS will use the information provided by you to originate your Entries to the ACH. You understand that we may reject your Entries for any reason permitted or required in the Rules or Regulations. You also understand that your Entry may be rejected by us or its origination may be delayed if the Entry would cause us to violate any Federal Reserve or other regulatory risk control program or any other law or regulation. At your request, we will make reasonable efforts to reverse or delete an Entry but we will have no responsibility for the failure of ourselves or any other person or entity to comply with your request. All requests MUST be made in writing and faxed, delivered or mailed to CCFS.

Returned Entries and Notices of Change (NOC)

CCFS will apply returned entries to your account when they are received.

(A) Return Items report will be delivered to you by CCFS the day there is activity to report. CCFS is responsible for correcting all NOC's received. CCFS will then create and make available to you a report containing the detailed information about the return entries.

(B) Your agreement with CCFS is that you will not initiate Entries until such time as the NOC information has been received and records have been updated to include the NOC information. CCFS shall have no obligation to retransmit an Entry if the original transmission was not in compliance with these Terms and Conditions. If you request that the returned item be retransmitted, CCFS may do so in accordance with the Rules. You agree to pay any cost associated with retransmission.

Method of Transfer

We will transfer all funds to a custodial account at our ODFI. We will hold the funds until all preliminary returns have cleared and then the funds will be transferred to the Financial Institution and Account of your choice. The standard hold period is 4 banking days which may be extended. We can reduce the holding time upon written guarantee of the funds by your Financial Institution. CCFS reserves the right to place a longer hold period on the funds should questionable activity occur, or in the event that Originator's return rate increases significantly enough to warrant a longer hold period or as required by law.

Settlement and Finality

After the hold period for Debit Entries has expired, we will credit your Account by the amount but this credit will not be final until we have available funds. If any Debit Entry is returned to us (in a timely manner as described in the NACHA rules), we will debit the Account for the amount of the returned item plus fees and costs incurred by CCFS. In the event there are not sufficient funds in your Account to cover your obligations under this Agreement, you agree to pay us the amount of the deficiency on demand in immediately available funds. CCFS may debit any account maintained by you without further notice to or approval from you. Any Credit Entries that you create will be debited from your account in accordance with the hold period prior to the credit being distributed to your payees' accounts. In the event that the debit entry is returned for any reason, the credit entries will be cancelled due to the unavailability of funds.

Limits of Liability

CCFS will be responsible for our performance of the ACH services as a Third Party in accordance with the terms of this Agreement, and the Rules and Regulations. We cannot, however, accept responsibility for errors, acts or failures to act of others, including, and among other entities, banks, communications carriers or clearing houses through which Entries may be originated or we receive or transmit information, and no such entity shall be deemed our agent. We, of course, also cannot be responsible for any loss, liability or delay caused by fires, earthquakes, wars, civil disturbances, power surges or failures, acts of government, labor disputes, failures in communication networks, legal constraints or other events beyond our control.

AS TO CHEX COLLECT[®]™ SERVICES:

The undersigned certifies the accuracy of all the foregoing information, and authorizes Bank or other investigative agency employed by Chex Collect[®]™ to investigate the reference given to Chex Collect[®]™ or statements or other data contained herein obtained from Merchant or from other persons, pertaining to the Merchant's credit, financial responsibility or accuracy of any of the foregoing information. Merchant further agrees to notify Chex Collect[®]™ of any and all changes, which may occur from time to time, in the information and statements contained herein.

Merchant hereby agrees to obtain a written authorization for any applicable return fee, before submitting a return check item to for processing. By placing authorization language acceptable to on any invoice, remittance advice, check acceptance Agreement, contract or similar document, which has been signed by Customer. Your PAID CHECKS will be electronically ACH deposited for FREE (e-mail address required), or check below

This Agreement is between the above named Merchant and CCFS. This Agreement constitutes the only Agreement between the parties and all prior negotiations, agreements and understandings, whether oral or written are therefore superseded. No modification or amendment of this Agreement shall be effective unless in writing and signed by all parties. The Officer signing below certifies that he/she is authorized and empowered to execute this Chex Collect[®]™ Merchant Agreement on behalf of Merchant and to bind Merchant to the terms and conditions stated herein.

1. Merchant authorizes Chex Collect to represent all return check items forwarded to Chex Collect by Merchant or Merchant's bank(s); this program is subject to a \$2,500.00 per check face value limit in accordance with the RCK Rules of NACHA. In such event as a check forwarded to Chex Collect exceeds the \$2500.00 value limit, Chex Collect will proceed immediately to Secondary Collection, if so authorized by the Merchant in this contract.
2. Merchant authorizes Chex Collect[®]™ to originate an electronic debit for a separate return fee and amount posted by the Merchant and agreed by the check writer. This fee shall not exceed the maximum amount allowed by applicable state laws.
3. Merchant agrees to complete a return item authorization form provided by Chex Collect[®]™ and forward to the bank(s) utilized by Merchant so that all returns shall be forwarded to Chex Collect[®]™ after first presentation.
4. Merchant agrees to display notices supplied to Merchant by Chex Collect[®]™ at all point of sale locations at all times.
5. All represented and collected check items shall become due and payable to the Merchant. The Merchant shall be paid weekly for all items processed and cleared the previous week.
6. Chex Collect[®]™ will be allowed sixty (60) days from the date of receipt of a return check item to complete their electronic re-presentation process. If this Agreement is terminated for any reason, Chex Collect will retain the right to complete their electronic re-presentation process for all returned check items forwarded to Chex Collect[®]™ prior to said termination. agrees to forward all return fees to Chex Collect[®]™.
8. Chex Collect[®]™ will pay the Merchant 100% of the face value of the check or a percentage equal to the amount collected if partial payments are received. Chex Collect[®]™ will pay Merchant weekly for all check amounts collected and released the previous week

Signature: _____ Date: _____

9. CCFS does not guarantee the collection or payment of any return item presented to Chex Collect[®]™ for electronic representation. Further, Chex Collect[®]™ makes no representation or warranty as to the collectivity or validity of any return item.

10. Chex Collect[®]™ retains the right to refuse to process any transaction submitted by Merchant.

11. All disputes between Merchant and its customers relating to a check transaction shall be settled between Merchant and said customer. Merchant agrees to indemnify and hold Chex Collect[®]™ harmless from any claim, liability, loss or expenditure resulting from Merchant's actions or in-actions, including but not limited to failing to obtain written authorizations or post notices as required by this Agreement. Notwithstanding the foregoing, Chex Collect[®]™ agrees to indemnify and hold Merchant harmless from any claim, liability or loss by Chex Collect[®]™ actions or in-actions while processing return check items from Merchant.

12. All transactions covered by this Agreement are governed by the National Automated Clearing House Association's Operating Rules, Regulation CC and E established by the Federal Reserve Board, UCC Article 4, The Electronic Funds Transfer Act and other applicable laws and regulations.

13. If Chex Collect[®]™ is unable to electronically recover your returned check in accordance with the RCK Rules of NACHA within the sixty (60) days allowed as per sub-paragraph 6 herein, then Chex Collect[®]™ will automatically activate our Secondary Collection process, unless you have checked your disapproval in the box provided at the bottom of the first page of the Merchant Service Agreement.

14. Secondary Collection includes instituting our collection activity through one of our affiliated collection agencies in the first instance, and if the check remains uncollected after sixty (60) days, then referral to a collection attorney who has the ability to commence a lawsuit in the home state of the check writer. While this Agreement authorizes referral to an attorney for collection, no relationship of attorney-client can be created without a written attorney engagement agreement between Merchant and the attorney so engaged.*

15. If it is necessary to engage an attorney to commence a lawsuit, Chex Collect[®]™ can provide an attorney for you at no additional fee, as the attorney's fee will be included in the collection fees outlined below. While collection fees for Secondary Collection are contingent and not paid by Merchant unless an actual recovery is completed, any and all legal disbursements, court costs, and expenses shall remain the sole obligation of the Merchant and must be paid whether a recovery is completed or not.

16. These legal disbursements, court costs and expenses will be debited from the Merchant's account in accordance with the Merchant Approval signed by you on the first page of the Merchant Service Agreement.

17. Contingency fees for Secondary Collections are 15% for checks over 1 year old.

18. If Merchant fails to comply with any term of this Agreement or any applicable laws or regulations cited in this Agreement, then Chex Collect[®]™ may terminate this Agreement immediately by giving notice to Merchant.

19. Either party to this Agreement may cancel this Agreement.

20. Chex Collect[®]™ may change the terms of this Agreement at any time by giving Merchant ten (10) days notice of said change. If Merchant does not agree to the change then Merchant may cancel this Agreement.

21. The laws of the State of New York shall govern this Agreement.

OTHER TERMS AND CONDITIONS:

Pricing and payment. We will notify you in writing of and you agree to pay promptly, the fees we establish from time to time for our Services. Your current rate is on the reverse hereof for CCFS funds transfer, pre-note, returned item or change item. Additionally, there is a monthly access fee which is stated on the reverse hereof. A \$25.00 fee will be assessed if our debit to your account is returned. There are no additional fees for data storage. You agree that we may obtain payment for these fees and any other amounts due us under this Agreement by debiting your Account. CCFS shall have, and you acknowledge that CCFS has, the right to set off against any amount payable by CCFS to you under any provision of this Agreement, any amounts owed CCFS by you, or any damages sustained by CCFS as a result of your violation, breach or non-performance of your obligations under this Agreement.

Governing Law

This Agreement is governed by, and shall be construed under, the law of the State of New York, without regard for the principles and conflicts of law.

Arbitration

Any dispute between us shall be submitted to binding arbitration, to be conducted pursuant to the Rules of the American Arbitration Association. Any award may include an award for reasonable attorney's fees and costs.

Agreement Modification, Term and Cancellation

We will notify you in writing before we modify this Agreement. Your use of the CCFS services after any such modification will evidence your acceptance of the modifications. You or we may cancel this Agreement at any time by written notice as provided below. Any cancellation will not affect your or our rights or obligations arising before the termination or cancellation.

Damage Waiver

We will not be liable to you and you will not be liable to us for any special, consequential, indirect or punitive damages, whether or not (i) any claim for these damages is based on tort or contract or (ii) we or you knew or should have known the likelihood of these damages in any situation. We make no representations or warranties other than those expressly made in this Agreement.

Entire Agreement

This Agreement makes up the entire Agreement between you and us concerning our ACH services. If any provisions of this Agreement are deemed unenforceable, the remaining provision will still be enforceable. The word "you" in this Agreement means each Merchant named on the reverse hereof, and/or all such Merchants, as the context requires. If there is more than one Merchant named on the reverse hereof, the person signing this Agreement for all of you has the power to bind each of you.

Continuing Guaranty

For valuable consideration, the officers named and executing the Merchant Service Agreement (hereinafter called Guarantor(s) unconditionally guarantee and promise to pay CCFS or order, on demand, in lawful money of the United States, any and all indebtedness. The word "indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debt, charge-backs for any reasons, and liabilities of Merchants or any one or more of them previously incurred, now existing or hereafter made, incurred or created, whether voluntary or involuntary. Guarantor(s) waive any right to require CCFS to:

- (a) proceed against individuals;
- (b) proceed against or exhaust any security for originators' indebtedness; or
- (c) pursue any other remedy in CCFS' power whatsoever.

Guarantor(s) waive any defense arising by reason of any act or omission of the Merchant and/or the Guarantor(s) in any legal action by CCFS to recover an indebtedness. Guarantor(s) shall have no right of subrogation, and waive any right to enforce any remedy, which CCFS now has or may hereafter have against individuals, and waive any benefit of, and any right to participate in any security now or hereafter held by CCFS. Guarantor(s) waive all presentments, demand for performance, notices of non-performance, protests, notices of dishonor, and notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness. In the event CCFS consults a lawyer or incurs any cost or expenses in connection with enforcing this Guaranty, or otherwise as a result of any transaction(s) arising out of or related to this Guaranty, Guarantors agree to pay all such costs, expenses and reasonable attorneys' fees.

Individual Guaranty

As a primary inducement to Processor and Bank to enter into this Agreement, the undersigned Guarantor(s), by signing this Agreement, jointly and severally, unconditionally and irrevocably, personally guarantee the continuing full and faithful performance and payment by Merchant of each of its duties and obligations to Processor and Bank under this Agreement or any other agreement currently in effect or in the future entered into between Merchant or its principals and Processor or Bank, as such agreements now exist or are amended from time to time, with or without notice. Guarantor(s) understand further that Processor or Bank may proceed directly against Guarantor(s) without first exhausting their remedies against any other person or entity responsible to it or any security held by Processor and Bank or Merchant. This guarantee will not be discharged or affected by the death of the undersigned, will bind all heirs, administrators, representatives and assigns and may be enforced by or for the benefit of any successor of Processor and Bank. Guarantor(s) understand that the inducement to Processor and Bank to enter into this agreement is consideration for the guaranty, and that this guaranty remains in full force and effect even if the Guarantor(s) receive no additional benefit from the guaranty.

Corporate Resolution

The indicated officer(s) identified below have the authorization to execute the MERCHANT Processing Agreement on behalf of the here within named corporation. MERCHANT UNDERSTANDS THAT THIS AGREEMENT SHALL NOT TAKE EFFECT UNTIL MERCHANT HAS BEEN APPROVED AND A MERCHANT NUMBER IS ISSUED.

Cancellation

Any party may cancel this contract with 15 days written notice to the other which will allow the completion of prior transactions which may be in process. In the event the merchant exercises its right to cancel, cancellation will be subject to a cancellation fee of \$249.

Investigative Report

An investigative or Consumer Report may be made in connection with the applications. Applicants authorize CCFS or any credit bureau or any credit reporting agency employed by CCFS or any agents of CCFS to investigate the references given or any other statements or data obtained from Merchant, or any of the principals, for the purpose of this application.

Security Deposit

In the event a security deposit or "Reserve" is required, these funds will be held by CCFS for sixty (60) days beyond the date of the last item processed by CCFS on your behalf. These funds will be used by CCFS to offset any returned items or charge-backs that occur after the termination of this Agreement. In the event the reserve or security deposit is not sufficient to cover the items that are returned after the termination of this Agreement, CCFS will debit your account(s) for the amounts owed.

Re-evaluation

CCFS reserves the right to re-evaluate the Merchant after the initial approval of this Application.

Binding Agreement

This Agreement shall be binding on the parties only upon execution by an authorized representative of CCFS.
CCFS USE ONLY

Signature: _____ Date: _____

