

# Checkbook Terms and Conditions - Individual - United States

## Welcome to our Terms and Conditions

### 1. Your relationship with Checkbook Inc.

Your use of Checkbook's products, software, services and web sites (referred to collectively as the "Services" in this document and excluding any services provided to you by Checkbook under a separate written agreement) is subject to the terms of a legal agreement between you and Checkbook. "Checkbook" means Checkbook Inc., whose principal place of business is at 830 Stewart Drive, Suite 147, Sunnyvale, CA, 94085 United States. This document explains how the agreement is made up, and sets out some of the terms of that agreement. 1.2 Unless otherwise agreed in writing with Checkbook, your agreement with Checkbook will always include, at a minimum, the terms and conditions set out in this document. These are referred to below as the "Universal Terms". 1.3 Your agreement with Checkbook will also include the terms of any Legal Notices applicable to the Services, in addition to the Universal Terms. All of these are referred to below as the "Additional Terms". Where Additional Terms apply to a Service, these will be accessible for you to read either within, or through your use of, that Service. 1.4 The Universal Terms, together with the Additional Terms, form a legally binding agreement between you and Checkbook in relation to your use of the Services. It is important that you take the time to read them carefully. Collectively, this legal agreement is referred to below as the "Terms". 1.5 If there is any contradiction between what the Additional Terms say and what the Universal Terms say, then the Additional Terms shall take precedence in relation to that Service.

### 2. Accepting the Terms

In order to use the Services, you must first agree to the Terms. You may not use the Services if you do not accept the Terms. You can accept the Terms by: (A) clicking to accept or agree to the Terms, where this option is made available to you by Checkbook in the user interface for any Service; or (B) by actually using the Services. In this case, you understand and agree that Checkbook will treat your use of the Services as acceptance of the Terms from that point onwards. You may not use the Services and may not accept the Terms if (a) you are not of legal age to form a binding contract with Checkbook, or (b) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services. Before you continue, you should print off or save a local copy of the Universal Terms for your records.

### 3. Provision of the Services by Checkbook

Checkbook has subsidiaries and affiliated legal entities around the world ("Subsidiaries and Affiliates"). Sometimes, these companies will be providing the Services to you on behalf of Checkbook itself. You acknowledge and agree that Subsidiaries and Affiliates will be entitled to provide the Services to you. Checkbook is constantly innovating in order to provide the best possible experience for its users. You acknowledge and agree that the form and nature of the Services which Checkbook provides may change from time to time without prior notice to you. As part of this continuing innovation, you acknowledge and agree that Checkbook may stop (permanently or temporarily) providing the Services (or any features within the Services) to you or to users generally at Checkbook's sole discretion, without prior notice to you. You may stop using the Services at any time. You do not need to specifically inform Checkbook when you stop using the Services. You acknowledge and agree that if Checkbook disables access to your account, you may be prevented from accessing the Services, your account details or any files or other content which is contained in your account. You acknowledge and agree that while Checkbook may not currently have set a fixed upper limit on the number of transmissions you may send or receive through the Services or on the amount of storage space used for the provision of any Service, such fixed upper limits may be set by Checkbook at any time, at Checkbook's discretion.

### 4. Use of the Services by you

In order to access certain Services, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for the Service, or as part of your continued use of the Services. You agree that any registration information you give to Checkbook will always be accurate, correct and up to date. You agree to use the Services only for purposes that are permitted by (a) the Terms and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries). You agree not to access (or attempt to access) any of the Services by any means other than through the interface that is provided by Checkbook, unless you have been specifically allowed to do so in a separate agreement with Checkbook. You specifically agree not to access (or attempt to access) any of the Services through any automated means (including use of scripts or web crawlers) and shall ensure that you comply with the instructions set out in any robots.txt file present on the Services. You agree that you will not engage in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services). Unless you have been specifically permitted to do so in a separate agreement with Checkbook, you agree that you will not reproduce, duplicate, copy, sell, trade or resell

the Services for any purpose. You agree that you are solely responsible for (and that Checkbook has no responsibility to you or to any third party for) any breach of your obligations under the Terms and for the consequences (including any loss or damage which Checkbook may suffer) of any such breach.

## 5. Services provided by Checkbook

### **ACH/Check21 related services**

**Origination of Transactions.** Subject to the terms and conditions of this Agreement, Checkbook agrees to act as your payments processor for ACH and/or Check21 debit, credit and return transactions ("Transactions") originated or received on your behalf. Checkbook agrees to comply by the Operating Rules of NACHA and any and all applicable Federal regulations in connection with your origination and receipt of Transactions through Checkbook over the Federal Reserve network or similar sub network. **Compliance.** You agree to comply with all applicable NACHA's ACH Rules, other NACHA requirements, Federal Reserve requirements and U.S. law governing the submission and retrieval of ACH Transactions. **Security.** You agree to abide by the Security Requirements regarding information security of the funds transfers. **Investigations.** You will assist Checkbook in all investigations of transaction(s) in a timely manner and will provide to Checkbook any and all assistance needed to track, pursue and enforce legal actions against any entity engaging in or suspected of engaging in fraud.

## 6. Our Role and Your Responsibilities

**Agent of Payee:** Checkbook provides hosting and data processing services for our users. Checkbook is a Payment Service Provider ("PSP"), not a bank, money transmitter, or Money Services Business ("MSB"), and we do not offer banking or MSB services as defined by the United States Department of Treasury. Specifically, Checkbook acts as your (i.e. Payee's) agent in so far as collecting payments/funds from Payors. Checkbook will inform you when it has collected funds/payments from your Payors and you agree to credit your Payors' accounts at the time Checkbook provides such confirmation. Should the Money Transmitter Laws in your State of Residence not permit agent of Payee exemption to Checkbook.io to accept payments on your behalf you indemnify Checkbook.io from any harm directly as a result of not being able to freely transact as agent of Payee.

As a PSP, Checkbook collects, analyzes and relays information generated in connection with payments to and from our users. You authorize Checkbook to provide this information to the FSPs that Checkbook partners with, in order for Checkbook to facilitate payments from/to our users through the various payment networks (“Network”, “Networks”), including ACH and Check21, as applicable. As a result, the Checkbook through its FSP - actually conducts the settlement of Network transactions from/to our users. Checkbook does not at any point hold or own funds in connection with the Service, nor does Checkbook transmit money or monetary value. In connection with the Service, Checkbook does not actually or constructively receive, take possession of or hold any money or monetary value for transmission, and does not advertise, solicit or hold itself out as receiving money for transmission. In order to act as a PSP, Checkbook must enter into agreements with Networks and FSPs. You are not a third-party beneficiary of these agreements. Each of the Networks and FSPs is a third-party beneficiary of this Agreement and has beneficiary rights, but not obligations, and may enforce this Agreement against you. Some of these third parties may require a direct agreement with you. If you are required to enter into such an agreement and, if you decline to do so, we may suspend or terminate your Account.

If you are using the Checkbook Recurring Payments or Invoices feature, you agree that it is your responsibility to comply with applicable laws, including the Electronic Funds Transfer Act (Regulation E), including by capturing your customers' agreements to be billed on a recurring basis. You may not resell any hardware provided to you by Checkbook or a third party for use with the Service.

Notwithstanding Checkbook's assistance in understanding the Operating Regulations and Network Rules, you expressly acknowledge and agree that you are assuming the risk of compliance with all provisions of the Operating Regulations and Network Rules, regardless of whether you have possession of those provisions. We can provide you with excerpted provisions of the Network Rules upon your request.

Bank Account. You shall provide bank account information to Checkbook through which Checkbook may debit or credit daily Transactions, as applicable, pay dishonored and disputed returns, and obtain reimbursement for fees, taxes, fines and costs as provided in this agreement, without prior notice or demand. This account will be known as “Bank Account” The amount of money in the Bank Account, shall be enough to cover the total volume of transactions initiated by you during the time period those transactions are supposed to settle. Should Checkbook elect to set off a certain amount against your obligations, known as "Percentage or Amount" Checkbook will notify you prior to setting up a Percentage or Amount. In the event there are not sufficient available funds in the Bank Account to cover your obligations under this Agreement, you agree that Checkbook may debit any account maintained by you with Checkbook, including but not limited to, the Bank Account, or that Checkbook may set off against any amount it owes you or any

account maintained by you with any financial institution in order to obtain payment of your obligations under this Agreement.

#### Choice of Settlement

Depending on the network chosen for settlement e.g. ACH and/or Check21 and/or VISA/Mastercard OCT, either by you or by Checkbook, Checkbook can and will create a paper version of the Check being used for payment. This paper Check can and will be stored in a vault either onsite or offsite Checkbook's premises. The length of storage of this original Check will be in compliance of statutory regulations and guidelines as applicable

#### 7. Fees, Taxes and Fines.

Fees. You shall pay Checkbook the fees listed on its primary website as of the date of this Agreement. If any Fees are due from You under this Agreement they shall be debited by Checkbook on a daily, weekly or monthly basis from Your Bank Account.

Fines/Charges. You are responsible for any and all Federal Reserve, ACH network NACHA fees or fines and/or penalties that may be assessed against you or Checkbook related to the origination of your Transactions by and/or the use or misuse of the ACH network by you hereunder, which may be debited by Checkbook from the Funding Account or another account designated by you.

#### 8. Termination

Termination. This agreement comes into force when you first use Checkbook's Services will remain in force as long as you continue to use Checkbook's Services. It will remain in force for a minimal of 1 year from the date of the last transaction originated by you. Termination for Compliance, Safety and Soundness, Change of Control or Cause. Checkbook may terminate this Agreement upon written notice in the event that You: (i) breach any material term or condition of this Agreement; (ii) become the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (iii) become the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors. Notwithstanding anything to the contrary in this Agreement, Checkbook may at its sole discretion terminate this Agreement immediately and without notice in order to ensure compliance with law and/or to assure its regulators of the safety and soundness of its operations.

Effect of Termination. The termination or expiration of this Agreement will not affect the rights of either party against the other which have accrued on or prior to the date of such termination or expiration, nor any provisions expressed to survive such termination or expiration. Unless this Agreement is terminated by Checkbook for compliance, safety and soundness, change of control or cause, as set forth in Section 8.2 above, or as a result of an order or threatened order by Checkbook's banking regulators to cease and desist from providing payment processing services to you, or as a result of Checkbook's Board of Directors, upon written advice of Checkbook's counsel, electing to terminate this Agreement to ensure compliance with law

and/or assure its regulators of the safety and soundness of its operations, Checkbook will give you a minimum of 30 day notice to download any and all transactional data.

#### 9. Underwriting

Checkbook imposes certain transaction limits on you, including a transaction value limit and other “time period” limits e.g. daily, weekly or monthly limits 9.2 You will be able to request a change to the underwriting limits in a process agreed upon between you and Checkbook. Your underwriting limits will be set, and can be revised at any time, by Checkbook at its sole discretion.

#### 10. Your passwords and account security

You agree and understand that you are responsible for maintaining the confidentiality of passwords or PIN associated with any account you use to access the Services. Accordingly, you agree that you will be solely responsible to Checkbook for all activities that occur under your account. If you become aware of any unauthorized use of your password or of your account, you agree to notify Checkbook immediately.

#### 11. Privacy and your personal information

For information about Checkbook’s data protection practices, please read Checkbook’s privacy policy at <https://www.checkbook.io/policies/privacy> This policy explains how Checkbook treats your personal information, and protects your privacy, when you use the Services. You agree to the use of your data in accordance with Checkbook’s privacy policies.

#### 12. Proprietary rights

You acknowledge and agree that Checkbook (or Checkbook’s licensors) own all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Services may contain information which is designated confidential by Checkbook and that you shall not disclose such information without Checkbook’s prior written consent. Unless you have agreed otherwise in writing with Checkbook, nothing in the Terms gives you a right to use any of Checkbook’s trade names, trade marks, service marks, logos, domain names, and other distinctive brand features. If you have been given an explicit right to use any of these brand features in a separate written agreement with Checkbook, then you agree that your use of such features shall be in compliance with that agreement, any applicable provisions of the Terms, and Checkbook’s brand feature use guidelines as updated from time to time. These guidelines

can be viewed online at <http://www.Checkbook.com/permissions/guidelines.html> (or such other URL as Checkbook may provide for this purpose from time to time).

### 13. Liability; Limitations On Liability; Indemnity

Checkbook shall be responsible only for performing the services expressly provided for in this Agreement, and shall be liable only for its gross negligence in performing those services. Checkbook shall not be responsible for your acts or omissions or alleged acts or omissions (including without limitation the amount, accuracy, timeliness of transmittal or due authorization of any Transaction effected by you) or those of any other person, including without limitation any Federal Reserve Financial Institution or transmission or communications facility, any receiver or RDFI (including without limitation the return of an Transaction by such receiver or RDFIs), and no such person shall be deemed Checkbook's agent. You agree to indemnify Checkbook against any and all loss, liability, cost or expense (including Checkbook's attorneys' fees, court costs and expenses) resulting from any claim of any person that Checkbook is responsible for any act or omission or any alleged act or omission of you. In no event shall Checkbook be liable for any consequential, special, punitive or indirect loss or damage which you may incur or suffer in connection with this Agreement, including losses or damages from subsequent wrongful dishonor resulting from Checkbook's acts or omissions pursuant to this Agreement. Checkbook shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission, or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond Checkbook's control. In addition, Checkbook shall be excused from failing to transmit or delay in transmitting a Transaction if such transmittal would result in Checkbook's having exceeded any limitation upon its intra-day net funds position established pursuant to Federal Reserve guidelines or if Checkbook's otherwise violating any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. Governmental regulatory authority. You shall indemnify and hold Checkbook, its employees, officers, directors, agents and representatives harmless of and from any and all losses suffered or incurred by Checkbook in connection with any completed, failed or misdirected Transaction; your use or alleged misuse of the ACH system and/or fines assessed against Checkbook or you in connection therewith; losses resulting out of the breach or alleged breach by you, including the failure to pay any reversed or failed Transactions that are returned to you by Checkbook or that, pursuant to applicable NACHA ACH Rules or Federal Reserve requirements, should have been returned by you ; breach by you of any of your representations, warranties or agreements under this Agreement or arising from an act or omission by you that violates any NACHA ACH Rule, Federal Reserve requirement or applicable law; or arising out of or relating to any error or mistake by you or any third party involved in processing Merchant Transactions. You shall not be obligated to

indemnify, hold harmless or reimburse Checkbook for any such losses, claims, damages, expenses or liabilities to the extent that the same are the direct result of the gross negligence or willful misconduct of Checkbook. In addition to other remedies available to Checkbook pursuant to this Agreement or available under law or in equity, you shall defend and indemnify Checkbook from and against, and hold it harmless from all allegations, suits, claims, actions, legal proceedings, counterclaims, and demands of any kind or nature and all reasonable costs incurred by Checkbook in connection therewith (individually a "Claim" and collectively "Claims") which Claims arise from or result by reason of (i) any inaccuracy in, breach or alleged breach of any of the representations or warranties made by you pursuant to this Agreement; (ii) your refusal or failure of to fully and timely perform in accordance herewith any of its warranties, agreements, responsibilities, obligations or duties to Checkbook or to third parties provided for in this Agreement; (iii) the criminal conduct, negligence or willful misconduct of Merchant or any of its agents or employees; (iv) any Claim asserted against or suffered by Checkbook arising out of your misconduct or violation of any obligation herein; or (v) any infringement by you of any patent, copyright, trademark or other intellectual property or proprietary right, the use of which is contemplated by this Agreement; (vi) any dealings between you and any third party (including other financial institution); and (vii) Checkbook's acting as the Sponsor for Merchant. Promptly after receipt of notice of the commencement of any Claim, Checkbook will notify you of the commencement thereof, but the omission to so notify you will not relive it from any liability which it may have to Checkbook hereunder. In the event of any Claim, Checkbook shall be entitled to assume and control the defense thereof, with counsel satisfactory to Checkbook, acting reasonably. Expenses (including attorneys' fees and costs) incurred by Checkbook in connection with any Claim must be paid by you in advance immediately upon the written request of Checkbook and evidenced in writing once paid; provided Checkbook shall undertake to repay such expense advances to the extent that it is ultimately determined that Checkbook is not entitled to indemnification.