

SCHEDULE I **ECS SERVICES**

This Schedule I supplements, is made a part of and is subject to the terms and conditions of the Agreement.

ELECTRONIC CHECK SERVICES ELECTED BY COMPANY. Company elects and agrees to the following Electronic Check Services as part of the Payment Device Processing Services, as such Electronic Check Services are described in this Schedule I and in the Electronic Check Services Merchant Operating Guide (the “ECS MOG”):

☒ **Electronic Check Services General Requirements and the ECS MOG**

Check Conversion – Service Levels (check desired options):

- ☐ Conversion with Guarantee (check all that apply):
☐ POP¹ ☐ BOC² ☐ ARC³
- ☐ Conversion with Verification (check all that apply):
☐ POP¹ ☐ BOC² ☐ ARC³
- ☐ Conversion with Verification and Collections* (check all that apply):
☐ POP¹ ☐ BOC² ☐ ARC³
- ☐ Conversion Only (check all that apply):
☐ POP¹ ☐ BOC² ☐ ARC³
- ☐ Conversion Only with Collections* (check all that apply):
☐ POP¹ ☐ BOC² ☐ ARC³

1 Point of Purchase entries

2 Back Office Conversion entries

3 Account Receivable Conversion entries

*Company must enter into a separate collections agreement directly with a separate third party. Collections will be initiated after one (1) NSF electronic resubmission.

Image Options (check one):

- ☐ POS with Image
☐ Cash Office Image (COI)
☐ Centralized/Enterprise Image (CI)
☐ Outsourced Image (OI)
☒ Not Applicable – ACH-Echeck

- ☐ Schedule I-1, ECS Additional Services Supplement
☐ Exhibit A to Schedule I-1, Fees for Additional ECS Services
☐ Exhibit B to Schedule I-1, Hold Check Agreement

ACH-Echeck* – Service Levels (check desired options)***:

- ☒ ACH-Echeck with Verification:
☐ Concurrent Enrollment (includes WEB, TEL, PPD and CCD)**
☐ Individual Enrollment (check all that apply):
☐ WEB Internet-Initiated Entries
☐ TEL/IVR Telephone-Initiated Entries
☐ PPD Prearranged Payment Entries
☐ CCD Corporate to Corporate Entries
- ☐ ACH-Echeck Conversion Only:
☐ Concurrent Enrollment (includes WEB, TEL, PPD and CCD)**
☐ Individual Enrollment (check all that apply):
☐ WEB Internet-Initiated Entries
☐ TEL/IVR Telephone-Initiated Entries
☐ PPD Prearranged Payment Entries
☐ CCD Corporate to Corporate Entries

*Entries drawn on business accounts must be classified as CCD (Corporate Credit or Debit) regardless of initiation channel.

***Converge customers will be concurrently enrolled in all product types.

Note: At this time only ACH debit entries may be initiated.

Delivery Method:

- ☐ Online Delivery (check one):
☐ Converge
☐ Direct Connect/Certified to Elavon’s technical specifications
☐ Batch Delivery

☐ Biller Direct Services (enrollment form required)

***Questions to be answered by Company if ACH-Echeck is selected:

- What types of payments will you accept using ACH-Echeck (e.g., utility bill payments, monthly rent payments, monthly billing for general services)?
- Will you verify and authenticate the identity of your customers in accordance with the ECS MOG prior to initiating ACH entries for your customers (e.g., by obtaining a customer’s name, address and telephone number or using a database to verify the accuracy of the information provided by a customer)? ☐ Yes ☐ No
- Will you obtain authorization from your customers prior to accepting an ACH entry in accordance with the ECS MOG (e.g., orally via telephone for TEL/IVR, in writing for PPD, or on your hosted payment page)? ☐ Yes ☐ No
- Will you offer ACH-Echeck to existing or new customers? ☐ Existing ☐ New
- Will you maintain and disclose to your customers procedures for cancelling an authorization? ☐ Yes ☐ No
- Will you ensure that information regarding each transaction authorization entered by a customer and/or your service representative is accurate and not a duplicate transaction? ☐ Yes ☐ No

Capitalized terms used and not otherwise defined in this Schedule will have the meanings ascribed to them in the Agreement or the ECS Rules (including in the ECS MOG and the ECS Primer). Except as the context requires otherwise herein, the terms “ECS” and “Electronic Check Services” include both electronic check conversion and Automated Clearing House (ACH) Transaction processing.

IN WITNESS WHEREOF, the parties hereto have executed this Schedule I to the Agreement.

_____,
**on behalf of itself and each of the affiliated entities identified on
Schedule C to the Agreement (the “COMPANY”):**

By: _____

Name: _____

Title: _____

ELAVON, INC.

By: _____

Name: _____

Title: _____

Date: _____

(Schedule I “Effective Date”)

MEMBER

By: _____

Name: _____

Title: _____

Section A - Electronic Check Services General Requirements

Company acknowledges and agrees that its acceptance and use of ECS will be subject to the following terms and conditions, in addition to those terms and conditions set forth elsewhere in the Agreement:

- 1) Company will comply with and be bound by (a) the ECS Rules, including the ACH Rules, the ECS MOG and the ECS Primer, and (b) Laws, including, but not limited to, the Check Clearing for the 21st Century Act and Regulation CC, Article 3 and Article 4 of the Uniform Commercial Code as in effect in the applicable state(s), the Electronic Fund Transfer Act and Regulation E, and the Fair Credit Reporting Act as amended by the Fair and Accurate Credit Transactions Act. The current version of the ECS MOG is located at https://www.mypaymentsinsider.com/api/file/en_US/154907/ECS_Op%20Guide_Eng.pdf and https://www.merchantconnect.com/CWRWeb/pdf/ECS_MOG.pdf.
- 2) Company will pay the fees for ECS as set forth in the Schedule A, Schedule of Fees, to the Agreement, as such Schedule of Fees is supplemented or modified by any exhibits or attachments to this Schedule.
- 3) In the event Company accepts for ECS any payment that is ineligible for ECS as specified in the ECS MOG for any reason, such Transaction is subject to Chargeback. Company may be liable for the amount of the Transaction and any actual damages related to or arising out of processing a Transaction that has been charged back.
- 4) Company will cause a Check Reader/Imager to be readily available for use at all Company locations at which Company accepts Paper Checks for ECS processing.
- 5) Company must use commercially reasonable procedures to verify the identity of each Customer that presents a Paper Check or Customer ABA Routing Number and account information for ECS processing.
- 6) Company will be solely responsible for providing Customers with notifications and disclosures in connection with ECS, including, but not limited to, posting all point of sale signage and distributing all Customer takeaways and all notices and disclosures required to be provided under the ECS Rules and Laws.
- 7) Company may use the ECS only in connection with the presentment and acceptance of a Paper Check or Customer ABA Routing Number and account information for ECS processing in payment for goods or services sold by Company, or in payment for an obligation owed to Company, and only in compliance with the ECS Rules. Company will be the sole user of the ECS, and Company may not resell or otherwise transfer any portion of ECS (or any associated information) in whole or in part to any other Person.
- 8) Company represents and warrants, with respect to all ECS Transactions submitted for processing by Elavon, that (i) the Customer has duly authorized the debiting or crediting of the Customer's account for the amount of the ECS Transaction in accordance with Laws, (ii) the Transaction represents an obligation or right of the Person who is tendering the Paper Check or submitting the Customer ABA Routing Number and account information for ECS processing, and (iii) the ECS Transaction is for merchandise actually sold or rented, for services actually rendered, or for the actual amount due and owing from the Customer to Company or from the Company to the Customer, in each case for the actual price of such merchandise or services (including tax) or for the actual amount due and owing to Company or the Customer, as applicable. Company represents and warrants that no portion of any ECS Transaction involves any element of Company's extension of credit.
- 9) Company is responsible to Elavon for any Transaction charged back by Elavon or its agent in accordance with the Agreement, including the ECS MOG, and for any fines, penalties and assessments of the Payment Networks incurred as a result of Company's non-compliance with Laws or the ECS Rules. Company agrees to immediately pay to Elavon or its agent (by means of debit or set-off initiated by Elavon or its agent, submission of payment by Company, or otherwise, at the sole option of Elavon), an amount equal to the amount of any ECS Transaction that is stopped, not settled, or charged back, as well as any related fees and charges.
- 10) Company must fully cooperate with all parties in the resolution of Customer disputes, as well as Chargebacks, returns, adjustments, representments, and errors in accordance with the ECS Rules and Laws.
- 11) All of the representations and warranties an Originating Depository Financial Institution or a Third Party Sender is deemed to make on behalf of an Originator pursuant to the ACH Rules will be deemed representations and warranties Company makes to Elavon and Member upon Company's submission of an Item or Transaction for ECS processing. Company has satisfied all of the Originator standards and obligations set forth in the ACH Rules as of the Effective Date of this Schedule and will continue to satisfy such standards and obligations during the Initial Term and any Renewal Term, as applicable.
- 12) Company is responsible for and will ensure that all information, including MICR data and payment amounts, are accurately captured from a Paper Check in accordance with the applicable ECS Rules, and that all such information and Customer ABA Routing Number and account information for ECS processing are accurately reflected in the related Item Company sends to Elavon for processing through ECS. Company will not submit for clearing or settlement any physical Paper Check unless and until Elavon and Member have processed and settled a Chargeback to Company with respect to any Items created from such Paper Check.
- 13) Company will not disclose to third parties any information related to ECS Transactions including, but not limited to, Customer ABA Routing Number and account information, driver's license number, telephone number, or social security number except as

specified in the Agreement, including the ECS MOG. Company will keep all such information confidential and secure, in accordance with the Agreement and Laws.

- 14) Company does not have the right to use ECS data for any purpose other than to support the ECS itself.
- 15) Company must treat all ECS documents, including, but not limited to, the Agreement, including the ECS Rules, the ECS MOG and ECS collateral material or related guides, as confidential and proprietary information and must protect it with the same degree of care as Company would protect its own confidential and proprietary information and as further specified in the Agreement.
- 16) Either party may terminate this Schedule I by delivering to the other party a written notice of an intent not to renew at least 90 days prior to the expiration of the then-current term. Notwithstanding the foregoing, (a) in no event will this Schedule I survive any termination or expiration of the Agreement; (b) the termination or expiration of this Schedule I pursuant to the terms set forth herein will not have any other effect on the Agreement; and (c) effective March 1, 2020, (i) either Elavon or Company may terminate this Schedule I at any time upon thirty (30) days' prior written notice to the other party, and (ii) Elavon may, at its option, transition Company to a new program offered by Elavon that provides services similar to the ECS.
- 17) Company's Agreement and use of the ECS may be terminated immediately by Elavon (a) for Company's failure to comply with the terms of this Schedule, the Agreement or Laws, or (b) in the event that Elavon stops offering the ECS to new merchant customers.
- 18) Company assumes full responsibility for, and agrees to indemnify and protect Elavon against, any losses suffered by Elavon as a result of Elavon complying with Company's directions in submitting or resubmitting any Item for processing. Further, Company assumes full responsibility for the alteration of any Item made at Company's direction prior to resubmission by Elavon of the Item for processing. Company will not request or direct Elavon to modify or alter any Item, or to submit or resubmit any Item for processing, where Company knows or should know that such modification, alteration, submission, or resubmission is not permitted by Law.

Section B – Glossary

- 19) **ABA Routing Number:** The ABA number that uniquely identifies the bank that holds the Customer account to be debited or credited through ECS.
- 20) **Authorization:** A process where a Drawee Bank, processor, or Authorizing Agent approves a Transaction.
- 21) **Authorizing Agent:** A third party designated by Elavon to provide approvals and declines for Transactions.
- 22) **Batch:** The total of the Transactions processed since a Company's last settlement.
- 23) **Chargeback:** For purposes of this Schedule, "Chargeback" means (i) a sales Transaction disputed by a Customer or an Item not in compliance with Conversion with Guarantee warranty provisions or ECS Rules; (ii) for all Service Levels other than Conversion with Guarantee, the face amount of any Item that is returned by the Drawee Bank or an ECS Association to Elavon unpaid and that is ineligible for resubmission to the Drawee Bank or the ECS Association, including any Item returned for non-sufficient or uncollected funds after the third presentment; and (iii) for all Service Levels, an Item that is not in compliance with Company's obligations, representations and warranties under the Agreement or this Schedule.
- 24) **Check Reader/Imager:** A device certified by Elavon that electronically captures the MICR line and/or an image of the Paper Check.
- 25) **Check Replacement Document:** A Demand Draft, Photo-In-Lieu, or Substitute Check.
- 26) **Demand Draft:** A negotiable instrument drawn on the Customer's checking account that is created from transaction data included in an Item and that does not bear the Customer's signature but that is authorized by the Customer and is able to be processed via standard check processing methods.
- 27) **Drawee Bank:** The financial institution where a Customer maintains a checking or other deposit account (i) on which a Paper Check that serves as the source document for an Item is drawn, or (ii) as to which a Customer provides the ABA Routing Number and account information for use in generating an Item.
- 28) **ECS Primer:** The detailed information relating to ECS processes and implementation provided by Elavon to Company, which must be used by Company in conjunction with the technical specifications and certification requirements provided by Elavon to promote integrated point of sale system connectivity and integration between Company and Elavon.
- 29) **ECS Rules:** Means (a) all applicable rules and operating regulations of or applicable to the ECS Associations, (b) the ECS MOG, and (c) the ECS Primer, in each case including without limitation, all amendments, changes, and revisions made thereto from time to time.
- 30) **Item:** An electronic file or entry representing a Transaction that is created from (i) the information captured by Company from a Paper Check using a Check Reader/Imager, or (ii) Customer inputs of ABA Routing Number and account information, that is forwarded by Company to Elavon or Member in accordance with the Agreement.
- 31) **MICR:** The magnetic ink character read line encoded on a Paper Check that contains information about the Customer's checking account, including the ABA Routing Number and checking account number.
- 32) **Paper Check:** A Customer's paper check presented to Company for payment to the Company, which check will serve as the source document for Items.
- 33) **Photo-In-Lieu:** A photocopy of a Paper Check, other than a Substitute Check.

- 34) **Substitute Check:** A draft that includes images of the front and back of the original Paper Check and that may meet the requirements for a “Substitute Check” under the Check Clearing for the 21st Century Act and related regulations.

SCHEDULE I-1
ECS ADDITIONAL SERVICES SUPPLEMENT

- 1) **ADDITIONAL SERVICES SELECTED.** Company elects and agrees to the following ECS Additional Services, as such services are described in the ECS MOG and subject to the additional terms and conditions of the applicable provisions of the Agreement. All costs and fees payable by Company for the ECS Additional Service(s) chosen by Company are as provided in Exhibit A to this ECS Additional Services Supplement.

- ☐ Hold Check Services¹
☐ Stop Payment Services
☐ Check on Delivery (COD) Services²
☐ Automated Telephone Authorization (ATA) Services³

- 2) **ADDITIONAL REQUIREMENTS APPLICATION TO ECS ADDITIONAL SERVICES.**

- a) If Company elects Hold Check Services, Company must use the Hold Check Agreement attached as Exhibit B to this ECS Additional Services Supplement, as the use of such Hold Check Agreement is described in the ECS MOG.
b) Company’s use of ATA Services is provided as is, where is, and neither Elavon nor Member makes any representations or warranties, express or implied in connection with the ATA Services, including, without limitation, any warranty against infringement or any implied warranty of merchantability or fitness for a particular purpose.

IN WITNESS WHEREOF, the parties hereto have executed this Schedule I-1 to the Agreement.

COMPANY

ELAVON, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

(Schedule I-1 “Effective Date”)

MEMBER

By: _____

Name: _____

Title: _____

¹ Companies electing Hold Check Services must also elect Automated Telephone Authorization Services.

² Companies electing Check on Delivery Services must also elect Automated Telephone Authorization Services.

³ May be selected as a stand-alone service; must be selected if Company elects Hold Check Services or Check on Delivery Services.

EXHIBIT A TO SCHEDULE I-1
FEES FOR ADDITIONAL ECS SERVICES

Hold Check Services:

Check Guarantee Rate	_____ %
Per Transaction Fee	\$ _____
Per ATA	\$ <u>Fee Waived</u>

Fees will be charged for both approved and declined Transactions. If Company has selected Stop Payment Services to accompany Hold Check Services, the Fees associated with the Stop Payment Services are included in the Hold Check Services Fees listed above.

Stop Payment Services with ECS Conversion with Guarantee

Check Guarantee Rate	_____ %
Per Transaction Fee	\$ _____

Fees will be charged for both approved and declined Transactions.

Check on Delivery (COD) Services:

Check Guarantee Rate	_____ %
Per Transaction Fee	\$ _____
Per ATA	\$ <u>Fee Waived</u>

Fees will be charged for both approved and declined Transactions.

Automated Telephone Transfer (ATA) Services:

Per ATA	\$ <u>0.40</u>
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If Company has selected ATA Services to accompany Hold Check Service or Check on Delivery Services, Fees charged for use of ATA Services in connection with Hold Check and Check on Delivery transactions are listed under Hold Check Services or Check on Delivery Services above, as applicable. Use of ATA other than in connection with Hold Check Services or Check on Delivery Services will be charged at the rates indicated directly above.

EXHIBIT B TO SCHEDULE I-1
HOLD CHECK AGREEMENT

Date: _____

AUTHORIZATION PROCEDURES:

1. Date(s) of Paper Check(s) must be date of transaction.
2. Each Hold Check must be individually called in under the Hold Check Company MID #.
3. Write the individual four-digit approval number on the front of each Paper Check approved.
4. All other applicable terms and conditions of the Schedules and Exhibits and ECS MOG for Automated Telephone Authorization (ATA) are incorporated into this Agreement.

Company: _____

ECS Hold Check Representative: _____

Customer (Checkwriter): _____

Product/Equipment: _____

Product / Equipment Serial #: _____

GENERAL TERMS AND CONDITIONS FOR HOLD CHECK AGREEMENT BELOW

The Company and the Customer agree to adhere to the dates of deposit with regard to the Paper Checks listed below. Any returned items deposited earlier or later than the dates specified below will be in violation of the Agreement.

<u>Check Number</u>	<u>Dollar Amount</u>	<u>Date to be Deposited</u>
1. _____	\$ _____	_____
2. _____	\$ _____	_____
3. _____	\$ _____	_____
4. _____	\$ _____	_____

Total Amount of all Hold Checks Authorized \$ _____

Guarantor Approval Number(s) _____

Company Representative / Date _____

Customer / Date _____

A copy of the Bill of Sale, a copy of this Agreement, and the Paper Check must accompany each returned Hold Check sent to EnCircle Payments Solutions, LLC ("Guarantor"), otherwise purchase of the Paper Check will be declined.

Guarantor Contact Information

EnCircle Payment Solutions, LLC
Check Processing
One EnCircle Plaza, 1691 N.W. 107 Avenue, Miami, Florida 33172-2711
Phone (305) 592-7800 • 1-800-827-1100 • Fax (305) 477-6783
www.EnCirclepayments.com

GENERAL TERMS AND CONDITIONS FOR HOLD CHECK AGREEMENT

AUTHORITY TO ACCESS/REVIEW PERSONAL CREDIT HISTORY: Customer specifically authorizes Guarantor to access and review his/her personal credit history to obtain approval for this Agreement and the extension of credit. Customer acknowledges that he/she has the right to request in writing within five (5) days of this Agreement, the nature and scope of the foregoing investigation.

PROMISE TO PAY: Customer understands that Guarantor may guarantee payment on this Agreement to Company. Customer acknowledges this Agreement and the services of Guarantor as a material benefit to Customer in purchasing said equipment/product and therefore unconditionally promises to pay Guarantor the full payment for any such Paper Check listed on this Agreement in the event of default. Customer therefore confirms that this Agreement is a personal promissory note whereby Customer specifically agrees to abide by the terms of payment and deposit, and that this promissory note will inure to the benefit of Guarantor for payment in the event of default. Customer understands and agrees that Guarantor will be permitted to rely on the purchased equipment/product as collateral for payment under this Agreement but may also in its sole discretion have the option to proceed directly against the Customer for the full value as provided by law.

DEFAULT: Customer understands and agrees that he/she will be in default of this Agreement when Guarantor in its sole discretion deems that it has been furnished with any misleading, inaccurate or false information by the Customer relating to this transaction, either verbal or written, or payments due are not made as agreed.

LEGAL RESPONSIBILITY: Nothing in this Agreement will waive or limit Guarantor's legal remedies in the event of default or in the circumstances where the Customer writes a bad Paper Check to fulfill the obligations under this Agreement. Customer understands and agrees that jurisdiction and venue in any action at law brought by Guarantor to enforce this Agreement will be in Miami-Dade County, Florida. In addition, Customer specifically waives his/her right to a jury trial. Customer also agrees to pay Guarantor its court costs, expenses, reasonable attorney's fees and liquidated damages in the amount of fifteen percent (15%) of the total purchase price of the equipment/product when Guarantor is required to use an attorney's services to enforce this Agreement.