

## My Credit Union Mobile Check Deposit Agreement

This Agreement contains the terms and conditions for the use of Mobile Check Deposit (“MCD”) services. By accepting the Terms and Conditions, I, as the account signer, authorize My Credit Union to verify credit and/or have a credit reporting agency prepare a credit report.

### 1. Services and Service Terms.

The MCD Services (“Services”) are designed to allow you to make deposits to your checking account from an iPhone 3G or higher, Blackberry with OS 5.0 or higher, Android with OS 2.1.1 or higher and any future devices as available (the “Capture Device”); additional smartphone models may be supported in the future. The following terms and conditions apply to the Services for MCD; depositor acknowledges and agrees that the Services or any portion of the Services may be provided by one or more subcontractors.

### 2. Acceptance of these Terms.

Your use of the Services constitutes your acceptance of this Agreement. The agreement is subject to change; we will notify you of any material change via email, or on our website with a link to the revised agreement. You will be prompted to accept or reject any material change to this Agreement the next time you use the Service after My Credit Union has made the change. Your acceptance of the revised terms and conditions along with the continued use of the Services will indicate your consent to be bound by the revised Agreement. Further, My Credit Union reserves the right, in its sole discretion, to change, modify, add, or remove portions from the Services. Your continued use of the Services will indicate your acceptance of any such changes to the Services.

### 3. Definitions.

3.1. “Authorized User” means Depositor or agent of Depositor.

3.2. “Credit Union Day” means any day which My Credit Union is open to conduct substantially all of its services, but shall not include Saturday, Sunday or Credit Union holidays.

3.3. “Capture Device” means any device acceptable to My Credit Union, that provides for the capture of images from original Items and for transmission through a clearing process.

3.4. “Check” means an Original Check, as defined in Regulation CC and Check 21 and does not include a Substitute Check or a remotely created check.

3.5. “Check 21” means the Check Clearing for the 21st Century Act, as well as Subpart D of Federal Reserve Board Regulation CC, and to the extent applicable, Subpart A.

3.6. “IRD” or “Image Replacement Document” means (a) a Substitute Check as defined in Check 21; or (b) the paper reproduction that will be created when an Item cannot be converted to an Electronic Transaction.

3.7. “Item” means a Check, money order, cashier’s check, official check, U.S. Treasury check, or any other payment instrument drawn on or payable through an Office of a United States financial institution from a Payor to Depositor

3.8. “Payor” means consumers or businesses that make payments to Depositor by means of Items.

3.9. “Service(s)” means the specific service(s) provided by My Credit Union, including electronic check conversion and image archive systems that allow the use of a Capture Device to obtain and transmit the front and back images of Items and accompanying transaction data for the purpose for delivery to My Credit Union for clearing as an IRD. Services also include any applicable support services.

3.10. “Service Start Date” means the date that the Services are first available to the Depositor.

3.11. “Technology” means My Credit Union’s or its subcontractor’s deposit capture applications and processes designed to facilitate the electronic clearing of Items. Said applications are accessed through Capture Devices, utilizing software and hardware provided by or acceptable to My Credit Union, and are proprietary access points to payment processing networks and systems used to complete the clearing of Items. Technology may include but is not limited to Depositor service support, reports, software, software tools, user interface designs, and documentation, and any derivatives, improvements, enhancements or extensions thereof developed or provided by My Credit Union or its subcontractors and used in the provision of Services hereunder. Any software provided by My Credit Union or its subcontractors pursuant to the Service shall be considered Software as defined in the Software License Agreement.

3.12. “Term” shall mean the term of this Agreement beginning as of the Service Start Date until terminated as provided herein.

#### 4. Depositor Obligations; Suspension/Cancellation of Service.

4.1. Eligible Items. You agree to scan and deposit only checks as that term is defined in the Federal Reserve Regulation CC (“Reg CC”). When the image of the check transmitted to My Credit Union is converted to an Image Replacement Document for subsequent presentment and collection, it shall thereafter be deemed an “item” within the meaning of Articles 3 and 4 of the Uniform Commercial Code. You agree that you will not use the Services to scan and deposit any checks or other items as shown as Ineligible Item below.

##### Ineligible Items

- Checks payable to any person or entity other than the person or entity that owns the account that the check is being deposited into.
- Checks or items drawn or otherwise issued by you or any other person on any of your accounts or any account on which you are an authorized signer or joint account holder
- Checks or items drawn on a financial institution located outside the United States.

- Checks or items not payable in United States Currency.
- Checks or items containing obvious alteration to any of the fields on the front of the check or item, or which you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn
- Checks or items previously converted to a substitute check, as defined in Reg CC.
- Checks or items that are remotely created checks, as defined in Reg CC.
- Checks or items dated more than 6 months prior to the date of deposit.
- Checks or items prohibited or otherwise not acceptable under the terms of your My Credit Union account.
- Checks payable jointly, unless deposited into an account in the name of all payees.
- Checks or items prohibited by My Credit Union's current procedures relating to the Services or which are otherwise not acceptable under the terms of your My Credit Union account.
- Checks payable on sight or payable through Drafts, as defined in Reg. CC.
- Checks with any endorsement on the back other than that specified in this agreement.
- Checks that have previously been submitted through the Service or through a remote deposit capture service offered at any other financial institution.
- Checks or items that are drawn or otherwise issued by the U.S. Treasury Department

**Fees.** A fee may be charged for the Service (refer to most recent fee schedule). You are responsible for paying the fees for the use of the Service. Any fee that is charged will be disclosed prior to your deposit. My Credit Union may change the fees for use of the Service at any time pursuant to the section titled "Acceptance of these Terms" above. You authorize My Credit Union to deduct any such fees from any My Credit Union account in your name. Fees will not be charged during the free trial period or other promotional campaigns. All normal fees such as non sufficient funds (NSF) fees and return deposit fees will apply according to the most recent fee schedule.

4.2. **Endorsement.** In order for an item to be processed for deposit, it must be restrictively endorsed in the proper location on the back of the Item with the following words: **"For mobile deposit only, account # "**, with the correct account number inserted and signed by **payee.** You agree to follow any and all other procedures and instructions for use of the Services as My Credit Union may establish from time to time.

4.3. **Image Quality.** Items transmitted using the Services must be legible, and must comply with requirements established from time to time by ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house, or association.

4.4. Depositor Responsibilities. Depositor agrees to, at its sole expense: (a) provide connectivity between the Capture Device and the Technology; (b) maintain the Capture Device in accordance with the instructions provided by My Credit Union, its subcontractors and/or any other Capture Device provider; (c) if applicable, utilize Depositor's software, or My Credit Union software to scan, load, and format Items as needed for transmission to My Credit Union prior to the communicated cut-off time; (d) process return data and any remittance data delivered by My Credit Union for the purpose of updating Depositor internal systems (which may include electronic and paper return Items); (e) implement and maintain security measures, including firewall protection, in compliance with its obligations under this Agreement.

4.5. **Withdrawal of Access/Suspension of Service. My Credit Union reserves the right to deny, suspend or revoke access to the Services immediately, in whole or in part, in its sole discretion, without notice, if My Credit Union believes Depositor and/or its Authorized users are in breach of this Agreement or are otherwise using or accessing the Services inconsistent with the terms and conditions hereof.** Further, My Credit Union or its subcontractor shall have the right to suspend the Service immediately in the event of an emergency or in the event of force majeure as set forth in the Service Agreement.

4.6. Account Statement Examination. All deposits made through the Services shall be deemed to be correct, unless Depositor notifies My Credit Union of any errors to deposits made through the Services within 60 days after the applicable account statement is mailed or otherwise provided to Depositor.

4.7. Hardware and Software Requirements. In order to utilize the Services, Depositor must have the following hardware and software with the indicated specifications:

**For Enrollment in My Credit Union Mobile Check Deposit services, Depositor must have computer access with the following minimum configurations:**

**An Intel® Pentium IV 2.6GHz (or faster) PC with 1+ GB of RAM Windows XP operating system SP 2**

**Minimum 20 GB of free hard disk space**

**Internet Explorer 7.0**

**Internet Connectivity with a minimum speed of 1 MBPS**

**For depositing checks, Depositor must have an approved mobile device (with internet access)**

4.8. Limitations of Service. When using the Services, you may experience technical or other difficulties. We will attempt to post alerts on our website or send you a text message to notify you of these interruptions in Service. We cannot assume responsibility for any technical or other 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.

4.9. Hardware and Software. In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by My Credit Union from time to time. See [www.mycutx.com](http://www.mycutx.com) for current hardware and software specifications. My Credit Union is not responsible for any third party software you may need to use the Services. Any such software is accepted by you as is and is subject to the terms and conditions of the software agreement you enter into directly with the third party software provider at time of download and installation.

## 5. Payment Processing.

5.1. IRD Processing. Depositor authorizes My Credit Union to convert Items to IRDs or transmit as an image and further authorizes My Credit Union to where an item is sent for process. Items may be transmitted to a printing facility for printing and clearing through traditional paper processing channels, at My Credit Union's sole discretion. The IRDs will be created in accordance with Check 21; alternatively, My Credit Union may process Items as photocopies in lieu of originals, under guidelines established between My Credit Union and Depositor and applicable industry standards. Items that fail to satisfy the warranties made to My Credit Union by Depositor, that fail to meet the requirements of My Credit Union or Check 21, or that are otherwise not able to be processed may be charged back to Deposit's account and/or returned to Depositor. Depositor agrees to be bound by any applicable laws, rules and regulations to which My Credit Union is a party.

5.2. Processing of Items. We reserve the right to reject any item transmitted through the Services, at our discretion, without liability to you. **We are not responsible for items we do not receive or for images that are dropped during transmission.** An image of an item shall be deemed received when you receive a confirmation from My Credit Union that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete or will be considered a deposit and credited to your account. We further reserve the right to reject any item transmitted through the Services, at our discretion, and charge back to your account at any time any item that we subsequently determine was not an eligible item. You agree that My Credit Union is not liable for any loss, costs, or fees you may incur as a result of our chargeback of an ineligible item.

5.3. Handling of Transmitted Items. **Upon receiving electronic confirmation of receipt of an item, Depositor agrees to prominently mark the item as "Electronically Presented"; agrees to store the original item in a safe and secure environment for at least sixty (60) days; and agrees never to represent the item. Depositor will promptly (but in any event within 5 business days) provide any retained original Item to My Credit**

Union when requested to aid in the clearing and collection process to resolve claims by third parties with respect to any item or as My Credit Union otherwise deems necessary.

5.4. **Availability of Funds.** Member/Depositor understands and agrees that items transmitted using the Services are not subject to the funds availability requirements of Reg CC. Funds from Items deposited under the terms of this Agreement will generally be available after My Credit Union receives payment for the funds submitted. My Credit Union may make such funds available sooner to certain members/depositors at its sole discretion. In general, if an image of an item you transmit through the Service is received and accepted before 4:30 p.m. Central Time on a business day that we are open, we consider that day to be the day of your deposit. Otherwise, we will consider that the deposit was made on the next business day we are open. Funds deposited using the Services will generally be made available in three business days from the day of deposit. My Credit Union may make such funds available sooner based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors as My Credit Union, in its sole discretion, deems relevant.

5.5. **Depositor Liability.** Depositor shall be solely responsible if any Item for which Depositor has been given provisional credit is subject to return or reversal, and neither My Credit Union nor its subcontractors shall be liable or responsible for same. Depositor acknowledges that all credits received for deposit are **provisional, subject to verification and final settlement.** Any dishonored Items will be returned as an image of the original or a substitute check as the charged-back item. Information and data reported hereunder: (a) may be received prior to final positing and confirmation and is subject to correction and (b) is for information purposes only and may not be relied upon. Depositor agrees that My Credit Union shall have no liability for the content of payment-related information.

Upon your receipt of a confirmation from My Credit Union that we have received an image that you have transmitted, You agree to retain the check for at least 60 calendar days from the date of the image transmission. After 60 days, You agree to destroy the check that you transmitted as an image, mark it "VOID", or otherwise render it incapable of further transmission, deposit, or presentment. During the time the retained check is available, you agree to promptly provide it to My Credit Union upon request.

5.6. **Limits.** My Credit Union reserves the right to impose limits on the amounts(s) and/or number of deposits that you transmit using the Services, and to modify such limits from time to time.

We may establish limits on the dollar amount and/or number of items or deposits from time to time. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be

obligated to allow such a deposit at other times. The current daily dollar limit is \$2,000.00 per business day for My Credit Union Members. In addition, the current monthly dollar limit is \$4,000.00 per any 30 consecutive calendar day period for My Credit Union Members. There is no daily or monthly statement cycle limit on the number of items, as long as the respective dollar limits are not exceeded. Daily and monthly deposit limits may vary for users of other services, such as to My Credit Union OnSite Deposit and My Credit Union Merchant Services.

6. Warranties and Disclaimers.

6.1. Depositor Warranty. Depositor represents and warrants to My Credit Union:

(A) Depositor has the authority to enter into this agreement and perform its obligations hereunder and all information supplied by depositor to My Credit Union is accurate and true; (B) Depositor will provide all reasonable assistance to My Credit Union and its subcontractors in providing the services set forth herein; (C) Depositor and any authorized users will only use the services for lawful purposes and in compliance with all applicable rules and regulations and with My Credit Union's reasonable instructions, rules, policies, specifications, terms and conditions, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party; (D) Depositor has only transmitted acceptable items for deposit and has handled the original items following transmission to My Credit Union as agreed, as directed by My Credit Union and in accordance with applicable law; (E) Depositor is a person authorized to enforce each item or is authorized to obtain payment of each item on behalf of a person entitled to enforce an item; (F) The items have not been altered; (G) Each item bears all applicable endorsements in a restricted format as directed by My Credit Union; (H) All the warranties set forth in and subject to applicable laws and regulatory agencies; (I) (1) The electronic image portion of each item accurately and legibly represents all of the information on the front and back of the original check as of the time the original check was deposited, (2) The information portion of the item contains a record of all applicable MICR-line information required for a substitute check, and (3) The item conforms to the technical standards for an electronic item as specified by My Credit Union from time to time; (J) Depositor will submit only one accurate and clear image of the front and back of each item to My Credit Union only one time; (K) Depositor will not deposit the original item and no person will receive a transfer, presentment, 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; (L) The amount of an item entered by depositor or any authorized user for transmission to My Credit Union is accurate; and (M) Depositor and any authorized users will not (1) Sell, lease, distribute, license or sublicense the technology or services; (2) Modify, change, alter, disassemble or decompile the technology or services in any way for any reason; (3) Provide, disclose, divulge or make available to, or permit use of the technology or services by, any third party; (4) Copy or reproduce all or any part of the technology or services; (5) Interfere, or attempt to interfere, with the technology or services in any way; (6) Engage in spamming, fraudulent, illegal or unauthorized use of the services, (7) Introduce or transmit

through the technology or services, without limitation, via any portion of the depositor's computer system that interfaces with the technology or services, or otherwise, any virus, worm, software lock, drop dead device, Trojan-horse routine, trap door, back door, timer, time bomb, clock, counter or other limiting routine, instruction or design or any other codes or instructions that may be used to access, modify, delete, damage, disable or prevent the use of the technology, services or other computer systems of My Credit Union or its subcontractors; (8) Remove, obscure or alter any copyright notice, trademarks or other proprietary rights notices affixed to or contained within the technology or services; or (9) Engage in or allow any action involving the technology or services that is inconsistent with this agreement. Should depositor receive notice of any claim regarding the services, depositor shall promptly provide My Credit Union with a written notice of such claim.

6.2. My Credit Union Warranty. My Credit Union warrants that: (A) My Credit Union has the authority to enter into this agreement and perform its obligations hereunder; and (B) It has developed each service (other than any portion furnished by a subcontractor or third party vendor) and owns and/or has the right to furnish the same (including any portion furnished by a subcontractor or third party vendor.)

6.3. Disclaimer. Except as set forth above in Section 6.2, My Credit Union and its subcontractors make no representations or warranties, whether express, implied or statutory regarding or relating to any of the technology or services and/or access to or use of the services or technology provided to depositor hereunder. My Credit Union and its subcontractors specifically disclaim any and all implied warranties or merchantability, fitness for a particular purpose and noninfringement. My Credit Union and its subcontractors also do not guarantee that depositors' access to the services provided under this agreement will be uninterrupted, error free or secure. My Credit Union and its subcontractors also do not guarantee the accuracy of, and specifically disclaim liability for, information or data that is supplied or key-entered by depositor or agents. My Credit Union and its subcontractors do not warrant the accuracy, reliability, completeness or timeliness of the content of internet websites or other data received by depositor or payors via the internet.

**DISCLAIMER OF WARRANTIES.** YOU AGREE YOUR USE OF THE SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.

7. Limitation of Liability / Indemnification.



7.1. Limitation of Liability. Notwithstanding anything to the contrary herein, in no event will My Credit Union's liability under this agreement for any damages of any kind exceed an amount equal to the amount of items received by My Credit Union from depositor for the services during the month preceding the date on which the claim first accrued. My Credit Union shall not be liable for any special, indirect or consequential damages, even if it has been advised of the possibility of these damages.

YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES RESULTING FROM THE USE OR THE INABILITY TO USE THE SERVICES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF THIS SERVICES, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF MY CREDIT UNION HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request and without further cost, any originals or copies of items deposited through the Service in your possession and your records relating to such items and transmissions.

7.2. Indemnification. In addition to its indemnification obligations in this agreement, and except for losses or expenses attributable to My Credit Union's own lack of good faith or failure to exercise ordinary care, depositor agrees to indemnify My Credit Union for any loss or expense sustained (including interest, costs, attorney's fees and expenses of litigation) resulting from (i) Depositor's lack of authority to make the warranty in subsection 6.1 (E); (ii) any action taken or not taken by My Credit Union within the scope of its authority in handling an item; (iii) any warranty required to be made by My Credit Union with respect to an item under applicable law or regulation; and (iv) breach of the warranties in subsections 6.1(A) through 6.1(M).

You warrant to My Credit Union that:

- a. You will only transmit eligible items.
- b. You will not transmit duplicate items.
- c. You will not re-deposit or re-present the original item.
- d. All information you provide to My Credit Union is accurate and true.
- e. You will comply with this Agreement and all applicable rules, laws and regulations.
- f. You are not aware of any factor which may impair the collectability of the item.
- You agree to indemnify and hold harmless My Credit Union from any loss for breach of this warranty provision.

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## 8. Termination.

8.1. Termination. In addition to the denial, suspension, revocation and termination provisions in this Agreement, My Credit Union may immediately terminate the Service or any portion of the Service if My Credit Union determines that such Service or portion of any Service is in violation of any law or regulation, or in its sole discretion and without notice, decides to cease providing this Service. Depositor may terminate the Service with notice to My Credit Union. Any termination will not affect any obligations arising prior to termination, such as the obligation to process any Items that were processed or in the process of being transmitted or collected prior to the termination date, or any returns of the same.

We may terminate this Agreement at any time and for any reason. This Agreement shall remain in full force and effect unless and until it is terminated by us. Without limiting the foregoing, this Agreement may be terminated if you breach any term of this Agreement, if you use the Services for any unauthorized or illegal purposes or you use the Services in a manner inconsistent with the terms of your My Credit Union Services Agreement or any other agreement with us.

8.2. Obligations upon Termination. Upon the termination of this Agreement for any reason: (a) Depositor's access to, and use of, the Services will terminate; (b) Depositor will return to My Credit Union any and all My Credit Union Services, equipment, software, documentation, Technology or other deliverables provided to Depositor by My Credit Union, including any copies thereof held by Depositor; (c) My Credit Union will deliver to Depositor all Depositor documentation and other materials stored by Depositor on My Credit Union's or its subcontractor's network; and (d) each party shall return any and all Confidential Information in its possession to the party that disclosed such Confidential Information or destroy same, and provide written verification of same. Notwithstanding the foregoing, My Credit Union's obligations with respect to subsections (c) and (d) shall be subject to My Credit Union's record retention policies and applicable laws and regulations. The provisions of sections 6, 7, 8 and 9 shall survive termination of this Agreement.

## 9. Confidentiality.

9.1. My Credit Union Information. Depositor acknowledges that the Technology and Service contain valuable trade secrets, which are the sole property of My Credit Union or its subcontractors ("My Credit Union Confidential Information"), and Depositor agrees to hold same in strict confidence and disclose only to those agents whose duties reasonably require access to same, provided that all such agents are informed of such use or disclosure restrictions as set forth herein. Depositor agrees to use no less than reasonable care to prevent other parties from learning of these trade secrets. Depositor will take no less than all reasonable steps to prevent the unauthorized use, disclosure, duplication or access to the My Credit Union Confidential Information.

## 9.2. Intellectual Property Ownership.

This Agreement does not transfer to depositor any ownership or proprietary rights in the Technology or any work or any part thereof, and all rights, titles and interests in and to the Technology will remain solely with My Credit Union or its subcontractors.

**Ownership & License.** You agree that My Credit Union retains all ownership and proprietary rights in the Services, associated content, technology, and website(s). Your use of the Services is subject to and conditioned upon your complete compliance with this Agreement. Without limiting the effect of the foregoing, any breach of this Agreement immediately terminates your right to use the Services. Without limiting the restriction of the foregoing, you may not use the Services (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to My Credit Union's business interest, or (iii) to My Credit Union's actual or potential economic disadvantage in any aspect. You may use the Services only for non-business, personal use in accordance with this Agreement. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the Services.

9.3. **Depositor Information.** My Credit Union acknowledges that Depositors' information may contain information regarding its Depositors, which are the sole property of Depositor ("Depositor Confidential Information," and, collectively with My Credit Union Confidential Information, "Confidential Information"), and My Credit Union agrees to hold same in confidence and will protect Depositor Confidential Information pursuant to My Credit Union's Privacy Policy.

9.4. **Exceptions.** The obligations of this Section 9 shall not apply to any information that: (a) is now, or hereafter becomes, through no act or failure to act on the part of the receiving party (the "Receiver"), generally known or available; (b) is known by the Receiver at the time of receiving such information, as evidenced by the Receiver's records; (c) is hereafter furnished to the Receiver by a third party, as a matter of right and without restriction on disclosure; (d) is independently developed by the Receiver without reference to or use of the disclosing party's information; or (e) is required to be disclosed by law or in connection with a legal or administrative proceeding, provided that the party to whom the information belongs is given prompt prior written notice of such proposed disclosure, if not otherwise prohibited.

9.5. **Unauthorized Use.** Both parties acknowledge that the unauthorized use, disclosure or duplication of trade secrets or other confidential information belonging to each party shall constitute a material breach of this Agreement and is likely to cause irreparable injury to the owner, for which there is no adequate remedy at law. Accordingly, My Credit Union and Depositor each hereby agree that the other party may seek injunctive relief against it to prevent or remedy any breach of the confidentiality obligations described herein without the other party being required to post bond, or if bond is required, only nominal bond.

10. **Miscellaneous Provisions.**

10.1. Relationship of Parties. My Credit Union and Depositor are independent parties and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between My Credit Union and Depositor. Neither My Credit Union nor Depositor will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

10.2. Notices. Depositor agrees that any notices required or permitted under this Agreement or the Service Agreement may be given electronically.

10.3. No Waiver. The failure of either party to enforce at any time any provision of this Agreement or to exercise any right herein provided shall not in any way be construed to be a waiver of such provision or right, and shall not in any way affect the validity of this Agreement or any part hereof, or limit, prevent or impair the right of either party to subsequently enforce any provision or exercise any right hereunder.

10.4. Severability. The invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of any other term or provision.

**Enforceability.** We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

10.5. Governing Law. This Agreement is entered into in Texas, and shall be governed by the laws of Texas and of the United States, and any rule or regulation of Texas or a federal agency having jurisdiction over My Credit Union. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid. The rights of My Credit Union under this Agreement are cumulative of all other rights My Credit Union may have by law or otherwise.

10.6. Amendments. Unless applicable law provides otherwise, this Agreement may be amended by notice sent electronically or by mail to Depositor at Depositor's last address known to My Credit Union to be effective not less than thirty (30) days after the day transmitted or mailed. My Credit Union shall not be bound by any modification of this Agreement unless My Credit Union expressly agrees to the modification in writing. Depositor shall have the right to terminate the Agreement prior to the effective date of amendment. This Agreement supersedes all prior agreements and amendments.

10.7. Assignment. Depositor may not assign this agreement.

10.8. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all existing agreements and all other related communications, written or oral.