

# Kentucky Telco Credit Union Mobile Deposit Capture Service End User Agreement

This Mobile Deposit Capture Service End User Agreement contains the terms and conditions for the use of the Mobile Deposit Capture Service that Kentucky Telco Credit Union may provide to you. The words "we," "us," "our" and "Credit Union" mean Kentucky Telco Credit Union. The words "you" or "your" mean each and all those who use the Mobile Deposit Capture Service. The word "account" means any one or more eligible deposit accounts you have with the Credit Union. This Agreement supplements the terms of other agreements you have entered into with the Credit Union, including all Membership Agreements and related fee schedules and all disclosures that govern the terms, conditions and fees of your account(s) with us. The terms and conditions of your Membership Agreements and disclosures are incorporated by reference and made a part of this Agreement. In the event of a conflict between the terms of this Agreement and your Membership Agreements and disclosures, the terms of this Agreement shall control as it regards the provision of the Service.

## Service Definitions

"Business Day" is every Monday through Friday, Eastern Standard Time, excluding Federal Reserve holidays.

"Service" refers to the Credit Union's Mobile Deposit Capture Service.

## Use of Service

This Service allows you to deposit checks into your designated eligible accounts from a remote location by capturing images of the items with a compatible mobile device which then delivers the images and associated deposit information to the Credit Union electronically. You may use this Service only for nonbusiness, personal use in accordance with this Agreement. By using the Service, you authorize the Credit Union to convert checks to images or create substitute checks for the purpose of clearing the check. Your use of the Service will indicate your acceptance of this Agreement.

## Eligibility and Qualification Requirements

We will automatically qualify and approve you to use the Service based on pre-established account eligibility criteria set from time to time by us. We reserve the right to change eligibility criteria for the Service at any time. You must access the Service through our mobile banking application. You must have or acquire and maintain a compatible mobile wireless device with the ability to take photographs and a wireless plan from a compatible wireless carrier or access to a secure Wi-Fi network.

## E-mail Address

You agree to notify us immediately if you change your e-mail address and that your notification will be made by following our procedures for updating personal information. You understand that the email address that we have on file for you is the address where we will send you notification of receipt for Mobile Deposit transactions as well as any other information about the Service we deem necessary to communicate to you. We are not responsible for any losses

incurred as a result of you not receiving or otherwise not reading notifications or confirmations we send to you.

#### Limitations of Service

You understand and agree that the Service may at times be temporarily unavailable due to Credit Union system maintenance or technical difficulties including those of the Internet service provider and Internet software. We do not assume liability for any technical or other difficulties that you may incur. In the event that the Service is interrupted or is otherwise unavailable, you acknowledge that you can deposit your check at a branch office location, through a participating ATM, or by mail.

#### Charges or Fees

There is currently no charge for the Service. We reserve the right to start charging for the Service at any time. You acknowledge that wireless providers may assess fees, limitations, or restrictions. You agree that you are solely responsible for all such fees, limitations, and restrictions, and that we may contact you via your wireless device for any purpose concerning your accounts at the Credit Union including, but not limited to, account servicing and collection purposes.

#### Items Returned Unpaid.

A written notice will be sent to you of transactions we are unable to process because of returned items. If an item you transmit for deposit is rejected or otherwise returned unpaid, you agree that we may charge back the amount of the return to the account to which the check was originally deposited and you will be assessed a fee, in the amount shown on our current Fee Schedule, for a returned check. If there are not sufficient funds in your account to cover the amount of the returned check, the account will be overdrawn and you will be responsible for payment. You agree that we may debit any account maintained by you in order to obtain payment of your obligations under this Agreement.

#### Eligible Items

You agree to deposit only "checks" as that term is defined in the Expedited Funds Availability Act as implemented by Regulation CC. You agree that the image of the of the check transmitted to us shall be deemed an "item" within the meaning of Articles 3 and 4 of the Uniform Commercial Code as adopted in Kentucky.

#### Ineligible Items

You agree that you will not use the Service to deposit any ineligible items including but not limited to the following:

- a. Checks or items payable to any person or entity other than you
- b. Post-dated checks
- c. Checks or items containing an alteration to any of the fields on the front of the check or item which you know or suspect, or should know or suspect to be fraudulent.
- d. Checks or items drawn or otherwise issued by you or any other party on any of your Credit Union accounts
- e. Checks or items not payable in United States currency
- f. Items drawn on financial institutions located outside the United States
- g. Items previously converted to a "substitute check," as defined in Regulation CC
- h. IRA and Share Certificate deposits

- i. Starter (Temporary) checks.
- j. Savings bonds
- k. Checks that require authorization
- l. Any check or item that is illegible
- m. Any check or item that is dated more than six (6) months prior to the date of deposit
- n. Any check or item stamped "non-negotiable" (whether stamped in print or as a watermark)
- o. Any check or item that has been re-deposited or returned such as "non-sufficient funds" or "refer to maker" or returned for any other reason
- p. Any check or item that is incomplete
- q. Travelers Checks
- r. Registered, government-issued warrants
- s. Government checks of any type, state or federal
- t. Any check or item (including tax refund checks and other government checks) made payable to more than one party, unless deposited into an account owned by all of the named payees

**Deposits of this nature may result in the immediate termination of the Service.** We may in our sole discretion, and without liability to you, refuse any check for any or no reason, or elect to take the check on a collection basis only. We reserve the right to charge back to your account, at any time, any item that we subsequently determine was an ineligible item. We are not liable for any service or late charges levied against you due to our rejection of any item. In all cases, you are responsible for any loss or overdraft plus any applicable fees to your account due to an item being returned.

#### Image Quality

The image of a check transmitted to the Credit Union using the Service must consist of legible images of the front and back of the check. The image that is transmitted must be of such quality that the following information can easily be read by sight review of the image:

- a. The amount of the check
- b. The payee
- c. The drawer's signature
- d. The date of the check
- e. The check number
- f. Information identifying the drawer and the paying bank that is preprinted on the check in the MICR line, including the routing transit number, account number, check amount when encoded, serial number, and process control field.

The image quality of the check must comply with the requirements established from time to time by the American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve Board, including the requirements under federal Regulation CC, or any other regulatory agency, clearing house or association.

#### Endorsement Requirements

Prior to electronically transmitting a digital image of the original check, you agree to restrictively endorse all items transmitted through the Service with your signature and print "For Mobile Deposit only at Kentucky Telco Credit Union" or as otherwise instructed by us. We reserve the right to reject all items that are not endorsed as specified.

### Deposit Limits

We may establish limits on the dollar amount and/or number of items you may deposit from time to time. If you attempt to initiate a deposit in excess of these limits, we can reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to this Agreement, and we will not be obligated to allow such a deposit at other times. When using the Service to deposit funds, deposits are limited to \$1,000 per day and \$5,000 per month.

### Receipt of Items

Upon receipt of the digital image, we will review the image for acceptability and will convert items meeting our requirements into substitute checks to facilitate the deposit and collection of such items. You understand and agree that electronically transmitting a digital image of a check does not constitute receipt of the deposit by the Credit Union. Acknowledgment that your check image has been received by the Credit Union does not mean that the check image was received error free. We reserve the right to reject any item transmitted through the Service, at our discretion. We are not liable for items we do not receive or for images that are not transmitted completely. You understand and agree that even if we do not initially reject an item you deposit through the Service, we may return the substitute check we created because, among other reasons, the paying bank deems the electronic image illegible. Our failure to reject such an item shall not limit your liability to us. You understand that any amount credited to your account for items deposited using the Service is a provisional credit and you agree to indemnify us against any loss we suffer because of our acceptance of the remotely deposited check.

### Provisional Credit and Availability of Funds

In general, if an image of an item you transmit through the Service is received and accepted before 4:00 p.m. Eastern Standard Time on a business day that we are open, we consider that day to be the day of your deposit, subject to the other terms and conditions herein. Otherwise, we will consider that the deposit was made on the next business day we are open. Funds deposited using the Service will be made available for your withdrawal and/or use in accordance with the terms and conditions of our Funds Availability Policy previously provided to you, as amended from time to time, which is incorporated herein by reference. You understand that we may make such funds available sooner or be delayed further based on such factors as creditworthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors as we, in our sole discretion, deem relevant. You also understand that credit is provisional until settlement is final.

### Retention and Disposal of Items

You agree to retain each item no fewer than sixty days after your funds have been posted to your account. Once funds have posted to your account, you agree to mark the item prominently as "Void" to ensure that it is not represented for payment. You agree to store each retained item in a secured area for a period of sixty (60) days after transmission to us in order to verify settlement and credit or to balance periodic statements. After such period expires, you will destroy the original check. You understand and agree that you are responsible for any loss caused by your failure to secure the original checks or items. During the retention period, you will promptly provide any retained item to us as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for our audit purposes. If you are unable to provide a sufficient copy of the front and back of the check you will be liable for any unresolved claims by third parties.

### Periodic Statement and Your Duty to Report Errors

Any deposits made through the Service will be reflected on your monthly periodic statement. You understand and agree that you are required to immediately notify us at 1-800-292-9490 as soon as possible if you believe your statement is incorrect, or if you need more information about a transaction listed on the statement. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem appeared. You are responsible for any errors that you fail to bring to our attention within such time period.

### Ownership and License

You agree that we retain all ownership and proprietary rights in the Service, associated content, technology, and website(s). Your use of the Service is subject to and conditioned upon your complete compliance with this Agreement. Any breach of this Agreement immediately terminates your right to use the Service. You may not use the Service (i) in any anti-competitive manner; (ii) for any purpose which would be contrary to our business interest; or (iii) to our actual or potential economic disadvantage in any aspect. 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 Service.

### Hardware and Software

In order to use the Service, you must obtain and maintain, at your expense, compatible hardware and software as specified by the Credit Union from time to time on the Service website. You will also be required to download and install the Service application to your mobile device from your wireless service provider.

### Security Requirements

To prevent unauthorized usage of the Service, you agree to ensure the security of the mobile device you own and use to access the Service. Securing your device includes, but is not limited to, installing operating system patches, antivirus software, firewall and spyware detection as applicable and keeping this security software current, as well as securing the physical device from theft or unauthorized use.

### Joint Accounts

If you have designated a joint owner on your account, your joint owner will also have online access to the Service. You and your joint owner(s) are equally responsible for adhering to the terms and conditions of this Agreement.

### User Representations and Warranties

You make the following representations and warranties with respect to your use of the Service and each image of an original check you transmit to us using the Service:

- a. Each image of a check transmitted to us 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.
- b. The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
- c. Other than the digital image of an original check that you remotely deposit through the Service, there are no other duplicate images of the original check.
- d. You will not deposit or re-present the original item once it has been captured and transmitted through the Service, unless specifically requested to do so by the Credit Union.

- e. All information you provide to us is accurate and true, and you have not knowingly failed to communicate any material information to us.
- f. You will not use the Service and/or your accounts for any illegal activity or transactions.
- g. You will comply with this Agreement and all applicable rules, laws, and regulations.
- h. Items you transmit do not contain viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.
- i. You will retain possession of each original check deposited using the Service for the required sixty (60) day retention period and neither you nor any other party will submit the original check for payment.
- j. You will destroy the original check after the required retention period.
- k. Each check you submit for deposit is drawn in United States dollars on a financial institution located in the United States, excluding its territories.

If you breach any of the foregoing representations and warranties, your rights to the Service will be terminated.

### **DISCLAIMER OF WARRANTIES**

YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR RISK. YOU ALSO UNDERSTAND AND AGREE THAT THE SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU UNDERSTAND AND AGREE THAT WE DO NOT MAKE ANY WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICE, EQUIPMENT, HARDWARE, SOFTWARE OR INTERNET PROVIDER SERVICE, OR ANY PART OF THEM, WHETHER EXPRESSED 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 SERVICE WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. WE ALSO MAKE NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED FROM USING THE SERVICE WILL BE ACCURATE OR RELIABLE, OR THAT ANY ERRORS IN THE SERVICE OR TECHNOLOGY WILL BE CORRECTED. WE ARE NOT RESPONSIBLE FOR ANY LOSS, INJURY OR DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, CAUSED BY YOUR INTERNET PROVIDER, ANY RELATED SOFTWARE OR THE CREDIT UNION'S USE OF ANY OF THEM OR ARISING IN ANY WAY FROM THE INSTALLATION, USE OR MAINTENANCE OF YOUR PERSONAL MOBILE DEVICE, HARDWARE, SOFTWARE OR OTHER EQUIPMENT.

### **LIMITATION OF LIABILITY**

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

### Indemnification

You agree to indemnify, defend and hold harmless the Credit Union and its directors, officers, employees, members and agents from and against any and all losses, costs, expenses, fees (including, but not limited to, reasonable attorneys' fees), claims, damages, liabilities and causes of action of third parties resulting or arising from: (i) your failure to abide by or perform any obligation imposed upon you under this Agreement; (ii) the willful misconduct, fraud, criminal activity, intentional tort or negligence of you or any of your representatives involving use of the Service; (iii) the actions, omissions or commissions of you, your employees, consultants and/or agents relating to the Service; and (iv) any transmission or instruction, whether or not authorized, acted upon by the Credit Union in good faith. Your obligations under this paragraph shall survive termination of this Agreement.

### Change in Terms

We reserve the right to change the terms and conditions of the Service or terminate this Agreement as described in your online banking agreement. Your continued use of the Service after the effective date of the change will indicate your acceptance of the revised Agreement.

### Governing Law

This Agreement supplements the terms of your Membership Agreements and Disclosures. Together they constitute the entire Agreement between you and us with respect to the Service. You may not assign this Agreement. This Agreement is governed by the laws of the Commonwealth of Kentucky and of the United States. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid. Unauthorized use of this Service is strictly prohibited.

### Termination of the Service

You may, by written request, terminate the Service. We may terminate your use of the Service at any time upon written notice. In the event of termination of the Service, you will remain liable for all transactions performed on your account. Upon termination, you will immediately cease using the Service. The Credit Union may immediately suspend or terminate your access to the Service in the event that the Credit Union reasonably determines such suspension or termination is necessary in order to protect the Service or the Credit Union from harm or compromise of integrity, security, reputation or operation or that you are in breach of this Agreement or are otherwise using the Service in a manner inconsistent with the terms of this Agreement or with applicable law.

### Relationship to Other Disclosures

The information in this Agreement applies only to the Service described herein. Provisions in other disclosure documents, as may be revised from time to time, remain in effect for all other aspects of your account.

### Waiver

We will not be deemed to have waived any of our rights or remedies under this Agreement unless such waiver is in writing and signed by us. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

### Force Majeure

You understand and agree that we are not responsible or liable for any loss, liability, damages, expenses, or cost of any kind resulting from any delay or interruption in the Service due to causes beyond our reasonable control.

### Risk of Loss

In the event of a system failure or interruption, your data may be lost or destroyed. Any transaction(s) that you initiated, were in the process of completing, or completed shortly before a system failure or interruption, should be verified by you through means other than online to ensure the accuracy and completeness of such transaction(s). You assume the risk of loss of your data during any system failure or interruption and the responsibility to verify the accuracy and completeness of any transaction(s) so affected.