

UNITED BAY COMMUNITY CREDIT UNION
Mobile Deposit Agreement

This Mobile Deposit Agreement ("Agreement") provides information about and contains terms and conditions governing your use of the Mobile Deposit service offered by United Bay Community Credit Union (the "Credit Union") and its third-party licensors ("Licensors"). This Agreement shall be an addendum to the existing Electronic Funds Transfer Agreement/Disclosure that you have previously entered into with the Credit Union.

The terms and conditions of your Membership and Account Agreement and any disclosures as well as any other agreements with the Credit Union shall remain in full force and effect notwithstanding any provision in this Agreement to the contrary. In the event of an inconsistency between this Agreement and any of the other referenced documents, this Agreement shall control to the extent of the inconsistency.

You understand that by using the Mobile Deposit service you agree to the terms and conditions set forth in this Agreement, as amended from time to time.

A. General Terms and Conditions.

1. **Mobile Deposit Service Description.** Mobile Deposit provides you the ability to access and make deposits to your designated eligible Accounts using a compatible mobile device to capture an image of original paper checks (Original Checks) that are drawn on or payable through U.S. financial institutions (each a Check Image) and to electronically submit the Check Image and associated deposit information to the Credit Union for deposit into a designated eligible Account.
2. **Eligibility.** You must be a Credit Union member in good standing and meet other predetermined qualifying factors to qualify for use of Mobile Deposit. You must have a mobile device compatible with our system and access to telecommunication services necessary for the services. Application upgrades may be required from time to time for continued use of the service.
3. **Acceptance of these Terms.** Your use of Mobile Deposit is subject to the terms and conditions set forth in this Agreement, and your use of Mobile Deposit constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change as may be required by law. Your continued use of Mobile Deposit will indicate your acceptance of the revised Agreement. If you do not wish for this Agreement to apply to a given Original Check you wish to deposit, you must not deposit it through Mobile Deposit.
4. **Other Agreements.** The terms and conditions of your Membership and Account Agreement and all other agreements applicable to your account(s) and each of your loan agreements also apply to transactions conducted through Mobile Deposit. If this Agreement is inconsistent with any other applicable agreement, the terms of this Agreement shall apply.
5. **Laws, Rules and Regulations.** You agree to abide by and comply with all local, state and federal laws, rules and regulations which are in existence as of the date of this Agreement and as amended from time to time.

B. The Service.

1. **The Mobile Deposit Capture Process.** You will create an electronic image by scanning the fronts and backs of properly endorsed checks or drafts ("Original Checks") with a compatible mobile device. You will transmit an electronic file containing these electronic images to the Credit Union, and we will deposit the items to your account. We will perform an image quality assessment of the scanned items and process those items meeting our required standards for deposit and collection.
2. **Funds Availability.** Original Checks deposited through Mobile Deposit are **not** subject to the Funds Availability Disclosure as set forth in our Membership and Account Agreement which govern the use of your account(s). In many cases funds deposited via Mobile Deposit will be immediately available for your use, however we specifically reserve the right to place a hold on any funds deposited via Mobile Deposit. You agree to receive notice of holds and delays via the email address provided to us or as otherwise provided by you to us. If you will need funds from a completed deposit in accordance with our Funds Availability Disclosure, we recommend that you deposit the items involved in person at one of our branch locations. Limits are in place for how many items and how much you can deposit through Mobile Deposit, please see the Frequently Asked Questions page on our website for more details.

3. **Receipt of Items.** You acknowledge and agree that the scanning and transmitting of Original Checks does not constitute receipt by Credit Union. Original Checks deposited through Mobile Deposit shall be deemed to be received by us at the time our system indicates a successful transaction is completed. You expressly acknowledge and agree that an acknowledgment of receipt or delivery does not constitute an acknowledgment by us that your transmission does not contain errors.
4. **Acceptance of Deposit.** You agree that we may at any time, in our sole discretion, refuse to accept deposits of Original Checks from you through Mobile Deposit. In the event the Mobile Deposit is interrupted or otherwise unavailable, or in the event any Internet connection involved in the process is not functioning properly, you may, at your option, deposit the Original Checks in person at one of our branches or by any other mutually agreed upon method of deposit. In the event such items are not deposited by means of Mobile Deposit, such deposit shall not be subject to this Agreement. After you complete a deposit, you will receive a message advising you of whether your deposit was accepted or rejected. If you believe there is a problem, you must contact us at your earliest opportunity during our normal business hours, which are Monday through Friday from 9:00 a.m. to 5:00 p.m., Eastern Standard Time, as observed in Bay City, Michigan.

C. Your Account.

1. **Designated Account.** You will designate a Credit Union account (Account) as the settlement account to be used for the purposes of settling, in aggregate, the financial transactions requested by you in connection with Mobile Deposit. We will provide you with details of the specific transactions, reported similarly as other transactions may be done, that were a result of Mobile Deposit. You shall be responsible for the review, auditing and balancing of your Account.
2. **Responsibility for Scanning.** You are solely responsible for the proper endorsement and scanning of items and for maintaining your mobile device and/or other equipment used in connection with Mobile Deposit. You accept any and all risks related to such equipment and devices, and for Internet connections. You are responsible for the payment of all telecommunications expenses associated with your use of Mobile Deposit. We are not responsible for providing or servicing any equipment you use to access or use Mobile Deposit.
3. **Deposit Requirements.** You agree that you will use Mobile Deposit only to deposit Items drawn on financial institutions within the United States, excluding its territories. No items issued by a governmental unit or agency, items payable to more than one person, and no third-party Item (i.e., an Item that was not initially payable to you) may be deposited through Mobile Deposit. Each Check Image shall be of a quality that will permit the following information to be clearly read and understood:
 - the amount
 - the payee
 - the signature of the drawer
 - the date
 - the Original Check number
 - the information identifying the drawer and the paying financial institution that is preprinted on the Original Check, including the MICR line
 - all other information placed on the Original Check prior to the time an image of the item is captured, including any required identification written on the front of the Original Check and any endorsements on the back of the item

You are solely responsible for the proper endorsing of all Original Checks. Items deposited by means of Mobile Deposit must be endorsed as follows: "For Mobile Deposit only at UBCCU".

4. **Exception Items.** The Credit Union may, in its sole and absolute discretion, reject any Check Image it determines to be ineligible for Mobile Deposit (Exception Item), including, but not limited to, Check Images of items drawn on banks located outside the United States, items drawn on U.S. Banks in foreign currency, Check Images that are illegible, Check Images of Original Checks previously processed, Check Images previously converted to substitute checks, and Check Images with unreadable MICR information. You may be notified via email of Exception Items, but you also agree that you will review your Account to determine that items you have deposited through Mobile Deposit have been credited to your Account before attempting to make use of such funds. You further agree that if you want to deposit any Exception Item to your Account, you will only do so by depositing the Original Check upon which the Exception Item is based. You acknowledge and agree that even if we did not initially identify Check Image as an Exception Item, the substitute check created by us may nevertheless be returned to us because the electronic image is deemed illegible by a

paying bank, or for other reasons. Our failure to identify an Exception Item shall not preclude or limit your obligation to us.

5. **Item Retention.** You agree that you are solely responsible for custody and control of all Original Checks. You further agree that you will handle all Original Checks pursuant to the terms and conditions of this Agreement. Once we have received your transmission of Check Images for deposit to your Account, we will acknowledge by electronic means our receipt of your transmission. Your electronic transmission is subject to proof and verification. You must retain the original of all Original Checks you have deposited through the Service for six (6) calendar months after the day of deposit (the "Retention Period"). The risk of loss due to the unavailability of the original or copy of an Original Check for any reason, during the Retention Period, shall be exclusively on you. If we request that you provide us with an Original Check during the six (6) calendar month period referenced above and you are unwilling or unable to do so, we may deduct from your Account the amount of any loss we suffer, or otherwise require you to reimburse us for such amounts.
6. **Item Destruction.** You agree that you are fully responsible for the destruction of Original Checks. You agree to use commercially reasonable methods to destroy Original Checks after the required Retention Period has expired. You agree to destroy and dispose of the Original Checks with a high degree of care, including selecting and implementing appropriate destruction and disposal procedures. You agree that you will implement procedures to ensure that Original Checks are not accessed by unauthorized persons during the storage, destruction and disposal process and that once destroyed, Original Checks are no longer readable or capable of being reconstructed. The risk of loss associated with the accidental inclusion of a physical Item in the check collection process, or with a lost, destroyed, stolen or misplaced item shall be exclusively on you.
7. **Presentment Prohibitions.** You agree that you will not deposit Original Checks through Mobile Deposit that are:
 - Payable to any person or entity other than you
 - Prohibited by, or received in violation of, any law, rule or regulation
 - Known to you or should be known to you to be fraudulent or otherwise not authorized by the owner of the account on which the item is drawn
 - Original Checks previously cashed or deposited
 - Post-dated or more than six (6) months old
 - Payable to cash
 - Irregular in any way
 - Original Checks that do not bear a signature of the person on whose account the Item is drawn or
 - Drawn on financial institutions located outside the United States

D. **Your Representations and Warranties.**

1. **Representations and Warranties.** You represent and warrant that all Original Checks transmitted through Mobile Deposit will comply with any and all federal and state laws, and rules and regulations applicable to online transactions and the use of Mobile Deposit including but not limited to, rules and regulations relating to the National Automated Clearing House for ACH transactions. You further represent and warrant:
 - Original Checks deposited through Mobile Deposit shall be payable to and properly endorsed by you
 - all signatures on all Original Checks are authentic and authorized; and
 - no Original Check deposited through Mobile Deposit has been altered
2. **Financial Responsibility.** You acknowledge and agree that you are solely responsible for any and all financial risks associated with your use of Mobile Deposit. You assume exclusive responsibility for the consequences of any instructions you give the Credit Union, for your failure to access and/or properly use Mobile Deposit in the manner prescribed by the Credit Union, and for any failure by you to provide accurate input information.
3. **Your Liability for Overdrafts.** You acknowledge you are responsible for any loss or overdraft plus any applicable fees to your Account due to an item being returned. In the event any item that you transmit for Mobile Deposit that is credited to your Account is dishonored, you authorize us to debit the amount of such item from your Account. Please refer to your Membership and Account Agreement for other important information concerning your liability for overdrafts.

4. Periodic Statement and Your Duty to Report Errors. Any deposits made using Mobile Deposit will be reflected on your monthly periodic statement. You understand and agree that you are required to immediately notify us of any suspected error relating to Check Images transmitted using Mobile Deposit no later than 60 days after the date of the statement. Except as may otherwise be required by law, you are responsible for any Mobile Deposit-related errors that you fail to bring to our attention within such time period. Upon request, you agree to provide us with copies of Check Images (or original checks, if available), to facilitate our investigations related to unusual transactions or poor quality transmissions, or to resolve disputes.

5. Warranties. In using Mobile Deposit, you perform the function of converting an Original Check into an electronic format. In doing so, you understand and agree that you are responsible, to the extent permitted by law, for all warranties and indemnifications related to such a conversion, including but not limited to all of the following:

- a. Each Check Image transmitted to the Credit Union is a true and accurate rendition of the front and back of the Original Check, without any alteration, and the drawer of the Original Check has no defense against payment.
- b. The amount, the payee, signature(s), and endorsement(s) on the Original Check are legible, genuine, and accurate.
- c. You will not deposit or otherwise indorse to a third party the Original Check and no person will receive a transfer, presentment, or return of, or otherwise be charged for the item such that the person will be asked to make payment based on an item it has already paid.
- d. Other than the image of an Original Check that you remotely deposit through Mobile Deposit, there are no other duplicate images of the Original Check.
- e. 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.
- f. You are authorized to enforce each Original Check transmitted or are authorized to obtain payment of each Original Check on behalf of a person entitled to enforce the item.
- g. The information you provided remains true and correct and, in the event any such information changes, you will immediately notify the Credit Union of the change.
- h. You have not knowingly failed to communicate any material information to the Credit Union.
- i. You have possession of each Original Check deposited using Mobile Deposit and no one will submit, or has submitted, the Original Check for payment.
- j. Check Images transmitted to the Credit Union will contain no viruses or any other disabling features that may have an adverse impact on the Credit Union's network, data, or related systems.

E. Mobile Deposit Fees. You agree to pay all fees and charges for Mobile Deposit as set forth in our Fee Schedule. All fees are subject to change by us upon thirty (30) days written notice to you.

F. Disclaimer of Warranties; and Limitation of Liability.

1. Disclaimer of Warranties. YOU ACKNOWLEDGE THAT MOBILE DEPOSIT IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. NEITHER THE CREDIT UNION NOR ITS LICENSORS ARE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM YOUR USE OF MOBILE DEPOSIT. NEITHER THE CREDIT UNION NOR ITS LICENSORS MAKE ANY, AND EXPRESSLY DISCLAIM, ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING MOBILE DEPOSIT INCLUDING THE WARRANTY OF TITLE AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE

FOREGOING, THE CREDIT UNION AND ITS LICENSORS DISCLAIM ANY WARRANTIES REGARDING THE OPERATION, PERFORMANCE OR FUNCTIONALITY OF MOBILE DEPOSIT, INCLUDING, BUT NOT LIMITED TO, THAT MOBILE DEPOSIT WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE. YOU FURTHER ACKNOWLEDGE THAT THERE ARE CERTAIN SECURITY, CORRUPTION, TRANSMISSION ERROR AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET AND/OR TELECOMMUNICATION LINES OR CIRCUITS, AND YOU HEREBY ASSUME ALL RISKS RELATING TO SAME.

2. **Limitation of Liability.** EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, OR OTHERWISE REQUIRED BY LAW, YOU AGREE THAT THE CREDIT UNION AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS OR CONTRACTORS ARE NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER OR BY REASON OF THE SERVICE OR PRODUCTS PROVIDED UNDER THIS AGREEMENT OR BY REASON OF YOUR USE OF OR ACCESS TO THE SERVICE. THE CREDIT UNION SHALL BE RESPONSIBLE ONLY FOR PERFORMING THE SERVICES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT AND SHALL BE LIABLE ONLY FOR ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PERFORMING THOSE SERVICES. THE CREDIT UNION SHALL NOT BE RESPONSIBLE FOR YOUR ACTS OR OMISSIONS, INCLUDING WITHOUT LIMITATION, THE AMOUNT, ACCURACY, OR TIMELINESS OF TRANSMITTAL, OR THOSE OF ANY PERSON, INCLUDING, WITHOUT LIMITATION ANY FEDERAL RESERVE FINANCIAL INSTITUTION OR TRANSMISSION OR COMMUNICATIONS FACILITY, AND NO SUCH PERSON SHALL BE DEEMED THE CREDIT UNION'S AGENT. YOU AGREE TO INDEMNIFY THE CREDIT UNION AGAINST ANY CLAIMS, DAMAGES, LOSS LIABILITY OR EXPENSE (INCLUDING ATTORNEYS' FEES) RESULTING FROM OR ARISING OUT OF ANY CLAIM OF ANY PERSON THAT THE CREDIT UNION IS RESPONSIBLE FOR ANY ACT OR OMISSION OF YOURS, OR ANY OTHER PERSON DESCRIBED IN THIS PARAGRAPH. IN NO EVENT SHALL THE CREDIT UNION BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT LOSS OR DAMAGE WHICH YOU MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM THE CREDIT UNION'S ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT.

G. Your Indemnification Obligation. You agree to indemnify, defend and hold harmless the Credit Union and its shareholders, directors, officers, employees and agents (the "Indemnified Parties") from and against any and all losses, costs, expenses, fees, claims, damages, liabilities and causes of actions of third parties, including, but not limited to, reasonable attorneys' fees, resulting or arising from:

- Your failure to abide by or perform any obligation imposed upon you under this Agreement
- the willful misconduct, fraud, criminal activity, intentional tort or negligence of you or any of your representatives involving use of Mobile Deposit;
- the actions, omissions or commissions of you, your employees, consultants and/or agents relating to Mobile Deposit; and
- any transmission or instruction, whether or not authorized, acted upon by the Credit Union in good faith.

H. Miscellaneous

1. **Force Majeure.** The Credit Union is not responsible for liability, loss, or damage of any kind resulting from any delay in the performance of or failure to perform its responsibilities hereunder due to causes beyond our reasonable control.
2. **Termination.** This Agreement and your use of Mobile Deposit may be immediately terminated if your use of the service is in a manner that violates any local state or federal law, or any term of this Agreement or any other applicable agreement between you and the Credit Union. Notwithstanding any such termination, this Agreement shall remain effective in respect of any transaction occurring prior to such termination. Upon termination of this Agreement you: (1) acknowledge and agree that all licenses and rights to use the Service and Application shall terminate; (2) will cease any and all use of the Application; and (3) will remove the Application from all computing devices, hard drives, networks, and other storage media in your possession or under your control.
3. **Notices.** Notifications required by this Agreement are to be directed to the Credit Union at the address listed below.

United Bay Community Credit Union
ATTN: Operations
P.O. Box 160
Bay City, MI 48707

- 4. Enforcement.** This Agreement shall be governed by and construed under the laws of the State of Michigan as applied to contracts entered into solely between residents of, and to be performed entirely in, such state. You understand and irrevocably agree that any legal action arising out of or in connection with your Account or this Agreement, its enforcement, or our Services, shall be subject to mandatory arbitration in the manner set forth in the Mandatory Arbitration of Disputes and Claims provision of the Membership and Account Agreement, which is incorporated here by this reference. Should any one or more provisions of this Agreement be determined illegal or unenforceable in any relevant jurisdiction, then such provision may be modified by the proper court, if possible, but only to the extent necessary to make the provision enforceable and such modification shall not affect any other provision of this Agreement.
- 5. No Waiver.** The failure of the Credit Union to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver nor shall it deprive the Credit Union of the right thereafter to insist upon strict adherence to that term or any term of this Agreement.