

FIRST CHOICE AMERICA COMMUNITY FEDERAL CREDIT UNION  
MOBILE REMOTE DEPOSIT TERMS AND CONDITIONS AGREEMENT

Mobile Remote Deposit (“mobile deposit” or “service”) is designed to allow you to make deposits of checks (“original checks”) to your accounts from home or other remote locations by scanning the original checks and delivering the digital images and associated deposit information (“images”) to First Choice America Community Federal Credit Union or our processor with your Mobile Device. After you login to Mobile Banking, you may access Mobile Deposit if qualified for the service. By accepting the terms of this agreement, First Choice America Community Federal Credit Union members (referred to hereafter as “you”, “your” or “member”) agree to be bound by the following Mobile Deposit terms and conditions of First Choice America Community Federal Credit Union (referred to hereafter as “us”, “we”, “our” or “Credit Union”).

**General Terms and Conditions Agreement**

This agreement establishes the rules that govern the processing of deposited checks through member’s account(s) at the Credit Union using Mobile Remote Deposit. Other agreements you have entered into with the Credit Union, including your Terms and Conditions Account Agreement, as amended from time to time, are incorporated by reference and made a part of this Agreement.

Mobile Remote Deposit Service is subject to the following terms and conditions and to the instructions, rules and terms provided.

**Mobile Remote Deposit Service Eligibility**

The following are requirements that must be met for initial approval to use the Mobile Deposit service:

- You are at least 18 years old,
- You are enrolled in Online Banking with a valid email address,
- Your account has been opened for greater than 30 days, and
- Your account has an active status.

We reserve the right to deny access to the Mobile Deposit service at any time due to any adverse circumstances with your membership account, including, but not limited to, account restrictions, fraudulent activity or loan default.

**Acceptance**

Your use of the services constitutes your acceptance of this agreement. The credit union reserves the right to change the terms for the services described in this agreement by notifying you of such change in writing and we may amend, modify, add to, or delete from this agreement from time to time. Your continued use of the services will indicate your acceptance of the revised agreement.

**Use of Services**

As a condition to using the services, you agree that you are solely responsible for the use of the services and that you will use the services in accordance with this agreement. You agree not to attempt to circumvent the security features of the services or the system or make any improper or unauthorized transfer of funds from accounts via the services or the system. You agree that you are prohibited from engaging in conduct that would violate the proprietary rights of the owner(s) of the system and the

services as well as accessing or using the system or the services in any other unauthorized manner. You agree to be liable to the Credit Union and its vendors, for any claims, losses, liabilities, damages, expenses or costs arising as a result of the negligent or intentional misuse of the services or the system by you or your authorized users.

You are prohibited from using the services for any activity that:

- Would result in you being or becoming a “money service business” as defined in the Bank Secrecy Act and its implementing regulations;
- Knowingly accepting restricted transactions in connection with another person in unlawful internet gambling as defined in the Unlawful Internet Gambling Enforcement Act and Regulation GG (Prohibition on funds of Unlawful Internet Gambling); or
- Directly or indirectly related to the use of the services that is illegal or fraudulent.

### **Limits**

Deposits are limited to \$1000 per day. If you attempt to initiate a deposit in excess of this limit, we will reject your deposit. If we permit you to make a deposit in excess of this limit, 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.

### **Eligible Items**

You agree to scan and deposit only “checks” as that term is defined in Federal Reserve Regulation CC. When the image of the check transmitted to the Credit Union is converted to an Image Replacement Document for subsequent presentment and collection, it shall therefore be deemed an “item” within the meanings of Article 3 and 4 of the Uniform Commercial Code.

You agree that you will NOT scan and deposit any of the following types of checks or other items which shall be considered ineligible items:

- Cashier’s Checks
- Checks payable to any person or entity other than you (i.e., payable to another party and then endorsed by you).
- Checks payable to you and another party who is not a joint owner on the account.
- Incomplete items – checks that do not contain signatures of the maker, endorsement signatures, or that are missing any of the information required.
- Checks that contain evidence of alteration, or that you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check is drawn.
- Checks payable to you without a valid reason or purpose or which the payor is unknown to you.
- Checks previously converted to a substitute check, as defined in Regulation CC.
- Checks drawn on a financial institution located outside of the United States.
- Checks not payable in United States currency.
- Non-Negotiable items – any item that is stamped with a “non-negotiable” watermark.
- Any item that is “stale-dated” or “postdated”.
- Checks with any endorsement on the back other than that specified in this agreement.
- Checks that have previously been submitted through the service or through a remote deposit capture service offered at any other financial institution.
- Checks or items that are drawn or otherwise issued by the U.S. Treasury Department

- U.S. Savings Bonds, U.S. Postal Money Orders, Traveler's Cheques, or cash
- Checks that are prohibited by the Credit Union's current Terms and Conditions Account Agreement.
- Checks that are in violation of any federal or state law, rule, or regulation.
- Checks that are credit card advance or other loan advance instruments.
- Any checks requiring signature and/or additional identification.

### **Endorsements**

You agree that you will use the Mobile Deposit service to scan only original checks payable to and properly endorsed by you. Endorsements must be made on the back of the check and must include your signature AND the words "For FCA Mobile Deposit Only". It is best practice to also include your account number. Any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

A check payable to two payees must be endorsed by both payees. If the check is payable to you or your joint owner, either of you can endorse it. If the check is made payable to you and your joint owner, both of you must endorse the check.

### **Image**

Each image must provide all information on the front and back of the original check at the time presented to you by the drawer, including, but not limited to, information about the drawer and the paying bank that is preprinted on the original check, MICR information, signature(s), any required identification written on the front of the original check and any endorsements applied to the back of the original check. The image quality must meet the standards established by the American National Standards Institute, the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association. You agree to follow any and all other procedures and instructions for use of the service as the Credit Union may establish from time to time.

You are responsible for inspecting and verifying the quality of the images associated with image items, thus ensuring that the digitized images of the front and back of original checks are legible for all posting and clearing purposes by the Credit Union. Specifically, you are representing and warranting to the Credit Union that:

- The image item is an accurate representation of all information on the front and back of the original check at the time the original check was converted to an image item;
- The image item contains all endorsements from the original check necessary and as required by this agreement;
- Original checks are handled, processed, maintained and destroyed as required by this agreement;
- Ensure that neither the Credit Union nor any other financial institution (depository, collecting, or payor), drawee, drawer or endorser receives presentment or return of, or otherwise is charged for a check or image item more than once in any form; and
- Each image item (or related electronic data file) contains a record of all MICR line (special characters printed on the bottom of the check) information required for a substitute check and otherwise satisfies all of the requirements of the American National Standards Institute (ANSI) X9.37 standards for image quality required by Check 21 and Regulation CC for the creation and/or transferring of a substitute check created from that Image Item.

**Receipt of Deposit**

All images processed for deposit through Mobile Deposit will be treated as “deposits” under your current Terms and Conditions Account Agreement with us and will be subject to all terms of the Terms and Conditions Account Agreement. Upon receipt of the digital image, we will review the image for acceptability. We shall not be deemed to have received the image for deposit unless you receive the confirmation message which indicates that the deposit was successful. Confirmation does not mean that the image contains no errors. We are not responsible for any image that we do not receive.

Following receipt, we may process the image by preparing a “substitute check” or clearing the item as an image.

We reserve the right, at our sole and absolute discretion, to reject any image for remote deposit into your account. We will notify you of rejected images. You understand that any amount credited to your account deposited using the services is a provisional credit and you agree to indemnify us against any loss we suffer because of our acceptance of the remotely deposited check.

**Services and Funds Availability**

Once approved for the Mobile Remote Deposit, you may use the services to deposit checks into your share account with the Credit Union, subject to the terms of this agreement. Checks deposited through the services will be converted to image items for processing. The services are subject to transaction limitations and the Funds Availability Disclosure, as set for in your Terms and Conditions Account Agreement and Truth-In-Savings schedule, which govern the use of your account. We are notifying you in advance that deposits made by the Mobile Deposit service do not fall under the standard provisions of Regulation CC – Expedited Funds Availability Act.

**Availability of Funds**

You agree that items transmitted using Mobile Deposit are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. In general, if an image of an item you transmit through the service is received and accepted before 2pm ET 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. The first \$275 of the funds deposited using the service will generally be made available the next business day after the day of the deposit. The remaining funds will generally be made available no later than two business days from the day of the deposit. The Credit Union, in its sole discretion, may make such funds available sooner or may extend the hold period beyond two business days based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors as the Credit Union, in its sole discretion, deems relevant. If we place a hold that exceeds two business days on any item or as to a group or all deposits, then we will provide you with a notice to generally advise you regarding when and on what terms the funds will be made available.

**Transmission Deadlines**

Transmissions originate from the Credit Union’s office in Weirton, WV. Image item deposits initiated through the System before 2:00 pm Eastern Time on a business day are posted to member’s account the same day, subject to funds availability. In the event that we receive an image item from you after 2:00 pm Eastern Time, or on a day that is not a business day, the Image item is considered as received by us at the opening of the next business day. For the Mobile Deposit program, a business day is described as

Monday through Friday, except for Federal holidays, and holidays observed by the State of West Virginia.

### **Original Check Retention Period**

After you receive confirmation that we have received an image, you must securely store the original check for 30 calendar days after transmission to us and make the original check accessible to us at our request. Upon our request from time to time, you will deliver to us within 10 calendar days, at your expense, the requested original check in your possession. If not provided in a timely manner, such amount will be reversed from your account. Promptly after such period expires, you must destroy the original check by first marking it "VOID" and then destroying it by cross-cut shredding or another commercially acceptable means of destruction. After destruction of an original check, the image will be the sole evidence of the original check. You agree that you will never re-present the original check.

You are required to implement such procedures to ensure that the original checks are not accessed by unauthorized persons during the storage, destruction and disposal process and, once destroyed, the original checks are no longer readable or capable of being reconstructed (e.g., through the use of competent shredding equipment). The risk of loss associated with the accidental inclusion of a physical check in the check collection process or with a lost, destroyed, stolen or misplaced check shall be exclusively on the member.

### **Adjustments**

Once an image item is captured, the system will display captured encoded fields for your review. You will be required to make corrections to encoding not read or missing from the scanned check, including entering the legal amount of the check. We reserve the right to reject or adjust your deposit after you have submitted it for processing. Adjustments are to correct mistakes in the value of image items deposited, mistakes in encoding, or for missing or illegible image items.

### **Returned Deposits**

Any credit to your account for checks deposited using Mobile Deposit is provisional. If original checks deposited through Mobile Deposit are dishonored, rejected or otherwise returned unpaid by the drawee bank, or are rejected or returned by a clearing agent or collecting bank, for any reason, including, but not limited to, issues relating to the quality of the image, you agree that the original check will not be returned to you, but that we may charge back the amount of the original check and provide you with an image of the original check, a paper reproduction of the original check or a substitute check. You will reimburse us for all loss, cost, damage or expense caused by or relating to the processing of the returned item. Without our approval, you shall not attempt to deposit or otherwise negotiate an original check if it has been charged back to you.

We may debit any of your accounts to obtain payment for any item that has been rejected or returned, for any adjustment related to such item or for any warranty claim related to such item, whether or not the rejection, return, adjustment or warranty claim was made timely. Refer to the Fee Schedule for fees assessed for Returned Items.

### **Compliance with Rules, Laws and Regulations**

You agree to use Mobile Deposit for lawful purposes and to abide by and comply with all local, state, and federal rules, laws and regulations which are in existence as of the date of this agreement and as amended

from time to time. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations.

### **Mobile Deposit Unavailability**

Mobile Deposit may be unavailable temporarily due to system maintenance or technical difficulties, including those of the Internet service provider, cellular service provider and Internet software. In the event that Mobile Deposit is unavailable, you may deposit original checks by delivering them directly to a First Choice America Community Federal Credit Union branch office for processing. If the checks were scanned prior to the system failure, you must obtain our approval before delivering the checks to a branch office for processing.

### **Access**

To use Mobile Remote Deposit, you must have a mobile device that is compatible with our system and access to telecommunication services necessary for the Mobile Deposit service. Application upgrades may be required from time-to-time for continued use of the services.

### **Security**

You understand the importance of your role in preventing misuse of your accounts associated with the Mobile Deposit service, and you agree to promptly examine your paper or electronic statement for each of your Credit Union accounts as soon as you receive it and notify us of any errors in accordance with your Terms and Conditions Account Agreement. You agree to protect the confidentiality of your accounts and account number and passwords. Data transmitted via the services is encrypted in an effort to provide transmission security. Mobile Deposit utilizes identification technology to verify that the sender and receiver, of transmissions related to the services, can be appropriately identified by each other. Notwithstanding our efforts to ensure the services are secure, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the internet and potentially can be monitored and read by others. We cannot, and do not, warrant that all data transfers utilizing Mobile Remote Deposit, or e-mail transmitted to and from us will not be monitored or read by others. You agree to notify us immediately if you believe any passwords have been lost, stolen, used without your permission, or otherwise compromised.

### **Termination**

We are permitted to terminate any or all of the services immediately should you breach any part of this agreement or of the Terms and Conditions Account Agreement. We are permitted to terminate any or all of the services immediately should we suspect suspicious or fraudulent account activity that you are directly or indirectly involved. We are also permitted to terminate any or all of the services immediately if we are no longer able to provide such services.

### **Your Responsibility**

You are solely responsible for the quality, completeness, accuracy, validity, and integrity of the image. You are solely responsible if you, intentionally or unintentionally, submit fraudulent, incorrect or illegible images to us or if Mobile Deposit is used, by authorized or unauthorized persons, to submit fraudulent, unauthorized, inaccurate, incorrect or otherwise improper or unusable images to us.

You are, and shall remain, solely and exclusively responsible for any and all financial risks, including, without limitation, insufficient funds associated with accessing the service. You will verify and reconcile

any out-of-balance condition and promptly notify First Choice America Community Federal Credit Union of any errors within the time periods established.

In addition, you agree that you will not modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Service, copy or reproduce all or any part of the technology or Service; or interfere, or attempt to interfere, with the technology or Service. We and our technology partners, inclusive of, but not limited to, Fiserv, retain all rights, title and interests in and to the Services, Software and Development made available to you.

#### **Accountholder's Indemnification Obligation**

You understand and agree that you are required to indemnify First Choice America Community Federal Credit Union and hold us harmless against any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorney's fees and expenses arising from your use of the services and/or breach of this Disclosure and Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

#### **Member Representations and Warranties**

You represent and warrant that all checks transmitted through the use of the services are made payable to the member, all signatures and endorsements on each check are authentic and authorized, each check has not been altered and there are no other duplicate images of the original check. You will not use the Services and/or your accounts for any illegal activity or transactions.

With respect to each image, you make to us all representations and warranties that we make or are deemed to make to any party pursuant to law, regulation or clearinghouse rule. You agree that files and images transmitted to us will contain no viruses or any other disabling feature that may have an adverse impact on our network, data, or related systems.

You agree that your use of any remote banking 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.

Member acknowledges and agrees that First Choice America Community Federal Credit Union shall not be liable for any damages or losses of any kind resulting from any unintentional error or omission by First Choice America Community Federal Credit Union in performing the Services, in accordance with or unintentional deviation from the terms and conditions of this agreement, including exhibits or addenda. Member shall defend, indemnify, and hold the credit union harmless from and against all liability, damage, and loss arising out of any claims, suits, or demands brought by third parties with respect to the Services.

#### **Disclaimer of Warranty and Limitation of Liability**

We make no warranty of any kind, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, in connection with the Mobile Deposit Services provided to you under this agreement. We do not and cannot warrant that services will operate without errors, or that any or all services will be available and operational at all times. Except as specifically provided in this agreement, or otherwise required by law, you agree that our officers, directors, employees, agents or contractors are not liable for any indirect, incidental, special or consequential damages under or by reason of any services or products provided under this and or by reason of your use of or access to Mobile Deposit Services. The Credit Union shall be responsible only for performing the services expressly provided for in this

agreement and shall be liable only for its negligence in performing those services. The Credit Union shall not be responsible for the member's 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. The member agrees to indemnify the Credit Union against any claims, damages, loss liability, or expense (including attorney's fees and expense) resulting from or arising out of any claim of any person that the Credit Union is responsible for any act or omission of the member, 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 the member may incur or suffer in connection with this Agreement, including without limitation, loss of damage from subsequent wrongful dishonor resulting from the Credit Union's acts or omissions pursuant to this Agreement, the Credit Union shall be excused from failing to act or from delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond the Credit Union's control. In addition, the Credit Union shall be excused from failing to transmit or delay in transmitting a deposit if such transmittal would result in the Credit Union violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other United States governmental regulatory authority. Notwithstanding any other provision set forth herein to the contrary, in the event of default under the terms of this agreement by the member, the Credit Union shall have all rights and remedies available at law or in equity.

### **Confidentiality**

You acknowledge that we will disclose information to third parties about your account or the image items you deposit:

- To enable your access to the services and the system,
- When it is necessary for completing deposits, and
- As required by law.

### **Governing Law**

This Agreement shall be construed in accordance with West Virginia law and the laws of the United States of America. Severability.

If any provision of this agreement is held to be illegal, invalid or unenforceable under present or future laws, the remaining provisions shall remain in full force and effect.

### **Errors or Questions**

You agree to notify the credit union right away of any suspected errors regarding items deposited through mobile deposit, and in no later than 60 days after the applicable account statement is sent. Statements regarding all deposits made through the Services shall be deemed correct if you don't notify the Credit Union within 60 days, as outlined in the Terms and Conditions Account Agreement.

If an error occurs during a mobile deposit session or you have a question about this service, please contact our online banking support at 1-304-748-8600, email member services at [allcallcenter@firstchoiceamericacu.org](mailto:allcallcenter@firstchoiceamericacu.org), or write to First Choice America Community Federal Credit Union, Attention: Online Banking Support, 3501 Main Street, Weirton, WV 26062.  
[www.firstchoiceamericacu.org](http://www.firstchoiceamericacu.org).