

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

THIS Exhibit K – Agreement for TeleCheck Internet Check Acceptance (ICA) and Checks by Phone (CBP) Warranty Program and Pro 21 Services (“TeleCheck Exhibit”) is between you and TELECHECK SERVICES, INC. (“Contractor”). The terms of this Exhibit K are incorporated into the MSA and the parties hereto agree to be bound by such terms.

TELECHECK AND AUTHORIZED USER AGREE:

- 1. Background; Acknowledgement.** Authorized User and TELECHECK SERVICES, INC., (“Contractor”) are parties to the MSA. TeleCheck is an indirect, wholly owned subsidiary of First Data Corporation. TeleCheck can offer ICA and CBP Services (defined below) to Authorized User; and will provide Authorized User with the ICA/CBP Services described in this TeleCheck Exhibit. The terms of this Exhibit K are incorporated into the MSA. Capitalized terms used, but not defined, in this TeleCheck Exhibit have the meanings given in the MSA. The terms of this TeleCheck Exhibit will control in the event of any conflict between it and the terms of the MSA.
- 2. ICA/CBP Services.** TeleCheck will provide Authorized User with the Internet Check Acceptance (“ICA”) and Checks by Phone (“CBP”) service programs (collectively, the “ICA/CBP Services”), which (i) provide Customer with coded information to assist it in determining whether or not to accept an Electronic Check via the phone or Internet as a payment from a Consumer; (ii) process eligible Electronic Checks that Authorized User accepts as payment from Consumers as electronic funds transfers using the Automated Clearinghouse (“ACH”) network; and (iii) warrant the payment of Electronic Checks that strictly comply with the Warranty Requirements set forth in Section 12. This TeleCheck Exhibit is solely between the Authorized User and TeleCheck; and TeleCheck shall be the Authorized User’s exclusive provider of the ICA/CBP Services during the term of this TeleCheck Exhibit. Authorized User may not resell the ICA/CBP Services, and may not use the ICA/CBP Services in any manner in connection with a debt collection service.
- 3. Definitions.** As used herein, the following definitions apply: “**Claim**” means any arbitration award, assessment, charge, citation, claim, damage, demand, directive, expense, fine, interest, joint or several liability, lawsuit or other litigation, notice, infringement or misappropriation of any patent, trademark, copyright or other intellectual property right or violation of any law, and any consequential, indirect, special, incidental or punitive damages, and any reasonable attorney’s fees and expenses incurred in connection therewith. For purposes of the foregoing Claim definition, a Claim shall be considered to exist even though it may be conditional, contingent, indirect, potential, secondary, unaccrued, unasserted, unknown, unliquidated, or unmaturing. “**Consumer**” means the customer of Authorized User that authorizes the Electronic Check. “**Consumer Authorization Format**” means the required format (including, without limitation, all verbiage for payment authorization, return item fees, check approvals and declines, etc.), provided by TeleCheck to Authorized User for processing Consumer payments to Authorized User by an Electronic Check. “**Dishonored Item**” means an Electronic Check having received a valid TeleCheck Approval Code pursuant to an Electronic Business Transaction which is dishonored upon presentment for payment. “**Electronic Check Business Transaction**” means a transaction for the contemporaneous purchase of goods or services by Consumer from Authorized User pursuant to the TeleCheck warranty service program for which the payment is processed as an Electronic Check; provided, however, it does not include any transaction for cash or payment on an account, debt or check already due Authorized User. The Authorized User. “**Electronic Check**” means either a Phone Check or an Internet Check. “**Electronic Check Maximum**” means the lower of (i) the face amount of the Electronic

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

Check; or (ii) \$5,000.00 for any Electronic Check Business Transaction; or (iii) the check maximum set forth on the front of this TeleCheck Exhibit. **“Internet Check”** means an electronic debit transaction (including, without limitation, an electronic debit transaction processed as a demand draft) initiated by the Consumer on an internet website operated or maintained by or on behalf of Authorized User for the payment of an Electronic Check Business Transaction subject to this TeleCheck Exhibit. **“Item”** means an outstanding financial obligation pursuant to an Electronic Check. **“Non-Compliance Item”** means any Dishonored Item that fails to comply with the provisions of this TeleCheck Exhibit, including, without limitation, the Warranty Requirements. **“Operational Procedures”** means TeleCheck’s published policies and procedures provided to Authorized User, as mutually agreed to by the parties (located on DGS website) concerning the services pursuant to this TeleCheck Exhibit, the terms of which are incorporated in this TeleCheck Exhibit as if fully set forth herein. **“Message Based ICA Service”** is a type of ICA service under which (a) the Consumer submits Internet Check data to and interfaces with an internet website which is designed for obtaining the internet Check data and which is operated or maintained by or on behalf of Authorized User, and (b) such Internet Check data is transmitted from or on behalf of Authorized User to TeleCheck for processing. **“Phone Check”** means an electronic debit transaction (including, without limitation, an electronic debit transaction processed as a demand draft) verbally authorized by the Consumer in a telephone communication with Authorized User for the payment of an Electronic Check Business Transaction. **“Returned Item”** means any Item not paid by Authorized User’s financial institution(s) or that fails to comply with the terms and conditions of this TeleCheck Exhibit, including the Warranty Requirements. **“TeleCheck Approval Code”** means that TeleCheck has authorized an Item for warranty coverage under this TeleCheck Exhibit pursuant to an Electronic Check Business Transaction. **“TeleCheck Interfaces”** or **“Software”** means the protocols, software components and other interfaces and software that permit data transfers between TeleCheck and Authorized User for the purpose of Authorized User submitting to, and TeleCheck processing, an Electronic Check. **“TeleCheck Parties”** means TeleCheck and its officers, directors, employees, shareholders, agents and attorneys.

#### **4. Payment.**

All fees and charges are due upon receipt of invoice and payable as set forth in Exhibit E. Authorized User authorizes TeleCheck or TeleCheck designee to initiate credit entries for amounts owing to Authorized User hereunder and to credit or deposit funds to the Authorized User Account in accordance with such credit entries, Authorized User shall immediately reimburse TeleCheck or its affiliates upon demand for delinquent fees or chargebacks TeleCheck shall have the right to suspend all services and obligations to Authorized User, including the payment of all warranties due and all transactions previously authorized, during any period in which Authorized User’s account is delinquent.

- 5. Electronic Check Warranty Services.** TeleCheck warrants the accuracy of its information provided that all requirements set forth in the Warranty Requirements in Section 12 are strictly met. A Dishonored Item shall be deemed to be a breach of the warranty and, as Authorized User’s sole and exclusive remedy for such breach, Authorized User may receive payment of the face amount of the Dishonored Item up to the Electronic Check Maximum, subject to the terms, conditions, and limitations contained in this TeleCheck Exhibit and any addenda hereto. The warranty does not apply where payment has been stopped due to a dispute over goods or services

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

between Authorized User and Consumer, or where Authorized User has contacted TeleCheck for a TeleCheck Approval Code on more than one Electronic Check per Electronic Check Business Transaction. TeleCheck reserved the right to decline to process any Electronic Check as an Electronic Check Business Transaction.

- 6. Electronic Check Processing.** For each Electronic Check business Transaction that TeleCheck issues a TeleCheck Approval Code and which otherwise meets the Warranty Requirements, TeleCheck shall within two (2) business days of the Electronic Check Business Transaction, via an electronic funds transfer, effect a credit to Authorized User's financial institution account for the full amount of such transaction. Such credit shall occur regardless of whether or not the Consumer's transaction is paid by Consumer's financial institution.

Notwithstanding anything contained herein to the contrary, TeleCheck shall be entitled without notice to place a hold on or suspend settlement or other payments of any and all funds, money and amounts now due or hereafter to become due ("*Funds Hold*") should an excessive amount of Returns or other questionable activity occur as determined by TeleCheck in its discretion, or as otherwise required by law. In addition to placing a Funds Hold in respect of any payment, TeleCheck may also freeze all processing activities. In addition to any other remedies available to TeleCheck under this TeleCheck Exhibit, Authorized User agrees that should it breach or fail to comply with any terms or conditions in this TeleCheck Exhibit, TeleCheck may, upon notice, place a Funds Hold and/or processing freeze until TeleCheck has had reasonable opportunity to investigate such event. In cases where TeleCheck, in its discretion, has reason to believe that there is fraudulent activity relating to one or more transactions submitted by Authorized User, no notice shall be required

- 7. TeleCheck Approval Code.** Authorized User acknowledges that TeleCheck will use its internal and proprietary risk management systems to evaluate the risk associated with any particular Item and to assist in its decision whether or not to issue a TeleCheck Approval Code. The decision to issue a TeleCheck Approval Code shall be within the discretion of TeleCheck.
- 8. "Goodwill" of a Returned Item.** TeleCheck, in its discretion, may voluntarily reimburse and not chargeback to a Authorized User for a specific Returned Item. TeleCheck's election to reimburse and not chargeback a Returned Item(s) shall not act as a waiver of TeleCheck's right to decline to pay or chargeback any other Returned Item.
- 9. Retention of Electronic Check Authorization Records.** Authorized User shall cause the Consumer to provide a verbal authorization for each Phone Check and an electronic authorization for each Internet Check (if the Internet Check is processed under the Message Based service) submitted to TeleCheck for processing pursuant to this TeleCheck Exhibit in the Consumer Authorization Format provided to Authorized User by TeleCheck prior to submission of such Electronic Check to TeleCheck for processing. Telecheck shall provide a written confirmation notice to the Consumer of such verbal authorization in TeleCheck's required format in advance of the settlement date in connection with the electronic funds transfer processing of such Phone Check. Authorized User shall maintain a copy of said electronic authorization (if Message Based ICA service) respect to an Internet Check for a minimum period of two years from the date of the transaction or for the period specified by the rules of the National Automated Clearing Houston Association, whichever is longer. Within 7 days of TeleCheck's

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

request, therefore, Authorized User shall deliver to TeleCheck a physical and electronic copy of said electronic authorization if an Internet Check to TeleCheck. Authorized User, upon reasonable notice and during normal business hours, shall permit TeleCheck to audit Authorized User for its compliance with this requirement. Notwithstanding anything to the contrary herein, TeleCheck has agreed to provide the written confirmation notice referred to above on behalf of Authorized User to the Consumer and Authorized User shall not be responsible for maintaining such records nor shall Authorized User be considered in breach of any such requirement.

**10. Warranty Requirements and Authorized User's Representations.** TeleCheck shall reimburse Authorized User for one Dishonored Item, up to the Electronic Check Maximum, per Electronic Check Business Transaction which meets all the following warranty requirements, and Authorized User covenants, represents, warrants and agrees (as applicable) with respect to all Electronic Check Business Transactions submitted to TeleCheck for processing under this TeleCheck Exhibit the following representations:

- a. The Electronic Check Business Transaction is not the result of the Authorized User initiating an unsolicited telephone call to a Consumer with which Authorized User had no prior relationship;
- b. Each Electronic Check must be a first party personal or company check for which the Consumer has authorized payment to Authorized User drawn by electronic means on a United States, Puerto Rico or U.S. Virgin Island financial institution for the purchase of goods or services from Authorized User;
- c. The Consumer provided to Authorized User full and proper verbal authorization (if a Phone Check) or electronic authorization (if an Internet Check), to process the payment in the amount agreed to by the consumer as a Phone Check or an Internet Check, as applicable, including debiting the Consumer's financial institution account as required pursuant to the NACHA rules and guidelines, as amended, and as otherwise required pursuant to this TeleCheck Exhibit;
- d. The Consumer completely provided all required information, including, without limitation, name, physical address (no P.O. Box), telephone number (including area code), date of the authorization of the Electronic Check, and check number, check type (personal or company), consumer's bank routing and account MICR number(s), driver's license or other identification communicated by TeleCheck to Authorized User as being acceptable to TeleCheck for the financial institution account on which the Electronic Check is authorized to be drawn. Authorized User shall provide to TeleCheck such Consumer information, the TeleCheck Authorized User Account Number and any other required information from Consumer in the data sent to TeleCheck for authorization and processing such Electronic Check.
- e. Authorized User shall have made a request and inquiry to TeleCheck for processing the Electronic Check in strict accordance with TeleCheck's Operational Procedures and Authorized User must have obtained a TeleCheck Approval Code. Authorized User will also properly indicate to TeleCheck, according to the Operations Procedures whether the transaction is an Internet

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

Check or a Phone Check, if Authorized User is obtaining both CBP and ICA services.

- f. The Electronic Check for the Electronic Check Business Transaction represents the obligation of the person who is presenting the respective Electronic Check Business Transaction and such Transaction is for goods or services actually sold or rendered by Authorized User for the actual price of such good or services (including tax and shipping) and does not involve any element of credit for any purpose;
- g. The date of the Electronic Check Business Transaction shall accurately coincide with the date of the inquiry call to TeleCheck and the date the transaction actually occurred (No Pre- or Post-dated Electronic Checks);
- h. The amount of the Electronic Check entered into the TeleCheck system for authorization and processing and the Electronic Check amount authorized by the Consumer shall agree;
- i. Authorized User must have contacted TeleCheck for a single TeleCheck Approval Code on only one Electronic Check per Electronic Check Business Transaction;
- j. Authorized User has no reason to question or have notice of any fact, circumstance or defense which would impair the validity or collectability of the Consumer's obligation or relieve the Consumer from liability for the Electronic Check;
- k. Authorized User shall not in any manner utilize any of the services provided pursuant to this TeleCheck Exhibit for any transaction that, directly or indirectly, involves any: (i) product or service classified under a different SIC code than the code designated for Authorized User at the time this TeleCheck Exhibit is executed by Authorized User (subject to any subsequent written agreement of the parties for a change in such SIC code); or (ii) sexually-oriented adult entertainment; gambling; or wagering service, product, business, entity or site;
- l. If for any reason the payment for an Electronic Check Business Transaction cannot be processed as an Electronic Check, Authorized User has authorized TeleCheck to produce a demand draft on behalf of Authorized User and to deposit the funds in TeleCheck's financial institution account;
- m. Each Electronic Check Business Transaction submitted to TeleCheck pursuant to this TeleCheck Exhibit is solely for the contemporaneous purchase of products or services by the Consumer from Authorized User;
- n. Authorized User shall use the Consumer Authorization Format in connection with processing the Electronic Check and shall not alter or modify the text of such format;
- o. Authorized User shall have complied with all requirements of paragraph 9 above; and

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

- p. Authorized User and all Electronic Check transactions submitted to TeleCheck for processing are in compliance with (X) all federal, state and local laws and regulations, including, without limitation, the Federal Trade Commission Telemarketing Sales Rule (16 C.F.R. Part 310) and (Y) all National Automated Clearinghouse Association (NACHA) rules and guidelines, as amended, including, without limitation, those relating to Authorized User authenticating the Consumer's identity, security of websites and computer systems, internet session security, and internet security audits. From time to time upon TeleCheck's request, Authorized User shall provide TeleCheck with copies of Authorized User's internet security audits pursuant to NACHA rules. If Authorized User utilizes any third parties to provide internet hosting, gateway or other services in connection with Authorized User's Electronic Check transactions, Authorized User shall ensure and be responsible for such third parties complying with all requirements contained in this TeleCheck Exhibit.

**All of the above foregoing covenants, requirements and representations are material terms of this TeleCheck Exhibit.** By execution of this TeleCheck Exhibit, Authorized User acknowledges its full knowledge and understanding of the above covenants, requirements and representations as they pertain to the Warranty services provided to Authorized User under this TeleCheck Exhibit.

- 11. Collection and Returned Check Fees.** Authorized User agrees that TeleCheck shall be entitled to collect from the Consumer and retain any fees or exemplary damages, in addition to the face amount of any Electronic Check, which are allowed by law. Authorized User shall follow all TeleCheck policies and procedures and provide Consumers, at TeleCheck's direction, any notices which in TeleCheck's opinion may be required for TeleCheck to collect any such amounts arising from any returned, dishonored or unpaid Electronic Check.
- 12. Assignment of Electronic Checks.** By the execution of this TeleCheck Exhibit, Authorized User ASSIGNS, TRANSFERS AND CONVEYS to TeleCheck all of Authorized User's rights, title and interests in any Electronic Check Business Transaction submitted to TeleCheck for processing. Authorized User authorizes TeleCheck to accept any such Electronic Checks on behalf of Authorized User (notwithstanding the payee) for deposit into TeleCheck's financial institution account. Authorized User shall, at TeleCheck's request, take any action reasonably deemed necessary by TeleCheck to aid in the enforcement of TeleCheck's rights under or with respect to the subject matter hereunder.
- 13. Reassignment and Chargeback.** TeleCheck, as applicable, may: (i) reassign to Authorized User any Electronic Check Business Transaction purchased by TeleCheck pursuant to the warranty service program provisions of this TeleCheck Exhibit; or (ii) chargeback to Authorized User and debit Authorized User's financial institution account the amount of any Electronic Check related to an Electronic Check Business Transaction submitted to TeleCheck for processing pursuant to this TeleCheck Exhibit, in any of the following circumstances:
- a. The goods and/or services, in whole or in part, for which the Electronic Check Business Transaction was submitted to TeleCheck for authorization and processing, have been returned to Authorized User, have not been delivered by Authorized User or, are claimed by the Consumer to have been unsatisfactory,

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

are subject to any dispute, set-off or counterclaim, or by the Consumer, or the Consumer's authorization for such Electronic Check has been stopped, revoked, rescinded or reversed by the Consumer due to any such dispute;

- b. Authorized User has received full or partial payment or security in any form whatsoever to secure payment of or for the: (i) Electronic Check for the Electronic Check Business Transaction; or (ii) goods or services for which the Electronic Check for the Electronic Check Business Transaction was authorized;
- c. The transaction for which the Electronic Check was tendered, or transfer of the Consumer's authorized Electronic Check to TeleCheck, is for any reason: (i) not permitted by applicable law; or (ii) a court of law determines that the Electronic Check for the Electronic Check Business Transaction is, in whole or in part, not due and payable by the Consumer, unless such determination results from the Consumer's bankruptcy proceeding;
- d. The consumer's authorization of an electronic funds transfer was not issued in connection with an Electronic Check Business Transaction;
- e. Any of the warranties and representations made by Authorized User as set forth in paragraph 10.1 above are or become false or inaccurate; or, Authorized User fails or failed to comply with any of the terms, conditions, provisions or obligations under this TeleCheck Exhibit;
- f. Authorized User, or any of its employees: (i) materially altered either the Electronic Check Business Transaction or the Consumer's authorization for such Electronic Check; or (ii) processed the Electronic Check Business Transaction with reason to know that the Electronic Check for such Electronic Check Business Transaction was likely to be dishonored, that the identification used to authorize the Electronic Check for such Electronic Check Business Transaction was forged or altered or that the Consumer did not authorize the Electronic Check for such Electronic Check Business Transaction;
- g. A duplicate Electronic Check Business Transaction relating to the same Electronic Check Business Transaction was received and processed, thereby creating a duplicate entry against the Consumer's financial institution account;
- h. A legible and acceptable copy of the authorization documentation for the Electronic Check is not received by TeleCheck within 7 days of a request therefore by TeleCheck as required by Paragraph 9 above;
- i. The Consumer disputes authorizing the Electronic Check and the Electronic Check Business Transaction or the validity or accuracy of such Electronic Check Business Transaction;
- j. A TeleCheck Approval Code has not been issued for the Electronic Check or the submission of the Electronic Check to TeleCheck for settlement processing does not occur within seven (7) days from the date the TeleCheck Approval Code is issued for the Electronic Check; or

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

- k. Authorized User receives notice that the Consumer of a Dishonored Item filed bankruptcy and Authorized User failed to notify TeleCheck of the bankruptcy within three (3) business days of Authorized User's receipt of such notice.

Authorized User shall immediately notify TeleCheck upon Authorized User's obtaining knowledge of the occurrence of notice of any of the above circumstances. If an Electronic Check is reassigned or charged back to Authorized User as provided herein, TeleCheck may invoice the Authorized User for the amount paid by Telecheck for the Electronic Check, and the Authorized User shall remit the amount of the Electronic Check to TeleCheck.

- 14. Updating Information.** With regard to any Electronic Check submitted or reported to TeleCheck pursuant to this TeleCheck Exhibit which becomes a Dishonored Item, Authorized User shall promptly notify Telecheck if: (a) a Consumer makes any payment to Authorized User on a Dishonored Item; (b) there is a return of goods or services, in whole or in part which were paid with a Dishonored Item; or, (c) there is a dispute of any amount, notice of bankruptcy or any other matter with regard to a Dishonored Item.
- 15. Credit Law Compliance.** Authorized User certifies that: (a) it has a legitimate business need, in connection with a business transaction initiated by or with the Consumer, for the information provided by TeleCheck under this TeleCheck Exhibit regarding such Consumer; and (b) the information provided by TeleCheck will only be used for permissible purposes as defined in the Fair Credit Reporting Act and applicable state and federal laws, with the exception that the information will not be used for employment purposes, and will not be used by Authorized User for any purpose other than one business transaction between Authorized User and Consumer occurring on the date of the inquiry call to TeleCheck. Neither Authorized User, nor its agents or employees, shall disclose the results of any inquiry made to TeleCheck except to the Consumer about whom such inquiry is made and in no case to any other person outside the Authorized User's organization. If Authorized User decides to reject any transaction, in whole or in part, because of information obtained from TeleCheck, Authorized User agrees to provide the Consumer with all information required by law and TeleCheck.
- 16. Use of TeleCheck Materials and Marks.** TeleCheck grants to Authorized User, and Authorized User accepts, a nonexclusive, nontransferable temporary permission, uncoupled with any right or interest, to use TeleCheck's marks, including, but not limited to: TELECHECK®, TELECHECK INTERNET CHECK ACCEPTANCE®, TELECHEQUE®, the TELECHECK LOGO® and TELECHECK® CHECKS BY PHONE<sup>SM</sup> (collectively the "TeleCheck Marks") and to use and display decals, identification data and other materials provided by TeleCheck, whether in physical or electronic form, during the term of this TeleCheck Exhibit solely in connection with the offering of the TeleCheck service(s) authorized under this TeleCheck Exhibit. Authorized User shall not permit any persons other than its own officers or employees at subscribing locations to use the TeleCheck Authorized User Number if any, assigned by TeleCheck. In addition, the following shall appear at least once on every piece of advertising or promotional material used by Authorized User: "(insert applicable TeleCheck Mark) is a trademark owned by TeleCheck International, Inc. and is licensed for use by (insert Authorized User name)"; provided, however, that no such advertising or promotion, including, without limitation, on any websites, using any TeleCheck Mark or TeleCheck name shall be done without the prior written consent of TeleCheck. Authorized User shall use the designation "®" and "SM" in conjunction with those

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

TeleCheck Marks which are registered trademarks and service marks, respectively, of TeleCheck. Upon termination of this TeleCheck Exhibit, Authorized User agrees that it shall either return, remove or destroy all TeleCheck materials (including, without limitation, the prompt removal of any TeleCheck decals, electronic files, logos or other materials that are affixed or displayed, electronically or otherwise, to the public). The monthly fees payable by Authorized User shall apply for all months or fraction of a month any TeleCheck materials remain for TeleCheck owned equipment or equipment (if any) remain in use by Authorized User. Authorized User shall not permit any persons other than its own officers or employees at Authorized User's locations to use the TeleCheck Authorized User Number assigned by TeleCheck. **AUTHORIZED USER SHALL NOT USE ANY TELECHECK MARKS IN CONJUNCTION WITH OR ON THE INTERNET EXCEPT WITH RESPECT TO ICA SERVICES PROVIDED BY TELECHECK HEREUNDER AND OTHERWISE IN ACCORDANCE WITH THIS PARAGRAPH 16.** Authorized User shall take all commercially reasonable actions required by TeleCheck to ensure that the TeleCheck marks and other TeleCheck materials do not become part of the public domain or are otherwise appropriated by any person or entity to the detriment of TeleCheck. Authorized User acknowledges TeleCheck's ownership of the TeleCheck Marks and agrees that it will do nothing inconsistent with such ownership. Authorized User shall promptly bring to TeleCheck's attention any unauthorized use of the TeleCheck Marks by third parties of which Authorized User becomes aware.

- 17. Use of Information.** Subject to all local, State, federal and other applicable laws and regulations, Authorized User agrees that: (i) any data and other information relating to an Electronic Check or a Consumer obtained by TeleCheck in connection with any service provided hereunder shall be owned by TeleCheck with all right, title and interest thereto; (ii) TeleCheck may use any credit information provided to a TeleCheck affiliate or a First Data Corp. alliance for TeleCheck's credit review;
- 18. TeleCheck Procedures.** Authorized User shall strictly follow all Operational Procedures provided to Authorized User, as mutually agreed by the parties, including the Operational Procedures relating to the Consumer Authorization Format and the TeleCheck Marks. To the extent that there is any conflict between the Operational Procedures and the terms of this TeleCheck Exhibit, the terms of this TeleCheck Exhibit shall govern and control.
- 19. License Grants; User Information.**
  - 19.1 Software License.** Subject to the terms and conditions herein, TeleCheck hereby grants, and Authorized User hereby accepts, a non-exclusive, non-transferable license, without right to sublicense, to use the Software for the sole and limited purpose of submitting Electronic Checks to TeleCheck for processing as set forth herein.
  - 19.2 Ownership in Modifications and Derivative Works.** TeleCheck shall own all right, title, and interest in any modifications, derivatives, improvements, enhancements or extensions of or to the Software, including any related intellectual property rights throughout the world, regardless of which party creates such derivative work.
  - 19.3 Account Reconciliation.** In the event any Electronic Check Business Transaction is not funded or otherwise paid by TeleCheck in accordance with this TeleCheck Exhibit, Subscriber is required to notify TeleCheck thereof in writing within forty-five (45) days from the date of such Electronic Check Business Transaction.

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

- 20. Pro 21 Services.** Authorized User accepts checks (“Checks”) as payment from individuals or other entities (collectively, “Consumers”) at the point of purchase, using Authorized User’s drop box locations, through the US mail or through other means (e.g., FedEx or consumer walk-in) for transactions (“Transactions”) for the purchase of goods or services. TeleCheck provides check image processing services (“*pro 21 Services*”) that will create an electronic image of each Check that Authorized User receives as payment from a Consumer and submits to TeleCheck for processing pursuant to the terms of this Addendum; and will provide Authorized User with the pro 21 Services under this Exhibit.
- 21. General Obligations; Payment Data Representations and Warranties.**
- 21.1 General Obligations. Authorized User is solely responsible for all decisions to accept or reject any Check offered as payment for a Transaction and whether or not to submit such Checks to TeleCheck for pro 21 Services. Pro 21 Services are not payment guaranty services. The representations, warranties, obligations and limitations that apply to checks that Authorized User submits to TeleCheck for processing services under the Service Agreement shall apply to Checks submitted for pro 21 Services under this Addendum.
- 21.2 Payment Data Representations and Warranties. Authorized User represents and warrants that each Check that it receives from a Consumer as payment for a Transaction and submits to TeleCheck for pro 21 Services is a completed, signed, first party check payable to Authorized User. Authorized User will provide all transaction data, Personal Information (defined below), related information and instructions (collectively “*Payment Data*”) for each Check that is necessary for TeleCheck to perform the pro 21 Services; and will be solely responsible for ensuring the validity, accuracy and completeness of all Payment Data. TELECHECK WILL RELY UPON AND USE PAYMENT DATA PROVIDED BY AUTHORIZED USER WITHOUT FURTHER VERIFICATION IN ORDER TO PROVIDE THE PRO 21 SERVICES. TeleCheck will have no responsibility or liability for any error, omission, delay, failure to meet any processing timelines or accurately perform the pro 21 Services which result from inaccurate, incomplete or untimely Payment Data, or Authorized User’s failure to perform its settlement obligations. TeleCheck will have no liability for any Check that is processed using the pro 21 Services that is subsequently returned, dishonored, reversed or otherwise unpaid (each a “*Return*”, and collectively, “*Returns*”), and does not warranty the Checks processed using the pro 21 Services. Accepting a Check for processing is not a representation or warranty by TeleCheck that the Check will not be subject to a Return. TeleCheck will have no liability for adjustments (i) that are made to a Check processed using the pro 21 Services which result from inaccurate Payment Data received from Authorized User, or (ii) that are performed at Authorized User’s request. TeleCheck will be responsible for its failure to process a Check and transmit the corresponding data file using the pro 21 Services if Authorized User submitted accurate, complete and timely Payment Data. TeleCheck may attempt (in its discretion) to correct or complete inaccurate Payment Data received from Authorized User in order to process a Check using the pro 21 Services.
- 22. Suspension.** TeleCheck may, with as much notice as is commercially practicable, suspend all or a portion of its pro 21 Services immediately if (i) Customer materially breaches this Addendum or the Service Agreement; (ii) TeleCheck reasonably

## **EXHIBIT K - Agreement For TeleCheck Internet Check Acceptance and Checks by Phone Warranty Program and Pro 21 Services**

determines, or the Federal Reserve System determines, that an excessive amount of Returns are occurring in connection with Authorized User's Transactions submitted for pro 21 Services; (iii) TeleCheck reasonably determines that other questionable activity related to fraud or risk analysis is occurring in connection with Authorized User's Transactions submitted for pro 21 Services; or (iv) as required by applicable Legal Requirements. Continuing the pro 21 Services during any period in which TeleCheck may suspend them will not constitute a waiver by TeleCheck of its rights to suspend pro 21 Services or terminate this Addendum, or any other rights under this Addendum or the Service Agreement.

- 23. Data Ownership; Analytics; Intellectual Property.** TeleCheck owns any data or other information ("*Transaction Data*") relating to a Check or a Transaction that resides on TeleCheck's information technology systems. Except as expressly provided for in this Exhibit, TeleCheck does not grant Authorized User with any right, title, interest, license (express or implied) to any patent, trademark, service mark, copyright, trade secret or proprietary right associated with the pro 21 Services, TeleCheck's (or its subsidiaries' or affiliates') research and development efforts, creation of data and analytics tools and products, or derivative works thereof. TeleCheck's, its affiliates' or subsidiaries' access to or use of data or other information extracted from Transaction Data, including use in commercial products developed as a result of or in connection with their research and development activities, will not be a violation of this Addendum.
- 24. Notices.** A copy of any notice required or permitted under this Exhibit K and in connection with the ICA/CBP Services shall be provided to: TeleCheck Services, Inc.; Attn: President; 5251 Westheimer Road; Houston, TX 77056; with a copy to TeleCheck Services, Inc.; Attn: General Counsel; 5251 Westheimer Road; Houston, TX 77056.