

## SunState Federal Credit Union Mobile Deposit Terms and Conditions

This Agreement governs your use of the Mobile Deposit service (the "Service"). By enrolling to use the Service, or using the Service, you agree to be bound by the terms and conditions contained in this Agreement.

Please read this Agreement carefully and keep it for future reference. In addition to this Agreement, your Account is also governed by our *Terms and Conditions of Your Account* booklet, including the section entitled "Electronic Fund Transfers Your Rights and Responsibilities," and our *Consumer Fee Schedule* (together, the "Deposit Agreement"). However, the terms and conditions of this Agreement, in the event of a conflict, shall supersede the terms and conditions of the Deposit Agreement with respect to the deposits made through the Service. Deposits made through other channels continue to be governed by the Deposit Agreement.

### Definitions

"You" and "your" means a person who has applied for or uses the Mobile Deposit service for personal use.

"Credit Union," "we," "us" and "our" mean SunState Federal Credit Union and its successors or assigns.

"Account" means your deposit account with us to which you are authorized to make a deposit using a Mobile Device.

"Mobile Device" means any device acceptable to us from time to time that provides for the capture of images from Items and for transmission through the clearing process. At present, the supported Mobile Devices are iPhone, iPad, and Android devices. Supported devices are subject to change without prior notice to you.

"Check 21" means the Check Clearing for the 21st Century Act.

"Image" means the electronic image of the front and back of an Item, in addition to other required information, as specified by us, in the format we specify.

"Image Replacement Document" or "IRD" means a substitute check, as defined in Check 21.

An "Item" is an original: check, cashier's check, official check, U.S. Treasury check, or any other payment instrument drawn on a financial institution within the United States and payable in U.S. currency that is payable to you. Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC.

"User Guide" means the application download instructions, device instructions and FAQs we provide to you on our Internet site from time to time, in addition to any help content contained within the software application that is downloaded to your Mobile Device.

### **1. Mobile Capture Service.**

Pursuant to the terms of this Agreement, you may use the Service to deposit Items to your Account by creating an Image of the Item using a Mobile Device, and transmitting that Image to us for deposit. You may transmit Images to us only from a Mobile Device located in the United States.

### **2. Hardware and Software Requirements.**

You agree to transmit an Image to us using only a Mobile Device compatible with the Service. We may, but are not required to, reject Images that you transmit to us with an unapproved Mobile Device or by other means to which we have not given our consent.

Any Mobile Device that you use to transmit Images to us pursuant to this Agreement must be compatible for use with this application. We may change the list of approved Mobile Devices from time to time.

You are responsible for the security of the Mobile Device and for allowing its use only by persons authorized by you. You agree to implement and maintain specific internal security controls to protect the Mobile Device and your financial information. We may require that you implement and maintain additional specific controls, and we may notify you of those controls and amend them from time to time.

You are responsible for all costs of using the Service and operating the Mobile Device, including, but not limited to telephone and internet service charges.

You are responsible for maintaining connectivity required for use of the Service. We shall notify you of those requirements, and we may amend them from time to time.

### **3. Image Quality.**

You are responsible for the image quality of any Image that you transmit. If an Image that we receive from you or for deposit to your Account is not of sufficient quality to satisfy our image quality standards as we may establish them from time to time, we may reject the Image without prior notice to you.

Each Image must include the front and back of the Item and the following information must be clearly readable: amount, payee name, drawer signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and any endorsement or other information written on the check.

### **4. Processing Images.**

You authorize us to process any Image that you send us or convert an Image to an Image Replacement Document (IRD). You authorize us and any other bank to which an Image is sent to handle the Image or IRD.

## **5. Limits.**

We may establish limits on the dollar amount and/or number of Items or deposits permitted to be deposited by you through use of the Service. 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 the established 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.

## **6. Deposit of other items; deposits when Service not available.**

You agree that you will not use the Service to deposit anything not meeting the definition of an Item. If you use the Service to transmit anything that is not an Item as expressly identified in section 12.k. below, or if for any reason we are not able to recognize something transmitted as an Item, we may reject it without prior notice to you. You agree to make those deposits through other channels that we offer, such as at a Credit Union branch, ATM, or mail. You further agree to use such other channels when the Service may not be available.

## **7. Returned Items.**

You are solely responsible for any Item for which you have been given provisional credit, and any such Item that is returned or rejected may be charged to your Account or any other account in your name. You acknowledge that all credits received for deposits made through the Service are provisional, subject to verification and final settlement. Any Item that we return to you will be returned in the form of an Image or an IRD. You will be subject to fees as outlined in the *Consumer Fee Schedule*.

## **8. Handling of Transmitted Items.**

You agree not to allow an Item to be deposited or presented for payment more than once to the extent that it could result in the payment of the Item more than once. You will not allow the transmission of an Image of an Item that has already been presented to us or to any financial institution by any means. You will not allow transmission of an Image of an Item that has already been transmitted through the Service. If an Image of an Item has been transmitted to us or to any other financial institution, you will not allow the Item to be subsequently presented by any other means. If any Item is presented or deposited more than once, whether by Image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.

You agree to restrictively endorse any item transmitted through the Service with your signature as well as "For Mobile Deposit Only, SunState Federal Credit Union" and your account number, or as otherwise instructed by us. You agree to follow any and all other procedures and instructions for use of the Service as we may establish from time to time.

For any Image which you have transmitted, you shall be responsible for preventing the transmission of another Image of the Item or presentment of the Item by any other means. You agree to securely retain the Item for at least 14 calendar days from the date of the Image transmission, and thereafter to either destroy any Item of which you have transmitted an Image or to otherwise render it incapable of transmission or presentment.

## 9. Cooperation with Investigations.

You agree to cooperate with us in the review or investigation of any transactions, poor quality transmissions or claims, including, without limitation, by providing, upon request and without further cost, any originals or copies of Items in your possession and your records relating to Items and transmissions.

## 10. Payment Processing.

### a. Item Processing

At our sole discretion, we may process the Images you send to us electronically through other financial institutions, or we may create Image Replacement Documents that will be processed through traditional check processing methods. If you send us Images that are incomplete, that fail to satisfy our image quality requirements, or otherwise do not allow us to meet the requirements of Check 21 or any image exchange agreement that would cover our further electronic transmission of Images that you send us, or we are otherwise unable to process Images that you send us, we may charge the Images back to your account. You agree to be bound by any clearinghouse agreements, operating circulars, and image exchange agreements to which we are a party.

### b. Receipt of Items

We reserve the right to reject any Image or Item transmitted through the Service, at our discretion, without liability to you. We are not responsible for Images we do not receive or for Images that are dropped during transmission. An Image of an Item shall be deemed received only when you receive a confirmation from us that we have received the Image and accepted your deposit. Our sending a confirmation to you does not mean the transmission was error free or complete.

### c. Funds availability

If an Image you transmit through the Service is received and accepted before 4:00 p.m. Eastern 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. You agree, however, that items transmitted through the Service are not subject to the funds availability requirements set forth in the "Your Ability to Withdraw Funds" section of the Credit Union's Terms and Conditions of Your Account or Regulation CC of the Federal Reserve Board. Nevertheless, we will generally make the first \$200 of a day's total deposits available by the first (1<sup>st</sup>) business day after the day of your deposit and the remainder available by the third (3<sup>rd</sup>) business day after the day of your deposit. We reserve the right to delay availability up to seven days from the date we receive payment for Items transmitted through the Service. If you are a new member, the following special rule may apply during the first thirty (30) days your account is open. All funds from deposits using this Service will be available on the ninth (9<sup>th</sup>) business day after the day of your deposit.

### d. Errors

You agree to notify us of any suspected errors regarding Items deposited through the Service as soon as possible, and in no event later than 60 days after the applicable Credit Union account statement is sent to you. Unless you notify us within 60 days, such statement regarding all deposits made through the Service shall be deemed correct, and you are prohibited from bringing a claim against us for such alleged error.

## 11. Fees.

You are responsible for paying the fees for use of the Service as set forth in our *Consumer Fee Schedule*. The Credit Union may change the fees for use of the Service at any time pursuant to the section titled "Amendment" below. You authorize the Credit Union to deduct any such fees from any account in your name.

## 12. Representations and Warranties

You make the following representations and warranties to us:

- a. You and any user you authorize will use the Service only for lawful purposes and in compliance with all applicable rules and regulations and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.
- b. You will use the Service to transmit and deposit Images of Items only.
- c. You will transmit only Images of Items acceptable for deposit through the Service and will handle Items as agreed herein.
- d. You are a person authorized to enforce each Item or are authorized to obtain payment of each Item on behalf of a person entitled to enforce an Item.
- e. Items submitted for deposit through use of the Service are valid Items and you will reimburse and indemnify the Credit Union for all loss, damage, and expenses, including reasonable attorney's fees, incurred in defending any allegation that such Items are invalid or fraudulent.
- f. Items have not been altered.
- g. Each Item bears all required and authorized endorsements.
- h. Each Item has been endorsed as "For Mobile Deposit Only, SunState Federal Credit Union" and includes your account number, or has been endorsed as otherwise instructed by us.
- i. All of the warranties set forth in Section 4-207 of the Uniform Commercial Code.
- j. All Images accurately and legibly represent all of the information on the front and back of the Item.
- k. You will not use the Service to transmit or deposit any Item, (i) payable to any person or entity other than you, (ii) 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, (iii) which you know or should know to be fraudulent, altered, unauthorized, or missing a necessary endorsement, (iv) that is a substitute check or image replacement document, (v) that is drawn on an institution located outside of the United States, (vi) that is not payable in United States currency, (viii) that is dated more than 6 months prior to the date of deposit or dated after the date of the deposit, (ix) that is created by you purportedly on behalf of the maker, such as a remotely created check, or (x) that is a savings bond.
- l. No depository financial institution, drawee, drawer, or endorser will receive presentment or return of, or otherwise be charged for, a substitute check, the original check, or a paper or electronic representation of a substitute check or the original check such that that person will be asked to make a payment based on a check that it already has paid.
- m. You will use the Service in the manner required by this Agreement and the User Guide.
- n. You, if acting on behalf of a small business entity, are fully authorized to execute this Agreement.
- o. All information you provide to us is accurate and true.

You shall be deemed to have repeated each of the foregoing representations and warranties each time you transmit an Image through use of the Service.

### **13. Indemnification and Limitations on Liability.**

In addition to the indemnifications and limitations on liability contained in the *Terms and Conditions of Your Account*, you hereby indemnify and hold harmless the Credit Union and each of its directors, officers, employees, agents, successors, and assigns ("Indemnitees") from and against all liability, loss, and damage of any kind (including attorneys' fees and other costs incurred in connection therewith) incurred by or asserted against such Indemnitee in any way relating to or arising out of (a) the Service, (b) any Image, Item or IRD, (c) any failure by you to comply with the terms of this Agreement or breach by you of any representation or warranty contained herein, (d) any failure by you to comply with applicable laws and regulations, or (e) any acts or omissions of you or any third party. This paragraph shall survive the termination of this Agreement for any reason.

YOU AGREE YOUR USE OF THE SERVICE 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. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICE, 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 (i) THE SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE SERVICE 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 SERVICE OR TECHNOLOGY WILL BE CORRECTED.

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 SERVICE 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 SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF SUNSTATE FEDERAL CREDIT UNION HAS BEEN INFORMED OF THE POSSIBILITY THEREOF. WITHOUT IN ANY WAY LIMITING THE FOREGOING, YOU AGREE FURTHER THE CREDIT UNION SHALL NOT BE LIABLE FOR ANY DAMAGES OTHER THAN THOSE CAUSED SOLELY AND DIRECTLY BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND ITS LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL IN FEES YOU PAID FOR THE USE OF THE SERVICE DURING THE SIX MONTH PERIOD PRIOR TO THE SUPPOSED ACT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

## **14. Intellectual Property**

This Agreement does not transfer to you any ownership or proprietary rights in the Service, the Mobile Device or any associated software or any part thereof. We or our agents retain all intellectual property rights, title and interest in and to the Service, Mobile Device and any associated software.

Neither you nor any user you authorize will (a) sell, lease, distribute, license or sublicense the Service; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Service or any part of it in any way for any reason; (c) provide, disclose, divulge or make available to or permit use of the Service by any third party; (d) copy or reproduce all or any part of the Service; or (e) interfere, or attempt to interfere, with the Service in any way.

## **15. Termination**

We may terminate or suspend the Service, or your use of the Service, immediately and at any time with or without notice to you. You may terminate your use of the Service at any time by giving notice to us. Your notice will not be effective until we receive your notice of termination as provided in the User Guide, as it may be amended from time to time, and we have had a reasonable time within which to act upon it. Notwithstanding termination, any Image transmitted through the Service shall be subject to this Agreement.

## **16. Amendment**

We may change this Agreement at any time. We may add new terms and conditions and we may delete or amend existing terms and conditions. We may send you advance notice of the change. If a change is favorable to you, however, we will make the change at any time without advance notice. If you do not agree with the change you may discontinue using the Service. However, if you continue to use the Service, your continued use shall be deemed your acceptance of and agreement to the change.

## **17. Severability**

Any provision of this Agreement that is unenforceable shall be ineffective to the extent of such provision, without invalidating the remaining provisions of this Agreement. If performance of the Services would result in violation of any law, regulation, or governmental policy, this Agreement shall be deemed amended to the extent necessary to comply therewith.

## **18. Entire Agreement**

This Agreement, the Deposit Agreement, and the User Guide contain the entire agreement between the parties relating to the subject matter addressed herein, and supersede any prior or contemporaneous understandings or agreements, whether oral or written, between the parties regarding the subject matter contained herein.

## **19. Headings**

The headings preceding the text of the sections and subsections of this Agreement are used solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement.

## 20. Assignment

This Agreement shall not be assigned or delegated by you without the prior written consent of the Credit Union.

## 21. Governing Law

This Agreement, and your rights and our obligations under this Agreement, are governed by and interpreted according to the laws of the State of Florida and of the United States. In the event of any dispute arising out of or related to the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and collection expenses in addition to any other recovery. You and we agree any legal action related to this Agreement shall be filed and heard in Alachua County, Florida, except as prohibited by applicable law.

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