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cu1.org

**Credit Union 1**

# Mobile Banking Services Agreement

This Agreement covers your and our rights and responsibilities concerning your Mobile Banking services offered to you by Credit Union 1 ("Credit Union"). In this Agreement, the words "you" and "yours" mean those who sign an application or authorization to use a Mobile Banking service and any authorized users. The words "we," "us," and "our" mean the Credit Union. By submitting a Mobile Banking Service enrollment or your acceptance of Mobile Banking services, each of you, jointly and severally, agree to the terms and conditions in this Agreement and any amendments. You agree that when you use Mobile Banking, you will remain subject to the terms and conditions of all your existing agreements with us including the Member Service Agreement and "Our Electronic Funds Transfer Terms."

Electronic funds transfers ("EFTs") are electronically initiated transfers of money through the Mobile Banking services ("Services") involving your deposit accounts at the Credit Union.

## 1. Mobile Banking Services

### a. Service Access

Mobile Banking is a personal financial information management service that allows you to access account information, make payments to merchants who have previously consented to accept payments through our Online Banking service and make such other transactions as described above using compatible and supported mobile phones and wireless devices ("Wireless Device"). You agree and understand that the Mobile Banking service may not be accessible or may have limited utility over some mobile telephone networks, such as while roaming. At the present time, you may use Mobile Banking to:

- View account balances and transaction history.
- Transfer funds among accounts with us including payments to consumer, real estate and credit card loans.
- Transfer funds from the accounts with us to the accounts of other Credit Union 1 members.
- Check current Credit Union 1 deposit and loan rates.
- Locate Credit Union 1 branches and ATMs.
- Get Credit Union 1 contact information.

When you register for Mobile Banking, the designated accounts and bill payment payees linked to the account through Online Account Access will be accessible through Mobile Banking.

### b. Use of Services

You are fully responsible for understanding how to use Mobile Banking before you actually do so, and you must use Mobile Banking in accordance with any use or operational instructions posted on our web site. You are also responsible for your use of your Wireless Device and the Mobile Banking Service software provided to you. If you authorize the use of biometric login (for example, fingerprint or retinal scan) for Mobile Banking, the service may be accessed using any biometric login recognized by your wireless device, even if it is not your own. If you have permitted another person to use their own biometrics to authorize activity on your wireless device, their biometrics will also gain access to Mobile Banking if you have authorized biometric login. We will not be liable to you for any losses caused by your failure to properly use Mobile Banking, the Software or your Wireless Device. You may experience technical or other difficulties related to Mobile Banking that may result in loss of data, personalization settings or other Mobile Banking interruptions. We assume no responsibility for the timeliness, deletion, misdelivery or failure to store any user data, communications or personalization settings in connection with your use of Mobile Banking. We assume no responsibility for the operation, security,

or functionality of any Wireless Device or mobile network that you utilize to access Mobile Banking. Financial information shown on Mobile Banking reflects the most recent account information available through Mobile Banking, and may not be current. You agree that we are not liable for delays in updating account information accessed through Mobile Banking. We are not responsible for any actions you take based on information accessed through the Mobile Banking app that is not current. If you need the most current account information, you agree to contact us directly.

In the event we change or upgrade Mobile Banking, you are responsible for making sure you that you understand how to use Mobile Banking as changed or upgraded. We will not be liable to you for any losses caused by your failure to properly use Mobile Banking or your Mobile Device.

### c. Relationship to Other Agreements

You agree that when you use Mobile Banking, you will remain subject to the terms and conditions of your existing agreements with any service providers of yours, including service carrier or provider (e.g., Cingular, Verizon, Sprint, T-Mobile, Alltel, etc.). You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of Mobile Banking (for example, your mobile service carrier or provider may impose data usage or text message charges for your use of or interaction with Mobile Banking, including while downloading the Software, receiving or sending Mobile Banking text messages, or other use of your Mobile Device when using the Software or other products and services provided by Mobile Banking), and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service carrier or provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your carrier or provider directly with your carrier or provider without involving us. You also agree that if you have any problems with Mobile Banking, you will contact us directly.

### d. Mobile Banking Software License

You are hereby granted a personal, limited, non-transferable, non-exclusive, non-sublicensable and non-assignable license ("License") to download, install and use the Software application on your Mobile Device within the United States and its territories. In the event that you obtain a new or different Mobile Device, you will be required to download and install the Software application to that new or different Mobile Device. This License shall be deemed revoked immediately upon:

- your termination of Mobile Banking in accordance with this Agreement;
- your deletion of the Software application from your Mobile Device; or
- our written notice to you at any time with or without cause. If this License is revoked for any of the foregoing reasons, you agree to promptly delete the Software application from your Mobile Device.

### f. Your Obligations

When you use Mobile Banking to access accounts you designate during the registration process, you agree to the following requirements. You agree not to use Mobile Banking or the content or information delivered through Mobile Banking in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy, including any rights in the Software application (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of Mobile Banking to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those

governing export control, consumer protection, unfair competition, anti-discrimination or false advertising); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to Mobile Banking; (i) interfere with or disrupt the use of Mobile Banking by any other user; or (k) use Mobile Banking in such a manner as to gain unauthorized entry or access to the computer systems of others.

## 2. Mobile Banking Service Limitations

Neither we nor any of our service providers assume responsibility for the timeliness, deletion, misdelivery or failure to store any user data, communications or personalization settings in connection with your use of Mobile Banking. Neither we nor any of our service providers assume responsibility for the operation, security, functionality or availability of any Mobile Device or mobile network which you utilize to access Mobile Banking. You agree to exercise caution when utilizing the Mobile Banking application on your Mobile Device and to use good judgment and discretion when obtaining or transmitting information. Financial information shown on Mobile Banking reflects the most recent account information available through Mobile Banking, and may not be current. You agree that we are not liable for delays in updating account information accessed through Mobile Banking. We are not responsible for any actions you take based on information accessed through the Mobile Banking app that is not current. If you need the most current account information, you agree to contact us directly.

## 3. Mobile Deposit Service

The Mobile Deposit service allows you to make deposits to your accounts using compatible and supported mobile phones and/or other compatible and supported Mobile Devices.

### a. Mobile Deposit Capture Process

If we approve the Mobile Deposit Service for you, you must use username and password to access your accounts. You may photograph an image of checks with your mobile device creating an electronic image and you may transmit the electronic image that the Credit Union will deposit to your account. The Credit Union may, in its discretion, convert items meeting the Credit Union's required standards into substitute checks to facilitate the deposit and collection of such items. You agree that the manner in which checks are cleared or presented for payment shall be determined by Credit Union, in its sole discretion. We reserve the right to select the clearing agents through which we clear checks.

### b. Funds Availability

Funds from items deposited through a Mobile Deposit Capture will be available on the day the item is cleared by the payor bank and the Credit Union has been given credit. Funds deposited using the service will generally be made available within three (3) business day of the day of deposit. Checks deposited after 2:00 pm will be considered to have been deposited on the next business day. There may be additional holds on deposited items in our sole discretion based on your account history and as set forth "Funds Availability of Deposits," as amended from time to time, which is incorporated herein by reference. You agree that the imaging and transmitting of checks alone does not constitute receipt by the Credit Union. Also, acknowledgment of receipt or delivery does not constitute an acknowledgment by the Credit Union that the transmission of a check or items does not contain errors or that funds will be available. Checks deposited through Mobile Deposit are not received by the Credit Union until we have acknowledged receipt and provided credit to your account.

### c. Deposit Limitations

Mobile Deposits are subject to limits including daily and monthly limits on the dollar amounts. We can modify these limits and add others at any time in our discretion. We do not need to tell you if

we believe a transaction limit is necessary to maintain or restore the security of an account or the service.

### d. Deposit Acceptance

You agree that the Credit Union may at any time, in its sole discretion, refuse to accept deposits of checks from you via a Mobile Deposit session. In the event that the Service is interrupted or is otherwise unavailable, you may deposit checks in person at a Credit Union branch or via night drop or mail or other contractually acceptable method.

## 4. Your Responsibilities for Mobile Deposits

### a. Member Account

You must designate a Credit Union savings or checking account as the settlement account to be used for the purposes of settling, transactions requested in connection with the Service. We will provide you with details of each specific transaction. You will be responsible for reviewing and balancing of any settlement account.

### b. Responsibility for Imaging

You are solely responsible for imaging deposit items, accessing the service from the Credit Union and for maintaining your mobile device. You will be responsible for the payment of all telecommunications expenses associated with the service. The Credit Union shall not be responsible for providing or servicing any scanning equipment or mobile device for you.

### c. Deposit Requirements

You agree that you will only use the Service to deposit checks drawn on financial institutions within the United States. For checks not falling within this requirement you must deposit those checks in person, using a night drop facility or by U.S. Mail. You agree that each check you deposit through the Service will meet the image quality standards directed in the application.

For all mobile check deposits, you must endorse the original paper check with your name and providing: "FOR MOBILE DEPOSIT ONLY". If you fail to provide this endorsement, we may refuse the deposit and return it to you and you agree to indemnify the Credit Union from any liability or loss to the Credit Union arising from the payment of the original paper check without such required endorsement. Eligible endorsements must include your signature.

### d. Check Retention & Destruction

You agree that all checks belong to you and not to the Credit Union and that those items shall be handled in accordance with this Agreement and your Member Service Agreement. After our receipt of a deposit transmission we will acknowledge by electronic means our receipt of such transmission. Your electronic transmission is subject to proof and verification. You will retain the original of all imaged checks that have been deposited via Mobile Deposit for a reasonable period of time in order to verify settlement and credit or to balance periodic statements, but in no case beyond ninety (90) days from the date processed. It is your responsibility to properly destroy and dispose of such original checks after such time. During the period that you maintain any original checks, you understand and agree that you must use a high degree of care to protect these original checks against security risks. These risks include, without limitation:

- theft or reproduction of the original checks (including by employees) for purposes of presentment for deposit of these original checks (i.e., after the original checks have already been presented for deposit via the Service) and

- unauthorized use of information derived from the original checks.
- When you dispose of any original checks, you understand and agree that you must use a high degree of care when selecting and implementing disposal procedures to ensure that the original checks are not accessed by unauthorized persons during the disposal process and, once destroyed, the original checks are no longer readable or capable of being reconstructed.

**e. Deposit Prohibitions**

You agree not to deposit, or attempt to deposit, or allow others, either directly or indirectly, to deposit, or attempt to deposit, by any means:

- Any substitute check, the original of which has already been presented for deposit via the Service;
- Any image of a check that has already been deposited either as an original or as a substitute check;
- Any original check, the substitute check of which has already been presented for deposit via Mobile Deposit;
- Any check made payable (individually or jointly) to someone who is not an owner on your account;
- Any post-dated or stale-dated check;
- Money orders, traveler's checks, or gift checks;
- Starter checks or counter checks; and
- State warrants or other instruments that are not checks;

If you, or any third party, makes, or attempts to make, a deposit in violation of this Subsection you agree to defend, indemnify, and hold Credit Union and its agents harmless from and against all liability, damage and loss arising out of any claims, suits, or demands brought by third parties with respect to any such substitute check or original check. You agree that the aggregate amount of any items which are deposited more than once will be debited from your account, and to the extent funds in your account are insufficient to cover such amount, any balance shall be debited by Credit Union from any other deposit accounts with Credit Union in its sole discretion. You further acknowledge that you and not the Credit Union is responsible for the processing and handling of any original items which are imaged and deposited utilizing the Service and you assume all liability to the drawer of any item imaged using the service or liability arising from the Credit Union's printing of any substitute check from those images.

**f. Financial Responsibility**

You understand that you remain, solely and exclusively responsible for any and all financial risks, including, without limitation, insufficient funds associated with accessing the Service. The Credit Union shall not be liable in any manner for such risk unless the Credit Union fails to follow the procedures described in materials for use of the service. You assume exclusive responsibility for the consequences of any instructions you give to the Credit Union, for your failures to access the Service properly in a manner prescribed by the Credit Union, and for your failure to supply accurate input information, including, without limitation, any information contained in an application.

**g. Account Reconciliation**

You will verify and reconcile any out-of-balance condition, and promptly notify the Credit Union of any errors within the time periods established in the Member Service Agreement after receipt of your account statement. If notified within such period, the Credit Union shall correct and resubmit all erroneous files, reports, and other data at the Credit Union's then standard charges, or at no charge, if the erroneous report or other data directly resulted from the Credit Union's error.

**h. Your Representations and Warranties**

You represent and warrant:

1. That you will comply with all federal and state laws, and rules and regulations applicable to deposit and check transactions, including those of the National Automated Clearing House for ACH transactions;
2. That all checks deposited through the Service are made payable to you;
3. That all signatures on each check are authentic and authorized; and
4. That each check has not been altered.

In the event you breach any of these representations or warranties, you agree to defend, indemnify and hold the Credit Union and its

agents harmless from and against all liability, damages and loss arising out of any claims, suits or demands brought by third parties with respect to any such breach. You further authorize the Credit Union to charge its account for the amount of any such demand, claim or suit that constitutes a breach of warranty claim under the provisions of the Uniform Commercial Code.

**5. Our Obligations for Mobile Deposit****a. Financial Data**

We will review and process your electronic file through a batch processing at one time per day. The Credit Union agrees to transmit all the financial data under its control required to utilize the service selected by you and to act on appropriate instructions received from you in connection with such service. The Credit Union shall exercise due care in seeking both to preserve the confidentiality of the user number, password, test key, or other code or identifier and to prevent the use of the service by unauthorized persons (and in this connection it is understood and agreed that implementation by the Credit Union of its normal procedures for maintaining the confidentiality of information relating to its members, and where practicable the obtaining by the Credit Union from any third parties engaged in the installation, maintenance and operation of the system of similar undertakings, shall constitute fulfillment of its obligation to exercise due care) but shall not otherwise be under any liability or have any responsibility of any kind for any loss incurred or damage suffered by you by reason or in consequence of any unauthorized person gaining access to or otherwise making use of the service. You assume full responsibility for the consequences of any misuse or unauthorized use of or access to the Service.

**b. Service Availability**

You understand that Service availability is at all times conditioned upon the corresponding operation and availability of the communication systems used in communicating your instructions and requests to the Credit Union. We will not be liable or have any responsibility of any kind for any loss or damage thereby incurred by you in the event of any failure or interruption of such communication systems or services resulting from the act or omission of any third party, or from any other cause not reasonably within the control of the Credit Union.

**c. Exception Items**

When we review and process your electronic file, we may reject any electronic image that we determine to be ineligible for the service ("Exception Item") including, without limitation, electronic images of items drawn on banks located outside the United States, items drawn on U.S. Banks in foreign currency, electronic images that are illegible (due to poor image quality or otherwise), electronic images of items previously processed, electronic images previously converted to substitute checks, and electronic images with unreadable MICR information. We will notify you of any Exception Items. You agree that if you wish to attempt to deposit any Exception Item to any of your accounts with Credit Union, you will only do so by depositing the original item on which the Exception Item is based. You acknowledge and agree that even if you do not initially identify an electronic image as an Exception Item, the substitute check created by the Credit Union there from may nevertheless be returned to the Credit Union because, among other reasons, the electronic image is deemed illegible by a paying bank. The Credit Union's failure to identify an Exception Item shall not preclude or limit your obligations to the Credit Union.

**d. Account Information**

We will provide you with daily transaction history via the Internet and the Online Banking service detailing items processed, return items, and deposit adjustments.

**6. Security of Password or Access Code****a. Security**

The personal identification number, password or access code ("access code") that you select is for your security purposes. The

access code is confidential and should not be disclosed to third parties or recorded. You are responsible for safekeeping your access code. You agree not to disclose or otherwise make your access code available to anyone not authorized by you to sign on your accounts. If you authorize anyone to have or use your access code, you understand that person may use the Mobile Banking service to review all of your account information and make account transactions. Therefore, we are entitled to act on transaction instructions received using your access code and you agree that the use of your access code will have the same effect as your signature authorizing transactions.

#### **b. Authorization**

If you authorize anyone to use your access code in any manner, that authority will be considered unlimited in amount and manner until you specifically revoke such authority by notifying the Credit Union and changing your access code immediately. You are responsible for any transactions made by such persons until you notify us that transactions and access by that person are no longer authorized and your access code is changed. If you fail to maintain or change the security of these access codes and the Credit Union suffers a loss, we may terminate your electronic funds transfer and account services immediately.

If you authorize the use of biometric login (for example, fingerprint or retinal scan) for Mobile Banking, the service may be accessed using any biometric login recognized by your wireless device, even if it is not your own. If you have permitted another person to use their own biometrics to authorize activity on your wireless device, their biometrics will also gain access to Mobile Banking if you have authorized biometric login.

### **7. Your Liability for Mobile Banking Transactions**

You are responsible for all transfers you authorize using the Mobile Banking service under this Agreement. If you permit other persons to use your access code, you are responsible for any transactions they authorize or conduct on any of your accounts. However, tell us at once if you believe anyone has used your access code and accessed your accounts without your authority. Telephoning is the best way of keeping your possible losses down. For Mobile Banking transactions, if you tell us within two (2) business days, you can lose no more than \$50 if someone accessed your account without your permission. If you do not tell us within two (2) business days after you learn of the unauthorized use of your account or access code, and we can prove that we could have stopped someone from accessing your account without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows Mobile Banking transfers that you did not make, tell us at once. If you do not tell us within sixty (60) days after the statement was mailed to you, you may be liable the full amount of the loss if we can prove that we could have stopped someone from making the unauthorized EFT transactions. If a good reason (such as a hospital stay) kept you from telling us, we may extend the time periods.

If you believe your access code has been lost or stolen or that someone has transferred or may transfer money from your account without your permission, call: 907.339.9485 or toll free at 800.478.2222, or write to us at: 1941 Abbott Road, Anchorage, AK 99507.

### **8. Fees and Charges**

There are no Credit Union charges for the Mobile Banking Services except as set forth in this Agreement and "Our Rates and Service Charges." Your normal account charges will continue to apply as set forth on "Our Rates and Service Charges." You authorize us to automatically charge your account for all such fees incurred under this Agreement. In the future, we may add to or enhance the Service features and by using such added or enhanced features, you agree to pay any applicable fees.

### **9. Transaction Documentation**

Transfers and withdrawals transacted through the Mobile banking service will be recorded on your periodic statement by mail or electronically if you have requested an electronic statement. You will receive a statement monthly. You may request that your statement be provided electronically.

### **10. Account Information Disclosure**

We will maintain the confidentiality and privacy of your account information in accordance with our privacy policy as stated on our website at: cu1.org. However, we will disclose information to third parties about your account or the transfers you make in the following circumstances:

- As necessary to complete transfers;
- To verify the existence of sufficient funds to cover specific transactions upon the request of a third party, such as a credit bureau or merchant.
- To comply with government agency or court orders;
- If you give us your express permission.

### **11. Disclaimer of Warranties**

YOU ACKNOWLEDGE THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE CREDIT UNION IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM YOUR USE OF THE SERVICE. THE CREDIT UNION MAKES NO AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICE 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 DISCLAIMS ANY WARRANTIES REGARDING THE OPERATION, PERFORMANCE OR FUNCTIONALITY OF THE SERVICE (INCLUDING, WITHOUT LIMITATION, THAT THE SERVICE 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. YOU ASSUME ALL RISKS RELATING TO THE FOREGOING.

### **12. Our Liability for Failure to Make Mobile Banking Transfers**

If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. Our sole responsibility for an error in a transfer will be to correct the error. You agree that neither we nor the service providers shall be responsible for any loss, property damage or loss, whether caused by the equipment, software, Credit Union, or by online browser providers such as Microsoft (Edge), Google (Chrome), Mozilla (Firefox) or Apple (Safari) or by Internet access providers or by online service providers or by an agent or subcontractor for any of the foregoing. Nor shall we or our service providers be responsible for any direct, indirect, special, or consequential economic or other damages arising in any way out of the installation, download, use, or maintenance of the equipment, software, online access services, or Internet browser or access software. In this regard, although we have taken measures to provide security for communications from you to us via the online access service and may have referred to such communication as "secured," we cannot and do not provide any warranty or guarantee of such security. In states that do not allow the exclusion or limitation of such damages, our liability is limited to the extent permitted by applicable law. The Credit Union and our service providers will not be liable for the following:

- If, through no fault of ours, you do not have enough available funds in your account to make the transfer, your account is

inactive, or the transfer would go over the credit limit on your line of credit, if applicable.

- If you used the wrong access code or you have not properly followed any applicable computer, or Credit Union user instructions for making transfer and bill payment transactions
- If your computer fails or malfunctions or the phone lines or Credit Union computer system was not properly working, and such problem should have been apparent when you attempted such transaction.
- If circumstances beyond our control (such as fire, flood, telecommunication outages or strikes, equipment or power failure) prevent making the transaction.
- If the funds in your account are subject to an administrative hold, legal process or other claim.
- If you have not given the Credit Union complete, correct and current instructions so the Credit Union can process a transfer.
- If, through no fault of ours, a bill payment or funds transfer transaction does not reach a particular payee due to changes in the payee address, account number or otherwise; the time you allow for payment delivery was inaccurate; or the payee failed to process a payment correctly, or in a timely manner, and a fee, penalty, or interest is assessed against you.
- If the error was caused by a system beyond the Credit Union's control such as a telecommunications system, an online service provider, any computer virus or problems related to software not provided by Credit Union.

We may establish other exceptions in addition to those listed above.

### 13. Our Limited Liabilities for Mobile Deposit

#### a. Direct Damages

THE CREDIT UNION'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY MEMBER AND ONLY TO THE EXTENT SUCH DAMAGES ARE A DIRECT RESULT OF THE CREDIT UNION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; PROVIDED THAT THE MAXIMUM AGGREGATE LIABILITY OF THE CREDIT UNION RESULTING FROM ANY SUCH CLAIMS SHALL NOT EXCEED ONE HUNDRED DOLLARS. IN NO EVENT SHALL THE CREDIT UNION BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND INCLUDING LOST PROFITS WHETHER OR NOT THE CREDIT UNION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE CREDIT UNION'S LICENSORS OR SUPPLIERS WILL NOT BE SUBJECT TO ANY LIABILITY TO MEMBER IN CONNECTION WITH ANY MATTER.

#### b. Your Duty to Report Errors

You will notify the Credit Union of any errors, omissions, or interruptions in, or delay or unavailability of, the Services as promptly as practicable, and in any event within one business day after the earliest of discovery thereof, or the date discovery should have occurred through the exercise of reasonable care, and, in the case of any error, within fourteen (14) days of the date of the earliest notice to you which reflects the error. Your failure to notify the Credit Union of any error, omission, or other discrepancy within seven (7) days from the date of a loss shall relieve the Credit Union of any liability for such error, omission, or discrepancy.

#### c. The Credit Union's Performance

You acknowledge and agree that the Credit Union shall not be liable for any damages or loss of any kind resulting from any unintentional error or omission by the Credit Union in performing the Service, in accordance with or unintentional deviation from the terms and conditions of this Agreement. You acknowledge that the Credit Union's systems and procedures established for providing the Service are commercially reasonable.

#### d. Limitation of Liability

The Credit Union shall have no liability to you, or any other person or entity for any loss, damage, cost, or expense arising out of this

Agreement or the Service regardless of the form in which asserted, whether in contract, tort (including negligence), warranty, or any other legal or equitable grounds, and regardless of whether the remedies available fail of their essential purpose, except as provided by applicable law for any error or delay in performing the Service provided for in this Agreement, and we shall have no liability for not effecting a transaction, if:

1. We receive actual notice or have reason to believe that you filed or commenced a petition or proceeding for relief under any bankruptcy or similar law;
2. The ownership of funds involving a transaction is in question;
3. We suspect a breach of the security procedures;
4. We suspect that your account has been used for illegal or fraudulent purposes; or
5. We reasonably believe that a transaction is prohibited by federal law or regulation, or otherwise so provided in the Agreement.

The Credit Union will not be liable if Member fails to report timely any error or discrepancy reflected in an account statement prepared by the Credit Union, or if Member fails to report a breach of a security procedure. If the Credit Union fails to perform under this Agreement in accordance with the standards set herein, the Credit Union's liability for damages, losses, and other compensation owing to you will be limited as set forth above.

### 14. Termination of Mobile Banking Services

You agree that we may terminate this Agreement and your Mobile Banking service, if you, or any authorized user of your Mobile Banking service or access code breach this or any other agreement with us; or if we have reason to believe that there has been an unauthorized use of your Accounts or access code; or if you conduct or attempt to conduct any fraudulent, illegal or unlawful transaction; or if we reasonably believe your account conduct poses an undue risk of illegality or unlawfulness. You or any other party to your account can terminate this Agreement by notifying us in writing. Termination of service will be effective the first business day following receipt of your written notice. Termination of this Agreement will not affect the rights and responsibilities of the parties under this Agreement for transactions initiated before termination.

### 15. Notices

The Credit Union reserves the right to change the terms and conditions upon which this service is offered. The Credit Union will notify you at least twenty-one (21) days before the effective date of any change, as required by law. This means we will mail you notice or if you have consented to electronic disclosures, we will send it to the e-mail address you have designated. Use of this service is subject to existing regulations governing the Credit Union account and any future changes to those regulations. However, we reserve the right to modify the Mobile Deposit Service from time to time without making prior notice to Member.

### 16. Statement Errors

In case of errors or questions about your Mobile Banking transactions, telephone us at 907.339.9485 or toll free at 800.478.2222, or write to us at: 1941 Abbott Road, Anchorage, AK 99507. We must hear from you no later than sixty (60) days after we sent the first statement on which the problem appears. In your notice:

- Tell us your name and account number.
- Describe the transaction you are unsure about and explain as clearly as you can why you believe it is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

If you tell us verbally, we may require that you send us your complaint or question in writing within ten (10) business days.

We will tell you the results of our investigation within ten (10) business days after we hear from you and will correct the error promptly. For errors related to transactions occurring within thirty (30) days after the first deposit to the account (new accounts), we will tell you the results of our investigation within twenty (20)

business days. If we need more time, however, we may take up to forty-five (45) calendar days to investigate your complaint or question (ninety (90) calendar days for new account transaction errors, or errors involving transactions initiated outside the United States). If we decide to do this, we will re-credit your account within ten (10) business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within ten (10) business days, we may not recredit your account.

If we decide after our investigation that an error did not occur, we will deliver or mail to you an explanation of our findings within three (3) business days after the conclusion of our investigation. If you request, we will provide you copies of documents (to the extent possible without violating other members' rights to privacy) relied upon to conclude that the error did not occur.

### **17. Enforcement**

You agree to be liable to the Credit Union for any liability, loss, or expense as provided in this Agreement that the Credit Union incurs as a result of any dispute involving your accounts or services. You authorize the Credit Union to deduct any such liability, loss, or expense from your account without prior notice to you. This Agreement shall be governed by and construed under the laws of the state of Alaska as applied to contracts entered into solely between residents of, and to be performed entirely in, such state. In the event either party brings a legal action to enforce the Agreement or collect any overdrawn funds on accounts accessed under this Agreement, the prevailing party shall be entitled, subject to Alaska law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions, if applicable. Should any one or more provisions of this Agreement be determined illegal or unenforceable in any relevant jurisdiction, then such provision 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.