

First National Bank of Mount Vernon Merchant Source Capture™ Agreement

This Electronic Check Processing Agreement ("Agreement") is made and entered into this ____ day of _____, 20____, between First National Bank of Mount Vernon ("Financial Institution"), and _____ ("Merchant").

Financial Institution and Merchant agree as follows:

1. Background. Financial Institution offers the Merchant Source Capture™ Program for the electronic clearing of checks, which enables Merchant to convert checks to electronic items and to transmit those items electronically for deposit into Merchant's Account at Financial Institution. Merchant desires to use the Program to electronically transmit and process checks for deposit and collection purposes.

2. Definitions. Capitalized terms used in this Agreement shall have the meanings indicated herein (including in Exhibit A).

3. Services. Financial Institution shall provide to Merchant the Services described in this Agreement to enable Merchant to use the Program to convert Checks to Electronic Items for the processing of such Checks electronically. Merchant and Financial Institution shall comply with the terms and provisions of Exhibit B with respect to performance of the Services.

4. License. Subject to the terms and conditions of this Agreement, Financial Institution hereby grants Merchant a non-exclusive, non-transferable license to: (i) use the Software for those portions of the Program selected by Merchant, solely for processing Checks in connection with Merchant's own business operations, in accordance with the Documentation and solely on Supported Equipment; (ii) copy and use the Documentation solely to support Merchant's authorized use of the Software; and (iii) copy any Software actually delivered to Merchant solely for archival or backup purposes. Merchant agrees to abide by the provisions of Exhibit C with respect to the Software and Documentation.

5. Merchant Obligations.

5.1 Merchant represents and warrants that with respect to each Check processed by Merchant hereunder and the corresponding Electronic Item: (i) the Electronic Item is a digitized image of the front and back of the Check and accurately represents all of the information on the front and back of the Check as of the time Merchant converted the Check to an Electronic Item; (ii) the Electronic Item contains all endorsements applied by parties that previously handled the Check in any form for forward collection or return; and (iii) all transfer and presentment warranties made under applicable law and the Account Agreement. If Merchant captures a digital image of a previously truncated and reconverted Substitute Check for processing, Merchant shall ensure that such Substitute Check meets the requirements for legal equivalency under Regulation CC and the identifications of previous truncating and reconverting Financial Institution(s) (as such terms are defined in Regulation CC) are preserved. Merchant may be subject to restrictions such as per item dollar limits, aggregate dollar volume limits, or other limits as set by the Financial Institution.

5.2 Your financial institution maintains the security and integrity of its servers, software and network connections. However, any computer your business uses to connect to our system(s) must be seen as an integral part of the overall security of Merchant Source Capture™. It is strongly recommended that you purchase and maintain commercial Anti-Virus and Malware protection for any computer in your business that will be used to scan and transmit check images. The security of computers owned and controlled by your company and its employees is the responsibility of your business. Any damages or claims arising from inadequate security of computers and/or network equipment or software owned or operated by your company is solely your responsibility.

6. Fees. Merchant will pay Financial Institution the license and service fees as set forth in Financial Institution's schedule of fees (Exhibit E). Financial Institution reserves the right to change fees from time to time upon 30 days prior written notice. Merchant shall be responsible for and pay all sales and other taxes applicable to this Agreement and imposed by any governmental authority, including without limitation any sales, use, and other taxes associated with the Program or Supported Equipment. Financial Institution may charge to the Account all fees and taxes imposed on Financial Institution that are the responsibility of Merchant.

7. Term and Termination.

7.1 The term of this Agreement shall commence upon execution hereof and shall continue thereafter until terminated as follows: (i) by either party upon 30 days written notice to the other party, for any reason; (ii) by Financial Institution upon 10 days written notice to Merchant for Merchant's failure to pay Financial Institution any amount due to Financial Institution under this Agreement, if such breach is not cured within such 10 day period; or (iii) by Financial Institution immediately with written notice to Merchant if Financial Institution discovers any willful misconduct (including bad checks or fraudulent activities) on the part of Merchant or any other party with respect to Checks or Electronic Items processed by Merchant.

7.2 Any termination will not affect obligations arising prior to termination, such as the obligation to process any Checks and Electronic Items, including returned Electronic Items that were in the process of being transmitted or collected prior to the termination date. Within 30 days after termination of this Agreement, Merchant will return or destroy all copies of the Documentation in its possession or under its control. In addition, Merchant will keep its Account at Financial Institution open until the later of (i) 60 days after the date of termination, or (ii) final payment with respect to all processing fees, and will keep in such Account an amount sufficient to cover any remaining outstanding checks. If any such outstanding checks or returned items exceed the amount in the Account, Merchant will pay such excess to Financial Institution upon demand. Merchant will also continue to retain Checks and forward Checks to Financial Institution as provided in Exhibit B of this Agreement. Merchant agrees not to develop a product substantially similar to the Program during the term hereof or within three years after termination of this Agreement.

7.3 All Sections of this Agreement which are intended by their terms to survive termination of this Agreement, including without limitation Sections 5, 7, 8, 9, 10, 11, 13, 14, 16, 18 and 21, will survive any termination of this Agreement.

8. Confidential Information. Financial Institution acknowledges that it may obtain or have access to non-public personal information regarding Merchant or its Payors, and agrees to (i) maintain the confidentiality, integrity and security of such information, (ii) use such information only for the purposes set forth in this Agreement and the Account Agreement, including without limitation for the performance of its obligations and exercise of its rights hereunder, (iii) disclose such information only to its employees, agents, auditors, accountants, attorneys and regulators, and only as necessary to perform its obligations and exercise its rights hereunder, or as otherwise permitted by law, and (iv) maintain physical, technical, procedural and administrative controls and safeguards reasonably designed (taking into account the nature and circumstances of Financial Institution's business) to ensure the security, integrity and confidentiality of such information, and to protect against any anticipated threats or hazards to the security or integrity of, or unauthorized access to, such information.

9. Merchant Indemnity. Merchant will indemnify and hold harmless Financial Institution, its licensors and providers of the Services, and their respective directors, officers, shareholders, employees and agents, against any and all third party suits, proceedings, claims, demands, causes of action, damages, expenses (including reasonable attorneys' fees and other legal expenses), liabilities and other losses resulting from (i) the wrongful acts or omissions of Merchant, or any person acting on Merchant's behalf, arising in connection with Merchant's use of the Program or processing of Checks hereunder, including without limitation (a) a breach by Merchant of any provision, representation or warranty of this Agreement, (b) the negligence or willful misconduct (whether by act or omission) of Merchant, its Payors, or any third party on behalf of Merchant, (c) any modifications or changes to the Software made by Merchant or any third party within the control or on behalf of Merchant, (d) any misuse of the Program by Merchant, its employees, or any third party within the control or on behalf of Merchant, or (e) any misuse of non-public confidential information including improper use of confidential information, or improper methods of storage or disposal of original checks (f) the failure by Merchant to comply with applicable state and federal laws and regulations; (ii) any act or omission of Financial Institution that is in accordance with this Agreement or instructions from Merchant; (iii) actions by third parties, such as the introduction of a virus, that delay, alter or corrupt the transmission of an Electronic Item to Financial Institution; or (iv) any claim by any recipient of a Substitute Check corresponding to a Check processed by Merchant hereunder, that such recipient incurred loss due to the receipt of the Substitute Check instead of the Original Check.

10. Financial Institution's Liability.

10.1 Financial Institution will not be liable for any of the following, unless liability or loss is a result of Financial Institution's breach of this Agreement or the gross negligence or willful misconduct of Financial Institution or its employees or agents: (i) any damages, costs or other consequences caused by or related to Financial Institution's actions that are based on information or instructions that Merchant provides to Financial Institution; (ii) any unauthorized actions initiated or caused by Merchant or its employees or agents; (iii) the failure of third persons or vendors to perform satisfactorily, other than persons to whom Financial Institution has delegated the performance of specific obligations provided in this Agreement; (iv) any refusal of a Payor Financial Institution to pay an Electronic Item or Substitute Check for any reason (other than the breach of contract, negligence or willful misconduct of Financial Institution), including without limitation that the Check, Electronic Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) any other party's lack of access to the Internet or inability to transmit or receive data; (vi) failures or errors on the part of Internet service providers, telecommunications providers or any other party's own internal systems, or (vii) any of the matters described in Section 9 above.

10.2 Financial Institution's liability for errors or omissions with respect to the data transmitted or printed by Financial Institution will be limited to correcting the errors or omissions. Correction will be limited to reprinting and/or representing Substitute Checks or Electronic Items to the Payor Financial Institution.

10.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, FINANCIAL INSTITUTION'S AGGREGATE LIABILITY TO CUSTOMER FOR CLAIMS RELATING TO THIS AGREEMENT, WHETHER FOR BREACH, NEGLIGENCE, INFRINGEMENT, IN TORT OR OTHERWISE, AND ARISING DURING ANY TWELVE MONTH PERIOD SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL FEES PAID BY MERCHANT TO FINANCIAL INSTITUTION FOR SUCH TWELVE MONTH PERIOD.

10.4 IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS OR LOSS OF ANY OPPORTUNITY OR GOOD WILL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.5 FINANCIAL INSTITUTION AND MERCHANT ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION ARE A BARGAINED FOR ALLOCATION OF RISK AND LIABILITY, AND AGREE TO RESPECT SUCH ALLOCATION OF RISK AND LIABILITY. EACH PARTY ACKNOWLEDGES AND AGREES THAT THE OTHER PARTY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION.

11. Disclaimer. FINANCIAL INSTITUTION'S REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES, AND MERCHANT'S RIGHTS AND REMEDIES, SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. THE SOFTWARE IS PROVIDED BY FINANCIAL INSTITUTION AND IT'S LICENSORS "AS IS". FINANCIAL INSTITUTION, ITS MERCHANT AND LICENSORS HEREBY WAIVE AND RELEASE FINANCIAL INSTITUTION AND ITS LICENSORS AND THEIR RESPECTIVE OWNERS, OFFICERS, AND EMPLOYEES FROM ALL OTHER REPRESENTATIONS, WARRANTIES OF ANY NATURE, OBLIGATIONS, AND LIABILITIES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE SOFTWARE, DOCUMENTATION, SUPPORTED EQUIPMENT AND ANY AND ALL MATTERS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION:

(i) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, PURPOSE OR APPLICATION, OR OTHER IMPLIED CONTRACTUAL WARRANTY; (ii) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; (iii) ANY WARRANTIES OF TIMELINESS OR NON-INFRINGEMENT; AND (iv) ANY OTHER WARRANTY WITH RESPECT TO QUALITY, ACCURACY OR FREEDOM FROM ERROR. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER FINANCIAL INSTITUTION NOR ITS LICENSORS WARRANT THAT OPERATION OF THE SOFTWARE OR THE SUPPORTED EQUIPMENT WILL BE ERROR-FREE OR UNINTERRUPTED.

12. Amendments. Financial Institution may (i) amend the provisions of this Agreement that govern the procedures and functions of the Program, and any such amendment will become effective (a) 30 days after Merchant's receipt of notification, (b) upon such later date as may be specified in such notification, or (c) at such earlier date as Financial Institution may reasonably require if such amendment is necessary or advisable in connection with statutory or regulatory changes or to protect the integrity, security or operability of the Program; and (ii) amend this Agreement as otherwise provided herein. No other amendment to this Agreement shall be effective until signed by both parties to this Agreement.

13. Applicable Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the state indicated in the Account Agreement, excluding its conflict of law principals. The parties shall submit to venue in and jurisdiction of the courts as provided in the Account Agreement.

14. Arbitration. Any dispute, controversy or claim arising out of or based upon the terms of this Agreement or the transactions contemplated hereby shall be resolved by arbitration pursuant to the terms of the Account Agreement; provided, however, that any dispute, controversy or claim relating to intellectual property rights with respect to the Software or Documentation shall not be subject to resolution by arbitration.

15. Assignment. Neither party may assign its rights nor delegate its duties under this Agreement without the other party's prior written consent, which will not be unreasonably withheld or delayed. Notwithstanding the foregoing, Financial Institution may assign this Agreement to an affiliate or subsidiary without Merchant's prior consent, provided that Financial Institution remains primarily liable for the performance of its obligations under this Agreement. Any attempted assignment or delegation without the required consent will be void.

16. Attorney's Fees. If any action is brought by either party against the other regarding the subject matter of this Agreement, including any court action or arbitration proceeding, the prevailing party shall be entitled to recover, in addition to any relief granted, reasonable attorneys' fees, court costs, expert witness fees and other expenses of action.

17. Compliance with Laws. Each party will comply with all applicable federal, state and local laws and regulations with respect to this Agreement and such party's activities covered by or related to this Agreement.

18. Construction and Interpretation. Section headings used herein are for the convenience of reference only, and shall not affect the meaning or interpretation of this Agreement. This Agreement shall be deemed to have been drafted by both parties, and in the event of dispute, no party shall be entitled to claim that any provision hereof should be construed against the other party by reason of the fact that it was drafted by any particular party. The failure of either party to enforce any rights granted under this Agreement or to take action against the other party in the event of any breach shall not be considered a waiver of that right or breach unless the waiver has been reduced to writing and signed by the waiving party. If a party effectively waives a right or breach, that waiver will not constitute a waiver of any other right or breach or of a subsequent breach of the same obligation. If any provision of this Agreement is held invalid, illegal or unenforceable in any particular jurisdiction or circumstance, the remaining provisions of this Agreement shall remain valid and enforceable in such jurisdiction or circumstance, and such provision shall remain valid and enforceable in any other jurisdiction or circumstance.

19. Entire Agreement. This Agreement supplements the terms of the Account Agreement. This Agreement, the Exhibits and Schedules to this Agreement (as may be amended from time to time), and the Account Agreement constitute the entire agreement between Merchant and Financial Institution with respect to the subject matter hereof, supersede any prior agreements between Financial Institution and Merchant with respect to the subject matter hereof, and shall be binding upon Financial Institution, Merchant and their respective successors and permissible assigns. In the event of any inconsistency between this Agreement and the Documentation or any Account Agreement, this Agreement will govern.

20. Force Majeure. Except for the obligation to make payments, nonperformance by either party will be excused to the extent performance is prevented or delayed due to causes beyond such party's reasonable control and without its negligent or willful misconduct, including without limitation acts of God, natural disasters, terrorist acts, war or other hostilities, labor disputes, civil disturbances, governmental acts, orders or regulations, third party nonperformance or failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment.

21. Injunctive Relief. Notwithstanding Section 14 of this Agreement, each party acknowledges that its violation of Sections 4, 8 or 17 of this Agreement may cause irreparable injury to the other party, and agrees that the other party shall be entitled to seek temporary and preliminary injunctive relief in a court of competent jurisdiction, without the necessity of proving actual damages or posting a bond, to prevent such violation.

22. Notices. All notices permitted or required under this Agreement will be in writing and will be deemed given upon actual delivery. Any notice will be addressed to the party as follows:
If to Financial Institution:

First National Bank of Mount Vernon
101 W Main St
PO Box 909
Mount Vernon, TX, USA 75457
Phone Number: 903-537-2201
Fax Number: 903-537-4232

If to Merchant: The address or facsimile number set forth below

Merchant's signature.

23. Relationship Between Parties. This Agreement will not be construed as creating an agency, partnership, joint venture, or any other form of association, for tax purposes or otherwise, between the parties, and the parties will at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party will have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.

24. Security Interest. Merchant grants Financial Institution a security interest in the Account, including any present and future principal and interest, as collateral security for the Performance of Merchant hereunder.

25. Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of Financial Institution and Merchant and is not intended to benefit any third party, except Financial Institution's licensors. Merchant and Financial Institution acknowledge and agree that any party that licenses the Software to Financial Institution, directly or indirectly through one or more sub-licensees, is a third party beneficiary to this Agreement with respect to those provisions dealing with use and protection of intellectual property.

EXECUTED as of the last date indicated below.

Merchant Name: _____

By: _____

Title: _____

Signature: _____

Date: _____

Approved for Financial Institution by:

Signature: _____

Date: _____

EXHIBIT A

DEFINITIONS

Account means Merchant's account at Financial Institution into which Checks transmitted electronically will be deposited.

Account Agreement with respect to any Account means Financial Institution's standard deposit agreements and disclosures governing the Account, as they may be amended from time to time.

Check means a draft that is payable on demand, drawn on or payable through or at an office of a United States Financial Institution, whether negotiable or not, and payable or endorsed to Merchant, and includes Original Checks and Substitute Checks. Such term does not include Non-cash Items or items payable in a medium other than United States money. [Note: Financial Institution's processing of items that do not meet this definition shall neither constitute a waiver by Financial Institution nor obligate it to process nonconforming items in the future. Financial Institution may discontinue processing of nonconforming items at any time, without cause or prior notice.]

Documentation means all documentation, manuals, tutorials, and instructions relating to the Program or the Supported Equipment, which Financial Institution provides to Merchant from time-to-time pursuant to this Agreement, including without limitation documentation regarding use of the Software.

Electronic Item means a digitized image of a Check, an Image Exchange Item, or any other electronic version of a Check or other electronic item [such as items processed through the automated clearinghouse (ACH) system] approved by Financial Institution for processing through the Program.

Image Exchange Item means a digitized image of a Check cleared and settled directly with a Payor Financial Institution without conversion to a Substitute Check.

Non-cash Item means an item that would otherwise be a Check, except that: (i) a passbook, certificate or other document is attached; (ii) it is accompanied by special instructions, such as a request for special advice of payment or dishonor; (iii) it consists of more than a single thickness of paper, except a Check that qualifies for handling by automated check processing equipment; or (iv) it has not been pre-printed or post-encoded in magnetic ink with the routing number of the Payor Financial Institution.

Original Check means the first paper Check issued with respect to a particular payment transaction.

Payor Financial Institution means the United States Financial Institution ordered in a Check to make payment to the payee(s) named on the Check.

Program means collectively the procedures, protocols, and software used by Financial Institution and its licensors and contractors in connection with the electronic processing of Checks, and includes without limitation the Software and the Services.

Regulation CC means 12 C.F.R. Part 229, as it may be amended from time to time.

Services means the services (as described in Exhibit B) to be provided by Financial Institution, or an agent or designee of Financial Institution, to enable Merchant to process Checks digitally and through Substitute Checks.

Software means that portion of the software developed, licensed and/or provided by Financial Institution and its licensors for operation of the Program, that Financial Institution delivers or provides to Merchant hereunder.

Substitute Check means a paper reproduction of a Check that satisfies the requirements and definition of "substitute check" set forth in Regulation CC.

Supported Equipment includes check scanners and scanner drivers that are compatible with the Software. This includes all recommended scanners and many Twain-compatible check scanners. Scanners that are not specifically recommended by the Financial Institution are not guaranteed to be compatible with the Software.

United States Financial Institution means (i) any person, located in the United States, engaged in the business of banking; (ii) a Federal Reserve Bank; (iii) a Federal Home Loan Bank; and (iv) to the extent it acts as a payor, the U.S. Treasury, the U.S. Postal Service, or a State or local government.

EXHIBIT B

SERVICE TERMS AND CONDITIONS

1. Financial Institution's Responsibilities.

- 1.1 Financial Institution will deliver to Merchant, or otherwise provide access to, the Software.
- 1.2 Financial Institution will provide maintenance and support for the Software as reasonably necessary to permit Merchant's processing of Checks through the Program. Such maintenance and support shall include (i) corrections, work arounds, and bug fixes, (ii) such modifications, enhancements and updates as Financial Institution elects to make generally available to its Merchants without additional license fees, and (iii) telephone support to Merchant during Financial Institution's regular business hours.
- 1.3 Financial Institution will accept for deposit to the designated Account digitized images of Checks that are transmitted to Financial Institution in compliance with this Agreement. Digitized images shall be deemed received upon successful receipt of the transmission of such images that are complete, usable, and adhere to the data specifications set forth in the Documentation. If the digitized images are not complete, are not useable, or do not adhere to such data specifications, the images may not be processed by Financial Institution or its agents, in which event Merchant's deposit will be adjusted and notification will be provided.
- 1.4 Merchant's digitized images will be processed after Financial Institution has received Merchant's transmission of the digitized images. Financial Institution will use commercially reasonable efforts to present Image Exchange Items and Substitute Checks for collection. Unless Financial Institution notifies Merchant otherwise, Financial Institution will provide same day credit to the Account for all items transmitted by Merchant and received by Financial Institution in accordance with the requirements of this Agreement and the Documentation, and within the timelines established by Financial Institution.
- 1.5 If a Payor Financial Institution returns an item to Financial Institution, Financial Institution will charge the Account for such returned item, and may either (i) return the item to Merchant, or (ii) re-present it to the Payor Financial Institution before returning it to Merchant. Items may be returned as Image Exchange Items, rather than Substitute Checks, as agreed by the parties. If a Payor Financial Institution or other third party makes a claim against Financial Institution or seeks a recredit with respect to any Check processed hereunder, Financial Institution may provisionally freeze or hold aside a like amount in the Account pending investigation and resolution of the claim.
- 1.6 Expedited Recredit. For expedited recredit claim procedures and limitations refer to the Check Clearing for the 21st Century Act, as well as Subpart D Sections 229.54 – 229.55 of Federal Reserve Board Regulation CC, and to the extent applicable, Subpart A.
- 1.7 Financial Institution may suspend immediately the Services or the processing of any Check or corresponding Electronic Item if Financial Institution has reason to believe that there has been a breach in the security of the Program, fraud involving Merchant's Account or such Check, or any uncertainty as to the authorization or accuracy of Electronic Items. Financial Institution reserves the right at any time to process Electronic Items on a collection basis.

2. Merchant Responsibilities.

- 2.1 Merchant will maintain an Account at Financial Institution for the receipt of deposits of digitized images of Checks, in accordance with applicable Account Agreement.
- 2.2 Merchant may use only Supported Equipment, which includes many Twain-compatible check scanners in connection with the Software. Merchant understands that neither the Financial Institution nor Fiserv, Inc. guarantee that Merchant's Hardware and Software will be compatible with the Service. Unless otherwise provided in an addendum to this Agreement or in a separate agreement, Merchant, and not Financial Institution, shall be responsible for ordering, obtaining and maintaining all Supported Equipment.
- 2.3 Merchant will use the Supported Equipment and the Software, including the entering, processing and transmittal of items, in accordance with the Documentation. Without limiting the foregoing, Merchant will comply with all security procedures described in the Documentation, and will not bypass, override or disable any security mechanisms in the Supported Equipment or Software.
- 2.4 If there is an interruption to the service for any reason, Merchant must notify the Financial Institution and issue deposits to the Financial Institution using traditional means (deliver deposits to a branch, an authorized depository drop box, or through the U.S. Postal Service) until the service is restored.
- 2.5 Merchant will ensure the Supported Equipment is clean and operating properly, and inspect and verify the quality of images and that the digitized images of Checks are legible for all posting and clearing purposes.
- 2.6 Merchant will be responsible for proper training of its employees in the use of the Program, and for supervising and auditing their use of the Program.
- 2.7 Merchant will ensure that no Financial Institution (depository, collecting or payor), drawee, drawer or endorser with respect to a Check processed by Merchant will receive presentment or return of, or otherwise be charged for, the Check (including the Original Check or Substitute Check), corresponding Electronic Item, and/or other paper or electronic representation of the Check such that such person will be asked to make payment based on an item that it already has paid.

- 2.8 Merchant will retain each Check for a reasonable period of time, but in no event fewer than 60 days after such Check has been digitized and processed. Merchant will promptly provide any retained Check (or, if the Check is no longer in existence, a sufficient copy of the front and back of the Check) to Financial Institution as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any Check. Merchant will use a commercially reasonable method approved by Financial Institution to destroy Checks after the Merchant's retention period has expired. Deposited checks with suspect image quality, especially those with large dollar amounts, should be retained for a longer period of time up to three (3) years, as determined by the Merchant.
- 2.9 Merchant agrees to comply with requests for periodic audits as deemed necessary by the Financial Institution. This may be in the form of a request to complete an updated survey or access to an on-site audit performed by the Financial Institution or an affiliated third party. Merchant also agrees to provide the Financial Institution with any significant changes to users, activity, security, and policies related to the use of Merchant Source Capture.

EXHIBIT C

INTELLECTUAL PROPERTY PROVISIONS

1. Protection and Security of Software and Documentation.

- 1.1 Merchant will establish reasonable precautions and use commercially reasonable efforts, no less rigorous than those Merchant uses to protect its own confidential information to protect and maintain the confidentiality and security of the Software and the Documentation. Without limiting the generality of the foregoing, Merchant will use reasonable measures to protect the Software and Documentation from unauthorized copying, dissemination, disclosure or other unauthorized use.
- 1.2 Merchant will not, and will not permit any third party to, (i) copy or use the Software or Documentation except as expressly authorized by this Agreement (including this Schedule); (ii) sublicense, rent, distribute, transfer, publish, disclose, display or otherwise make available the Software to others; (iii) use the Software or Documentation for third-party training, commercial time-sharing or service bureau use; or (iv) alter, change, modify or otherwise create derivative works of the Software or Documentation.
- 1.3 Merchant will not, and will not permit any third party to, reverse engineer, disassemble or decompile any Software, except to the extent expressly permitted by applicable law. If Merchant intends or begins to take any such action based on any applicable law, Merchant shall notify Financial Institution and Financial Institution shall have the right to immediately terminate this Agreement and/or the license to the Software upon notice to Merchant.
- 1.4 Merchant will maintain a complete and accurate list of all locations where Merchant uses the Software, and make such list available to Financial Institution upon Financial Institution's request.

2. Ownership of Intellectual Property.

- 2.1 Merchant acknowledges and agrees that all right, title and interest in and to the Software and the Documentation, together with modifications, enhancements and derivative works, and all intellectual property rights such as copyrights, patents, and trade secrets, pertaining to the Software and the Documentation, (i) are and shall remain owned exclusively throughout the universe by Financial Institution and its licensors, (ii) represent or contain valuable rights of Financial Institution and its licensors, and (iii) are protected under United States patent, copyright, trademark and trade secret laws of general applicability. This Agreement does not create in Merchant any rights to, and does not constitute an assignment of any rights of Financial Institution or its licensors in and to, any copyrights, trade secrets, patents, or other intellectual property rights of Financial Institution or such licensors. Other than the license set forth above in this Schedule, no other license or interest in the Software or Documentation, either expressed or implied, is granted under this Agreement.
- 2.2 Merchant will not at any time, either directly or indirectly, (i) put to issue the scope, validity or ownership of Financial Institution's or its licensors' intellectual property rights in the Software and Documentation; (ii) do any act which could reasonably be expected to impair the scope, validity or ownership of such intellectual property rights, or (iii) assert any ownership rights to the Software or Documentation. Merchant acknowledges and agrees that this Agreement does not grant or convey to Merchant (i) an interest in or to the Software or Documentation, but only a limited right of use, revocable in accordance with the terms hereof; or (ii) any right, title, interest or license in or to any trademark of Financial Institution or its licensors.
- 2.3 Merchant hereby assigns to Financial Institution and/or its licensors, as directed by Financial Institution, any rights, including any patent, copyright, mask work rights, trademarks, and trade secrets, which Merchant may now have or which it may acquire at any time in the future, to the Software or the intellectual property rights to the Software, and any other computer code using any of the Software.
- 2.4 Merchant shall not remove or alter any copyright, trademark, or other intellectual property or proprietary right notices, legends, symbols or labels appearing on or in the Software, Documentation or any packaging, and shall include on any copy of the Software or Documentation any copyright, trademark, or other intellectual property or proprietary right notices contained on the original.

2.5 Merchant will (i) cooperate with Financial Institution and its licensors to protect the Software, including in connection with any lawsuits or disputes involving the Software; (ii) promptly notify Financial Institution and provide to it relevant background and other facts upon becoming aware of any actual or potential claim made by a third party regarding infringement, misappropriation, imitation, illegal use or misuse, or reasonable likelihood thereof, by the Software; and (iii) in the event of any actual or potential infringement, misappropriation, imitation, illegal use or misuse, or reasonable likelihood thereof of the Software by others, (a) grant to Financial Institution and its licensors the sole right to determine the course of action with respect to such infringement and to bring any proceeding with respect thereto, and to settle, and collect any settlement amount or judgment for any such proceeding, and (b) agree that such licensors shall be solely entitled to any proceeds of any such proceeding, including without limitation any settlement proceeds, insurance proceeds, arbitration awards, judgments, or other consideration in any form.

3. Termination. Merchant acknowledges and agrees that its license to the Software and Documentation will terminate upon the earlier to occur of (i) termination of this Agreement, or (ii) termination of Financial Institution's license to the Software and Documentation.

4. Limitation on Liability. FINANCIAL INSTITUTION'S LICENSORS SHALL HAVE NO LIABILITY OF ANY NATURE TO CUSTOMER, OR ANY THIRD PARTY, FOR DAMAGES, LIABILITIES OR CLAIMS, WHETHER IN CONTRACT, TORT, FOR NEGLIGENCE, INFRINGEMENT OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, DAMAGES, LIABILITIES OR CLAIMS ARISING FROM OR UNDER THIS AGREEMENT, ERROR IN THE SOFTWARE, OR FOR ANY INJURY, DAMAGE OR LOSS RESULTING FROM SUCH ERROR, OR FROM ANY USE OF THE SOFTWARE. NOTWITHSTANDING THE GENERALITY OF THE FOREGOING, IN NO EVENT WILL SUCH LICENSORS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS OR LOSS OF ANY OPPORTUNITY OR GOOD WILL, EVEN IF SUCH LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH.

5. Compliance with Law. Merchant shall not export, re-export or otherwise transfer, directly or indirectly, the Software or any portion thereof to any location outside the United States without first complying with all applicable foreign and United States federal, state and local laws, rules, regulations or controls (including without limitation those regarding import, export, marketing, distribution or use of software programs).

6. Assignment. Merchant may not assign the license granted hereunder to any party whatsoever, except in connection with an assignment of the entire Agreement, subject to the terms of the Agreement. Any attempted assignment of the license in violation of this Section shall be void.

7. Further Assurances. Merchant will, at its expense, promptly execute and deliver such further documents and take any and all other actions reasonably requested by Financial Institution from time to time, for the purpose of fully effectuating the intent and purposes of this Schedule, and to protect the interests of Financial Institution, its licensors, and their respective successors and assignees.

8. Injunctive Relief. Merchant acknowledges that violation of its commitments regarding the Software, as outlined in Sections 2.4, 2.5 and 6 of this Schedule, may cause irreparable injury to Financial Institution and/or its licensors, and agrees that Financial Institution shall be entitled to seek and obtain temporary and preliminary injunctive relief in a court of competent jurisdiction, without the necessity of proving actual damages or posting a bond, to prevent such violation.

9. Survival. Merchant agrees that the provisions of Sections 2, 4, 5, 7, 8, and 9 of this Schedule shall survive termination of the license granted hereunder and the termination of this Agreement.

For assistance please contact Financial Institution at **903-537-2201**

EXHIBIT D

DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS

Sections:

1. Definitions.
2. Purpose and scope.
3. Proper disposal of Consumer Information.
4. Proper storage of Consumer Information.
5. Relation to other laws.
6. Effective date.

1. Definitions:

- (a) In General. Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681, et seq.
- (b) "Consumer Information" means any record about an individual, whether in paper, electronic, or other form, that is derived from a consumer report. Consumer Information also means a compilation of such records. Consumer Information does not include information that does not identify individuals, such as aggregate information or blind data.

(c) "Dispose," "disposing," or "disposal" means:

- (1) the discarding or abandonment of Consumer Information, or
- (2) the sale, donation, or transfer of any medium, including computer equipment, upon which Consumer Information is stored.

2. Purpose and scope:

- (a) Purpose. This part ("rule") implements section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of Consumer Information.
- (b) Scope. This rule applies to any person over whom the Federal Trade Commission has jurisdiction that, for a business purpose, maintains or otherwise possesses Consumer Information.

3. Proper disposal of Consumer Information:

- (a) Standard. Any person who maintains or otherwise possesses Consumer Information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.
- (b) Examples. Reasonable measures to protect against unauthorized access to or use of Consumer Information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with this rule.
 - (1) Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing Consumer Information so that the information cannot practicably be read or reconstructed.
 - (2) Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing Consumer Information so that the information cannot practicably be read or reconstructed.
 - (3) After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as Consumer Information, in a manner consistent with this rule. In this context, due diligence could include reviewing an independent audit of the disposal company's operations and/or its compliance with this rule, obtaining information about the disposal company from several references or other reliable sources, requiring that the disposal company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal company's information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal company.
 - (4) For persons or entities who maintain or otherwise possess Consumer Information through their provision of services directly to a person subject to this part, implementing and monitoring compliance with policies and procedures that protect against unauthorized or unintentional disposal of Consumer Information, and disposing of such information in accordance with examples (1) and (2) above.
 - (5) For persons subject to the Gramm-Leach-Bliley Act, 15 U.S.C. 6081 et seq., and the Federal Trade Commission's Standards for Safeguarding Merchant Information, 16 CFR Part 314 ("Safeguards Rule"), incorporating the proper disposal of Consumer Information as required by this rule into the information security program required by the Safeguards Rule.

4. Proper storage of Consumer Information:

Any Merchant who maintains or otherwise possesses Consumer Information for a business or other purpose must provide secure storage of the information until such a time that the information is properly destroyed. Reasonable measures must be taken to protect against unauthorized access of all stored checks and confidential information through the constant use of locked file cabinet, safe, lockbox, or other form of secure storage.

5. Relation to other laws:

Nothing in this rule shall be construed:

- (a) to require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or
- (b) to alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

EXHIBIT E

FEE SCHEDULE

(No Fees Applicable at the current time)