



PH: 888 301-8354

P.O. BOX 6008  
PETALUMA, CA 94955-6008

# APPLICATION/SERVICE AGREEMENT

|              |  |  |  |  |  |
|--------------|--|--|--|--|--|
|              |  |  |  |  |  |
| STORE NUMBER |  |  |  |  |  |

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| U      | B | C |
| OFFICE |   |   |

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| T       | N | M | A | R |
| REP. NO |   |   |   |   |

Complete and fax with voided check to: 800 729-6711

|  |                |   |
|--|----------------|---|
| REGISTERED DBA:                          | ("YOUR STORE") | AND/OR:                                     |
| LEGAL NAME:                              |                | FEDERAL TAX ID#:                            |
| BUSINESS STREET ADDRESS:                 |                | BUSINESS TELEPHONE:                         |
| CITY:                                    | STATE:         | ZIP:  |
| OWNER:                                   | CONTACT NAME:  | EMAIL ADDRESS:                              |
| CURRENT CHECK SERVICE:                   |                | FAX NUMBER:                                 |
| CURRENT MONTHLY CHECK SALES: \$          |                | CURRENT RATE:                               |
| AVERAGE CHECK SALE: \$                   |                | TOTAL MONTHLY CHECK LOSSES: \$              |
| PRODUCTS OR SERVICES OF APPLICANT:       |                | AVERAGE RETURNED CHECK: \$                  |
| POINT-OF-SALE EQUIPMENT TYPE: Nurit 8320 |                | NUMBER OF LOCATIONS APPLIED FOR:            |
|  |                | CHECK READER (If applicable): Ingenico 2500 |

UPON ACCEPTANCE BY AN OFFICER OF CROSSCHECK, INC., (hereinafter "Check Center"), this Application, and any Premiums accepted by Check Center in your Confirmation letter, shall constitute a binding Agreement between YOUR STORE(s) and Check Center.

I. YOUR STORE(S) COVERED: YOUR STORE(s) shall include all Agents, Representatives, and/or Employees. YOUR STORE(s) covered by this Agreement shall have a unique Check Center store number and shall be billed individually. Check Center may modify its fees if locations are added or deleted. All information contained in this Agreement was completed by YOUR STORE(s) and you warrant that all check information and sales volume indicated in the Agreement is accurate and further acknowledge that any misrepresentation of this information could result in delayed and/or withheld processing of checks as well as the loss of all processing privileges of all checks. No blank spaces were left incomplete. N/A or none has been filled in, in any spaces where applicable.

II. CHECK ACCEPTANCE: Only YOUR STORE(s), covered by this Agreement, shall contact Check Center to request approval numbers for all U.S., U.S. Territories, and Canadian checks, drawn in U.S. dollars, and presented to YOUR STORE(s) for goods or services purchased at the time of approval by the check writer. Based on Check Center's experience, information and the information provided by YOUR STORE(s), Check Center shall inform YOUR STORE(s) whether Check Center will issue an approval number on each such check. If a Check is approved, YOUR STORE(s) shall record the applicable approval number on the Check, but if not approved, YOUR STORE(s) shall politely and discreetly advise the check writer of this fact and provide the check writer with a Check Center supplied card, highlighted in accordance with the directions of Check Center describing how to contact Check Center directly. YOUR STORE(s)' decision to accept or reject any check shall be made solely at YOUR STORE(s)' own discretion. Acceptance by Check Center of any check does not mean such check conforms to all the requirements of the Service Agreement or any applicable law, rule, regulation or policy. YOUR STORE(s)' acceptance of checks subject to this agreement effectuates an immediate assignment by operation of law, to all right, title and interest in and to such check(s) to Check Center.

III. WARRANTY: Check Center warrants the accuracy of its information. Check Center will pay YOUR STORE(s), up to the maximum approval limit, the approved amount of any check covered by this Agreement, which amount shall not exceed the face amount of the check, when the information received from Check Center proves inaccurate and provided YOUR STORE(s) strictly complies with all the requirements of this Agreement. YOUR STORE(s) shall treat all information received from Check Center as strictly confidential and shall hold Check Center harmless from any loss, damage, costs, or reasonable attorney's fees incurred as a result of communication in any manner of such information by YOUR STORE(s).

IV. SERVICE RATES: YOUR STORE(s) shall pay monthly to Check Center, in consideration for the information YOUR STORE(s) receives from Check Center, the fees indicated below, which will never be less than ninety-nine cents per call when applicable, nor less than twenty-five dollars per month, plus a ten dollar monthly subscription fee, plus twenty-five cents per transaction, and an additional transaction charge for each Premium purchased. The service rate will be applied to the check amount of all checks for which an approval number is sought; the transaction charges will be applied per item. Check Center shall have, and YOUR STORE(s) acknowledges that Check Center shall have, the right to set off against any amount payable by Check Center to YOUR STORE(s) under any provision of this Agreement, any amounts owed Check Center by YOUR STORE(s), or any damages sustained by Check Center as a result of YOUR STORE(s)' violation, breach or non-performance of its obligations under this Agreement. Check Center shall have, and YOUR STORE(s) acknowledges that Check Center has, the right to bill YOUR STORE(s) a 1.5% interest fee per month on any amount owed by YOUR STORE(s) to Check Center that becomes delinquent.

MAXIMUM APPROVAL LIMIT \$1,000.00

Monthly Statement Fee: **\$10.00**

MONTHLY MINIMUM \$25.00

- Standard Pricing 1.85%
- Special SIC Pricing **1.50%**
- Competitive Pricing \_\_\_\_\_  
(Must attach current statement)

Per Transaction Fee: **\$0.35ea**

- PREMIUMS ORDERED:
- Multiple Check Premium (2¢/transaction)
  - Stop Payment Premium (2¢/transaction)
  - Premium Approval (2¢/transaction)

- ENHANCEMENT PACKAGE:  
Includes All Premiums (\$5 per month)

Bank Account & Routing Number \_\_\_\_\_  
Name of Bank \_\_\_\_\_  
(Attach Voided Check)

YOUR STORE(S)' SIGNATURE VERIFIES ALL INFORMATION ON THIS APPLICATION AND REPRESENTS YOUR STORE(S)' EXPRESS CONSENT TO ALL TERMS AND CONDITIONS ON SUBSEQUENT PAGES, AND CONFIRMS YOUR OFFER TO ENTER INTO AN AGREEMENT.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CHECK CENTER'S ACCEPTANCE OF YOUR APPLICATION, TO INCLUDE ANY ENHANCEMENT PACKAGES OR PREMIUMS, AS APPLICABLE, ACCEPTED BY AN OFFICER OF CHECK CENTER IN YOUR CONFIRMATION LETTER, FORMS THE ENTIRE AGREEMENT (CORPORATE OFFICE USE ONLY)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**V. PAYMENTS:** YOUR STORE(s) agrees to permit Check Center or Check Center's ACH agent to debit YOUR STORE(s)' designated bank account for check guarantee services according to the terms of the agreement between YOUR STORE(s) and Check Center. YOUR STORE(s)' payment will be delinquent if not received within two weeks of the statement date. It is understood that all payments due under this Agreement will be debited from YOUR STORE(s)' bank account. By signing the Agreement, YOUR STORE(s) hereby authorizes Check Center to automatically debit the bank account listed herein for all payments due under this Agreement. (Must also attach copy of voided check). YOUR STORE(s) agrees to pay a \$25.00 service charge for any initial check or ACH debit which is not paid by YOUR STORE(s)' bank upon presentation and a \$35.00 charge for any subsequent dishonor. If an invoice is required to be created by Check Center a fee of \$10.00 will be assessed. If YOUR STORE(s) changes bank accounts, YOUR STORE(s) will provide Check Center with the new bank account information and authority to debit such new account prior to implementing any such bank change.

**VI. SUBMISSION:** All approved checks assigned to Check Center under this Agreement shall be the property of Check Center. YOUR STORE(s) is authorized and directed to deposit all approved checks to YOUR STORE(s)' bank account, on Check Center's behalf as Check Center's agent for such limited purpose, and it is agreed that such deposit will constitute full payment by Check Center to YOUR STORE(s) of all approved checks, unless warranty coverage is applicable under this agreement. All checks covered under this Agreement shall be deposited on Check Center's behalf to YOUR STORE(s)' bank account within three (3) business days. The original checks, along with all additional paperwork, must reach Check Center within thirty (30) calendar days from the date of the approval and the check's acceptance. The date of approval and the date of acceptance shall be identical. Check Center shall process any dishonored check it receives within thirty (30) calendar days of receipt.

**VII. TERMS AND CONDITIONS:** YOUR STORE(s)' compliance with the terms and conditions of this Agreement to include the Agreement in its entirety, is an express condition to Check Center's obligation to pay YOUR STORE(s) or agent thereof when its information proves inaccurate. Check Center reserves for itself sole discretion to determine if YOUR STORE(s) has complied with the terms and conditions of this Agreement. All terms and conditions of this Agreement, to include the Agreement in its entirety, may be changed by Check Center at any time upon ten (10) calendar days written notice. Such changes shall supercede any previous terms and conditions. This Agreement may not be modified unless it is in writing and accepted by an officer of Check Center. Check Center may cancel this Agreement upon ten (10) calendar days written notice to YOUR STORE(s). If YOUR STORE(s): (i) files for bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation or any similar proceedings applicable to similarly situated companies or corporations, as applicable, or (ii) has such a proceeding instituted against it, Check Center may terminate this Agreement immediately upon written notice to YOUR STORE(s). Within ten (10) calendar days notice of an increase in fees, YOUR STORE(s) may cancel this Agreement by giving written notice to Check Center. Said notice must be received at Check Center's corporate location, as identified within this Agreement within ten (10) calendar days from the date of the increase in fees. Any notice permitted or required by this Agreement shall be deemed given when sent by first class or certified mail or facsimile transmission or overnight delivery and addressed to the appropriate party at the respective address contained within this Agreement. The term of this Agreement shall be for a twelve (12) month period from the date of acceptance by an officer of Check Center. Upon expiration of the twelve (12) month term, this Agreement will automatically renew for successive twelve (12) month periods unless terminated by written notice from YOUR STORE(s) at least thirty (30) days prior thereto. Said notice must be received at Check Center's corporate location, as identified within this Agreement within thirty (30) days prior to the date of termination. This Agreement includes your Confirmation letter(s), which collectively forms the entire Agreement between YOUR STORE(s) and Check Center with respect to the subject matter hereof, and supercedes any prior Agreement, oral or written, between YOUR STORE(s) and Check Center and/or its representative(s). YOUR STORE(s) agrees that the failure by Check Center to enforce any terms or conditions of this Agreement is not a waiver of any terms or conditions herein contained.

**VIII. DEFAULT:** Should YOUR STORE(s) become delinquent, or fail to comply with the terms and conditions of this Agreement, then Check Center may at its option: add to the normal payment cycle of any dishonored checks which would otherwise be paid by Check Center under this Agreement the number of days that YOUR STORE(s) was delinquent in paying any fee when due; void all approvals given to YOUR STORE(s) for checks not previously paid; demand immediate payment for all amounts owed under this Agreement; immediately terminate this Agreement; or any of the above. Should any employee, or agent(s) thereof, of YOUR STORE(s) engage or participate, directly or indirectly, as principal or accessory, in any activity for the purpose of improperly obtaining any approval numbers, then this Agreement shall be immediately terminated, all approval numbers voided, and the total amount due for all YOUR STORE(s) covered by this Agreement shall become due and payable immediately. YOUR STORE(s) acknowledges that the assessment of any late fee and/or acceptance of any payment from YOUR STORE(s) does not waive any rights that Check Center may have under this Agreement. If legal action is taken by Check Center to enforce this Agreement, then Check Center shall have the right to court costs and reasonable attorney's fees as determined by the court. YOUR STORE(s) agrees to pay a \$25.00 service charge for any check or ACH debit which is not paid by YOUR STORE(s)' bank upon presentation and a \$35.00 service charge for any subsequent dishonor. YOUR STORE(s) agrees that the service charge may be debited from YOUR STORE(s)' bank or set off against moneys otherwise owed to YOUR STORE(s) under the Warranty Provision of this Agreement. If Check Center is found to be liable under this agreement, the entire liability of Check Center for all causes of action arising out of or in connection with this agreement at any time, or the relationship between the parties, shall not exceed in the aggregate, the total fees actually paid by YOUR STORE(s) to Check Center pursuant to this agreement for the three (3) month period immediately preceding the date the first claim arises hereunder. In addition to the foregoing limitations, in no event shall Check Center be liable for damages of any kind whatsoever except for YOUR STORE(s)' direct compensatory damages resulting solely from a material breach of this agreement by Check Center. In no event shall Check Center be liable for any lost profits, loss of goodwill, or for special, indirect, incidental, consequential or punitive damages or any other damages not so specified and for which Check Center has not accepted responsibility.

**IX. YOUR STORE(S) WARRANTIES:** As a condition to Check Center's warranty to the accuracy of this information, YOUR STORE(s) represents and warrants to Check Center that each and every check assigned to Check Center by YOUR STORE(s) is properly payable, and that with respect to such checks, the customer of YOUR STORE(s) has no valid defense to payment as determined in the sole discretion of Check Center, or claim against YOUR STORE(s), whether legal or equitable, based on federal, state or local laws, statutes, regulations, rules or ordinances. YOUR STORE(s) shall not subcontract, assign, subrogate or transfer any interest, obligation or right under this Agreement without prior written consent from Check Center. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns. Check Center hereby reserves the absolute right to charge back any checks which have previously been paid, if upon further review by Check Center, such checks fail to meet any conditions or provisions set forth in the Agreement, as determined solely by Check Center. In the event that any customer of YOUR STORE(s) asserts a valid defense against payment of any dishonored check, disputes payment or asserts a valid claim against YOUR STORE(s), or YOUR STORE(s) accepts any payment on any dishonored check, or a check is charged back, YOUR STORE(s) agrees to reimburse Check Center the amount paid by Check Center for the dishonored check, including reasonable attorney's fees, and agrees to indemnify, defend and hold Check Center harmless from any and all claims made by such customer. Such amounts shall be due within ten (10) calendar days notice to YOUR STORE(s). YOUR STORE(s) hereby agrees to indemnify, defend and hold Check Center harmless from any and all claims, damages, liabilities, and expenses, including reasonable attorney fees, including fees to enforce this provision, and litigation costs arising from the performance or nonperformance of YOUR STORE(s)' obligations under this Agreement including, but not limited to, any negligence of YOUR STORE(s) or any alleged or actual violations by YOUR STORE(s)' agents or its subcontractors, or YOUR STORE(s)' employees, of any governmental laws, regulations or rules. YOUR STORE(s) shall take any and all measures necessary to assist Check Center in locating, recovering damages from, and prosecuting any person who has tendered a dishonored check to YOUR STORE(s), including the submission to Check Center of work orders, credit applications and any additional paperwork. YOUR STORE(s) agrees to post any and all notices required by law to consumers regarding check services, check charges or consumer fees charged for dishonored checks. YOUR STORE(s) agrees not to use any competitive check approval service during the term of this Agreement. YOUR STORE(s) agrees that Check Center may use YOUR STORE(s)' name in its promotional and advertising material.

**X. CONFIDENTIALITY:** Pursuant to all applicable State and Federal law, YOUR STORE(s) shall treat all information that comes to its attention in connection with the performance of this Agreement, including but not limited to, information concerning checks and check writers, as strictly confidential and certifies that it shall utilize confidential information only for the purpose set forth in this Agreement. Check Center may use the information it receives from YOUR STORE(s) relating to checks and check writers for the services provided under this Agreement or any of its other products or services, if applicable.

**XI. FORCE MAJEURE:** Check Center shall not be liable in damages for any delay or default in performing hereunder if such delay or default is caused by conditions beyond Check Center's control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of Check Center whose performance is affected. Check Center shall not be liable for any failure or delay in performance under this Agreement to the extent said failures or delays are proximately caused by causes beyond Check Center's reasonable control and occurring without its fault or negligence, including, without limitation, failure of suppliers, subcontractors, and carriers, or party to substantially meet its performance obligations under this Agreement, provided that, as a condition to the claim of non liability, the party

experiencing the difficulty shall give the other prompt notice, defined hereinafter as that degree of notice which is reasonable under the circumstances. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**XII. VENUE:** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA. THE PARTIES AGREE THAT ANY ACTION ARISING OUT OF THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL BE BROUGHT IN THE COURTS OF SONOMA COUNTY, CALIFORNIA. YOUR STORE(S) AGREES THAT THIS AGREEMENT WAS FORMED IN SONOMA COUNTY, CALIFORNIA UPON ACCEPTANCE BY AN OFFICER OF CHECK CENTER.

**XIII. WARRANTY EXCLUSIONS:** The warranty by Check Center does not apply to any check not properly made and completed in its entirety at the time of its acceptance as follows: (a) where goods have been returned or service canceled by the check writer submitting the check and that check writer has requested a credit and such credit was not processed by YOUR STORE(s); (b) where YOUR STORE(s) fails to comply with any representation, warranty or covenant or failed to meet the requirements of this Agreement, to include the Agreement in its entirety, or applicable law, or has not been authorized in advance by Check Center as required hereunder; (c) where the transaction is for a type of goods or services sold other than as disclosed in YOUR STORE(s)' application or accepted in writing by an officer of Check Center; (d) where a check writer or an agent of the check writer asserts a valid dispute to Check Center. Such valid dispute shall be determined in the sole discretion of Check Center; (e) where the transaction was generated through the use of an account that was not valid or made on an altered, fraudulent, or counterfeit check; (f) where security procedures were not followed by YOUR STORE(s); (g) where the check writer's financial institution or Check Center has information that YOUR STORE(s) committed fraud at the time of the transaction(s), or the transaction is not a sale by YOUR STORE(s) whether or not such transaction(s) was authorized by the check writer; (h) in any other situation where the check approval was executed or a credit was given to YOUR STORE(s) in circumstances constituting a breach of any representation or warranty of YOUR STORE(s) or in violation of applicable law or where YOUR STORE(s) has not provided documents or resolved a check writer dispute whether or not a transaction is charged back; (i) where Check Center does not receive any work orders, buyer's orders, credit application, or any and all paperwork that may assist Check Center in locating and recovering money from a check writer of YOUR STORE(s) as requested by Check Center within five (5) calendar days from the time of the initial request, or if with respect to any one of YOUR STORE(s)' locations(s) the amount of or number of any counterfeit or fraud incidents becomes excessive, in the sole determination of Check Center, then YOUR STORE(s) may be charged back for all transactions, this Agreement may be terminated immediately without notice, and; (j) where YOUR STORE(s) accepts any check that is not properly made and completed in its entirety at the time of its acceptance to include: (i) YOUR STORE(s)' store number; (ii) the Check Center approval number, (iii) the check writer's valid U.S. Motor Vehicle Driver's License number and state of issuance, valid State Identification Card, or valid U.S. Military I.D. used to approve the check, (iv) the signatory of the check and the correct and current U.S. residence address of the account holder must be commercially imprinted on the check. The telephone number of the signatory and account holder must be written on the face of the check. If Post Office box is used, or telephone number is not imprinted, the correct and current residence address and correct and current telephone number must be written on the check at the time of approval, (v) YOUR STORE(s) as the payee, or (vi) the check writer's signature and complete check amount; (k) where YOUR STORE(s) accepts any check that is a two party, travelers, employee, money market or credit card check or convenience check, counter check, temporary check, unpersonalized check or photocopy of a check, postdated, predated, undated, redeposited check, previously deposited or previously electronically processed check, any check made out to cash. The check must be drawn on a demand deposit account (DDA); (l) where YOUR STORE(s) accepts a check the date of which does not accurately coincide with the date of the approval number and/or sale. The numeric and written amounts of the check(s) must be identical. The amount of the check(s) must be identical to the approved amount; (m) where YOUR STORE(s) accepts any check that is a business check where the check is approved solely with the check writer's I.D. Business 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 warranty coverage. The valid I.D. of the person presenting the business check must also be imprinted or written on the check; (n) any stolen or counterfeit check or where Check Center has information from the check writer's financial institution or the check writer submits a notarized affidavit of forgery that said item(s) were reported as stolen or forged or where YOUR STORE(s) failed to compare the signature on the check against the signature on the current valid identification as displayed by the person presenting the check at the time of the transaction; (o) where YOUR STORE(s) accepts any check as a replacement of any previously dishonored payment, payment for accounts receivable or on credit or account; (p) any check upon which YOUR STORE(s) has accepted partial payment for any one particular sale or transaction, return of merchandise or entered into an agreement for payment; (q) any check for which the check writer is not the purchaser of the goods or services at the time of approval; (r) where YOUR STORE(s) accepts any check for which a refund is negotiated or cash is given at any given time; (s) where YOUR STORE(s) accepts any check with changes or alterations to the original check; (t) any check against which a Stop Payment order has been issued or has been marked Refer to Maker or Account Frozen/Held or is subject to any prior lien; (u) where YOUR STORE(s) accepts any check for which an approval number has previously been sought from Check Center or any competitive Check or Inquiry Service; or (v) where the signature on the check does not match the pre-printed name; (w) where YOUR STORE(s) accepts any check negotiated for the purchase of a motor vehicle, except as provided in the paragraph below. In addition, expressly excluded from warranty coverage are multiple checks written to avoid or which appear to have been written to avoid, the maximum approval limit, checks under the bank designated minimum dollar amount, checks from merchant or its employees or other agents, checks that are limited as to their negotiability based on time parameters, and checks designated debtor in possession.

**XIV. MOTOR VEHICLE LEASING AND SALES:** The parties agree that checks issued and presented for the purchase or lease of any Motor Vehicle shall only be processed subject to the following conditions: 1) A valid approval number shall be obtained on each qualified check; 2) the down payment price shall not exceed thirty-five percent (35%) of the cash price of the vehicle, excluding trade-ins and manufacturer's rebate; 3) Should the sale or lease be financed, said sale or lease shall be financed by a finance company that does not have common ownership with YOUR STORE(s). Check Center shall not process checks issued and presented for purchases and/or leases which subsequently result in a rollback, rescission or an unbound deal.

**ATTACH ORIGINAL VOIDED CHECK HERE**