

Members Choice Credit Union

Mobile Deposit Services Disclosure and Agreement

In this Disclosure and Agreement, the words “you,” “your” or “user,” mean the (consumer or business) that applied for and/or uses any of the Mobile Deposit Services (the “Services”) described in this Disclosure and Agreement. The words “MCCU,” “us,” and “we” mean (Members Choice Credit Union). Your application for use of the Mobile Deposit Services, notification of approval of your application, and MCCU Deposit Account Contract and Disclosures are hereby incorporated into and made a part of this Disclosure and Agreement. In the event of a discrepancy between this Disclosure and Agreement and your Application, approval, or the Deposit Account Contract, this Disclosure and Agreement will control. All other agreements you have entered into with MCCU, including the Deposit Account Contract and Disclosures governing your MCCU account, are incorporated by reference and made a part of this Agreement.

1. Use of the Services. This mobile deposit service is designed to allow you to remotely deposit paper checks to your personal or business account with MCCU (the “Account”) by electronically transmitting a digital image of the paper checks for deposit. Your use of the Services constitutes your acceptance of the terms and conditions of this Disclosure and Agreement. You agree to comply with the hardware and software requirements set forth in the “System Requirements” as disclosed in item 27. You understand and agree that receipt of an image does not occur until you are notified of receipt of the image via onscreen messaging and/or email notification. We are not responsible for any image that we do not receive. We reserve the right, within our sole and absolute discretion, to accept or reject any item for remote deposit into your Account. In addition you agree that you will not (i) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Service, (ii) copy or reproduce all or any part of the technology or Service; or (iii) interfere, or attempt to interfere, with the technology or Service.

2. Compliance with Law. You agree to use the products and Service for lawful purposes and in compliance with all applicable laws, rules and regulations, as well as all laws pertaining to the conduct of your business if applicable. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations. You promise to indemnify and hold MCCU harmless from any damages, liabilities, costs, expenses (including attorneys’ fees) or other harm arising out of any violation thereof. This indemnity will survive termination of your Account and this Agreement.

3. Check Requirements. Any image of a check must accurately and legibly provide all the information on the front and back of the check. The image quality for the check will meet the standards for image quality established by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association. You agree to endorse any item transmitted by signing the back of the check “For mobile deposit only, MCCU Account # _____.”

4. Rejection of Deposit. We reserve the right to reject any item transmitted through the Service, at our discretion, without liability to you. We are not liable for any service or late charges levied against you due to the rejection of any item. You are responsible for any loss or overdraft plus any applicable fees to your Account due to an item being returned.

5. Items Returned Unpaid. A notice will be returned to you in the event items are returned unpaid. With respect to any item that you transmit for remote deposit that is credited to your Account, in the event such item is dishonored, you authorize MCCU to debit the amount of such item from the Account.

6. Email Address. You agree to notify us immediately if you change your email address, as this is the email address where you will receive notification of receipt of remote deposit items, items return unpaid and other important notices.

7. Unavailability of Services. When using the Services, you may experience technical or other difficulties. We cannot assume responsibility for any technical or difficulties or any resulting damages that you may incur. Some of the Services have qualification requirements, and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue the Services, in whole or in part, or your use of the Services, in whole or in part, immediately and at any time without prior notice to you.

8. Funds Availability. You agree that items transmitted using the Services are not subject to the funds availability requirements of the Federal Reserve Board Regulation CC. Funds deposited using the Services will be available after MCCU receives payment for the funds deposited. MCCU, in its sole discretion, may make such funds available sooner based on such factors as credit worthiness, the length and extent of your relationship with MCCU, transaction and experience information, and such other facts as MCCU deems relevant. MCCU, in its sole discretion, may modify funds availability as it deems relevant.

9. Controls and Audit. You understand and agree to adhere to the Accountholder's Warranties as described in this agreement. Furthermore you agree to comply with the audit requirements of MCCU.

10. Accountholder's Warranties. You agree to scan and deposit only checks as that term is defined in Federal Reserve Regulation CC ("Reg CC"). You agree that the image of the check transmitted to MCCU shall be deemed an "item" with the meaning of Article 4 of the Uniform Commercial Code as adopted in Texas. You agree that you will use the Services to scan and deposit any checks or other items as described below:

- 1) Each image of a check transmitted is a true and accurate rendition of the front and back of the original check, without any alteration, and the drawer of the check has no defense against payment of the check.
- 2) The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
- 3) You will not deposit or otherwise endorse to a third party the original item (the original check) and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the item (either the original item, or a paper or electronic representation of the original item) such that the person will be asked to make payment based on an item it has already paid.
- 4) Other than the digital image of an original check that you remotely deposit through our Services, there are no other duplicate images of the original check.
- 5) You have instituted procedures to ensure that each original check was authorized by the drawer in the amount stated on the original check and to the payee stated on the original check.
- 6) You are authorized to enforce each item transmitted or are authorized to obtain payment of each item on behalf of a person entitled to enforce such transmitted item.
- 7) The information provided in your Application remains true and correct and, in the event any such information changes, you will immediately notify us of the change.
- 8) You have not knowingly failed to communicate any material information to us.
- 9) You have possession of each original check deposited using the Services and no party will submit the original check for payment.
- 10) Files and images transmitted to MCCU will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.

11. Storage of Original Checks. Upon receipt of a confirmation from MCCU that we have received the image of an item, you agree to prominently mark the item as "Electronically Presented" or "VOID" and to properly dispose of the item to ensure that it is not represented for payment. You agree to retain checks, or a sufficient copy of the front and back of the items, for a period of at least 30 days and agree

to promptly provide these to MCCU if requested in order to aid in the clearing and collection process, resolve claims by third parties with respect to any item, or support MCCU audits.

12. Accountholder's Indemnification Obligation. You understand and agree to indemnify MCCU and hold us harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees and expenses arising from use of the Services and/or breach of this Disclosure and Agreement. You agree to ensure your mobile device remains securely within your possession until the deposit has been completed or deleted. MCCU is not responsible for any deposit information left on your mobile device and/or not transmitted or deleted from your mobile device. You understand and agree that this paragraph shall survive the termination of this Agreement.

13. In Case of Errors. You agree to immediately notify MCCU of any suspected errors regarding items deposited through the Services right away, and in no event no later than 60 days after the applicable MCCU account statement is sent. Unless you notify MCCU within 60 days, such statement regarding all deposits made through the Services shall be deemed correct, and you are prohibited from bringing a claim against MCCU for such alleged error.

14. Limitation of Liability. You understand and agree that we will not be responsible for any indirect, consequential, punitive, or special damages or damages attributable to your breach of this Disclosure and Agreement.

15. Charges for Use of the Services. While there are currently no fees related to the use of the Services, MCCU, in its sole discretion, retains the right to administer a fee schedule in the future. Please refer to section 17, Change of Terms, for advance notification related to the administration of possible future fees.

16. Warranties. You understand that MCCU does not make any warranties on equipment, hardware, software or Internet Provider Service, or any part of them, expressed or implied, including, without limitation, any warranties of merchantability or fitness for a particular purpose and non-infringement. MCCU is not responsible for any loss, injury or damages, whether direct, indirect, special or consequential, caused by the Internet Provider, any related software, including that of third parties or MCCU's use of any of them or arising in any way from the installation, use, or maintenance of YOUR personal computer hardware, software, or other equipment.

17. Change in Terms. MCCU reserves the right to change the terms and charges for the Services indicated in this Disclosure and Agreement by notifying you of such change in writing and may amend, modify, add to, or delete from this Disclosure and Agreement from time to time. Your continued use of the Services after receipt of notification of any change constitutes your acceptance of the change.

18. Termination of the Services or Dormant Services. You may, by emailed request, terminate at any time the Services provided for in this Disclosure and Agreement. In the event of termination of the Services, you will remain liable for all transactions performed on your Account. *MCCU retains the right, at its sole discretion, to terminate Services based on 12 consecutive months of no activity as outlined within this Disclosure and Agreement.*

19. Relationship to Other Disclosures. The information in these Disclosures applies only to the Services described herein. Provisions in other disclosure documents, as may be revised from time to time, remain effective for all other aspects of the Account.

20. Governing Law. You understand and agree that this Disclosure and Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by and construed in accordance with the internal laws of the State of Texas, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. You also agree to submit to the personal jurisdiction of the courts of the State of Texas.

21. Periodic Statement. Any remote deposits made through the Services will be reflected on your monthly account statement. You are required to notify MCCU of any error relating to images transmitted using the Services by no later than 60 days after you receive the monthly periodic statement

that includes any transaction alleged as erroneous. You are responsible for any errors that you fail to bring to our attention within such time period.

22. Limitations on Frequency and Dollar Amount. We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Services and to modify such limits from time to time.

23. Unacceptable Deposits. You agree you are not permitted to deposit the following items using the Services:

- 1) Any item drawn on your account or your affiliate's account.
- 2) Any item that is stamped with a "non-negotiable" watermark.
- 3) Any item that contains evidence of alteration to the information on the check.
- 4) Any item issued by a financial institution in a foreign country.
- 5) Any item that is incomplete.
- 6) Any item that is "stale dated" or "post-dated."
- 7) Savings Bonds

24. Confidentiality. You acknowledge and agree that confidential data relating to our Services, marketing, strategies, business operations and business systems (collectively, "Confidential Information") may come into your possession in connection with this Disclosure and Agreement. You understand and agree that you are prohibited from disclosing and agree to maintain the confidentiality of our Confidential Information

25. Waiver. The failure of either party to seek a redress for violation, or to insist upon the strict performance, of any covenant, agreement, provision, or condition hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision, or condition, and each party shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

26. Relationship. This Disclosure and Agreement does not create, and shall not be construed to create, any joint venture or partnership between the parties. No officer, employee, agent, servant, or independent contractor of either party shall at any time be deemed to be an employee, servant, agent, or contractor of the other party for any purpose whatsoever.

27. System Requirements. Using Mobile Deposit requires a smart device. This section outlines what components are necessary:

Mobile-Based Deposits – One of the following mobile devices is required in order to make deposits using the Mobile Deposit application.

- 1) Apple® iPhone®
- 2) Apple® iPad®
- 3) Phone for Android™
- 4) Phone for Windows® 7

Browser Requirements - One of the following browsers is required in order to make deposits using the Mobile Deposit application.

- Microsoft Internet Explorer® 7 or higher
- Firefox® 3.6x or higher
- Google® Chrome™
- OSX® Version 10.6x (Snow Leopard)
- Safari® Version 5
- High-speed internet connection