



## TERMS OF USE

The following terms of use shall apply to any business entity ("Merchant") that uses the Re\$ubmittl® electronic check recovery services (the "Services") provided by BSG Financial, LLC ("Re\$ubmittl"). For the purposes of this agreement ("Agreement"), "use" of the Services shall be evidenced by the Re\$ubmittl processor's acceptance of Merchant's returned deposit check items ("Returned Checks"). Merchant may discontinue the Services at any time by notifying its financial institution to discontinue sending Returned Checks to the Re\$ubmittl processor.

1. All transactions contemplated under this Agreement are governed by Articles 3 and 4 of the Uniform Commercial Code, Regulation CC and E established by the Federal Reserve Board, The Electronic Funds Transfer Act, the Operating Rules of the National Automated Clearing House Association ("NACHA Rules") as in effect from time to time and other applicable laws and regulations. Electronic entries may not be initiated that violate these or any other laws of the United States, including but not limited to, the prohibition against fraudulent transfers.
2. Merchant authorizes the Re\$ubmittl processor to re-present all eligible Returned Checks in accordance with applicable laws and regulations.
3. Re\$ubmittl shall pay Merchant 100% of the collected face value of Returned Checks that are collected via primary (electronic or paper draft) or secondary (contact by letter or phone) collection efforts. In the event a Returned Check is not eligible for collection via primary collection efforts or those efforts have been exhausted, Merchant authorizes Re\$ubmittl to commence secondary collection efforts (contact by letter or phone). Merchant shall be contacted to approve additional collection efforts requiring legal services such as filing suit to obtain judgment and payment. In such cases, Merchant shall receive a percentage of the collected face value depending on the amount of the check and the collection steps necessary to collect it.
4. Re\$ubmittl shall pay Merchant weekly for all Returned Check collections settled no more than 7 days prior. Merchant authorizes the Re\$ubmittl processor to transmit amounts due to Merchant through the Automated Clearing House (ACH) Network into a bank account(s) designated by Merchant. In the event Merchant receives funds that are later charged back or were credited in error, Merchant authorizes Re\$ubmittl to off-set any future payments or debit Merchant's bank account for such amount.
5. For payment of Services, Merchant authorizes the Re\$ubmittl processor to electronically debit or paper draft a separate NSF Fee posted by the Merchant and/or agreed to by the check writer. The NSF Fee shall not exceed the maximum applicable state mandated fee.
6. Merchant agrees to post notices supplied to Merchant by Re\$ubmittl at all point of sale locations at all times and/or print the notice supplied by Re\$ubmittl on invoices and/or stamp checks to notify Merchant's customers that in the event their check is returned, they have authorized Merchant to electronically or by paper draft collect the Returned Check amount and also collect an NSF Fee.
7. Services are not designed to guarantee check payment to Merchant in any manner. Re\$ubmittl is acting as a data processor and not as an insurer. Merchant is responsible for establishing its own check acceptance procedures to minimize risk of the acceptance of fraudulent checks or insufficient fund checks. Re\$ubmittl does not warranty the collection or validity of any Returned Checks. Re\$ubmittl may amend the terms of this Agreement at any time by giving Merchant ten (10) days prior notice of such change.
8. In the event Merchant decides to discontinue Services, Re\$ubmittl shall be allowed ninety (90) days to complete any in-process check recovery services under the terms of this Agreement.
9. In the event Merchant receives direct payment from a Customer for a Returned Check and the NSF Fee, Merchant agrees to promptly remit payment of the NSF Fee to Re\$ubmittl.
10. Re\$ubmittl reserves the right at its sole discretion, without notice or reason, to refuse to process any transaction resubmitted by Merchant and/or discontinue Services to Merchant.
11. Merchant is responsible for paying all taxes and other charges assessed by any government agency on any amounts remitted to Merchant for Services provided under this Agreement. Merchant shall indemnify and hold harmless Re\$ubmittl (and its subsidiaries and service providers) and Re\$ubmittl's (or any of its subsidiaries' and service providers') stockholders, officers, employees and agents from and against any claims, damages, actions, costs or expenses, including reasonable attorney's fees and court costs for any breach by Merchant of any provision of this Agreement, and for the third party claims resulting from or arising out of Re\$ubmittl exercising any rights under this Agreement, or in connection with, the indemnifying party's failure to comply with the terms of this Agreement.
12. Re\$ubmittl shall not be responsible for delays in receipt of Merchant information, processing of Merchant information, Merchant's failure to properly enter and/or transmit information, and/or Merchant's failure to properly notify its customers or obtain proper authorization. IN NO EVENT SHALL RE\$UBMITT BE LIABLE FOR ANY ERRORS, OMISSIONS, DELAYS, OR LOSSES UNLESS CAUSED BY RE\$UBMITT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. IN NO EVENT SHALL RE\$UBMITT BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES EVEN IF RE\$UBMITT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL CLAIM, LOSS OR DAMAGE. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of other remedies. Merchant agrees that Re\$ubmittl's cumulative liability under this Agreement shall be limited to the amount of fees Merchant has paid to Re\$ubmittl during the three months prior to the date of notice of the initial claim.
13. Any dispute between Merchant and Re\$ubmittl shall be settled by submitting the matter to binding arbitration, pursuant to the rules of the American Arbitration Association. Any arbitration proceedings will occur in Louisville, KY, Jefferson County. The laws of the state of Kentucky shall govern this Agreement without regard to its conflict of laws principles.

Re\$ubmittl®