

Mobile E-Deposit Capture Agreement

Effective Date: August 15, 2023

This **Mobile E-Deposit Capture Agreement** (this “Agreement”) is entered into between First Technology Federal Credit Union (the “Credit Union”) and you (the “Member”), and becomes part of the Membership and Account Agreement, previously agreed to when establishing your membership (the “Account Agreement”). In the event of any conflicts between the terms of this Agreement and the terms of the Account Agreement, the terms of this Agreement shall control. Capitalized terms used in this Agreement shall have the meaning provided in this Agreement or in the Definitions exhibit attached to this Agreement as Exhibit A (“Exhibit A”). By installing and otherwise using the E-Deposit Capture Program and Services (the “Services”) or, if applicable, clicking the electronic signature “Accept” below, the Member agrees to be bound by the terms of this Agreement.

The Services are offered for the conversion of Checks to Substitute Checks or Image Exchange Items, which would enable the Member to transmit paper checks converted to Imaged Items to the Credit Union for processing and deposit into the share accounts of the Member maintained at the Credit Union (“Account(s)"). The Member will capture digitized images of Checks using Software and equipment acceptable to the Credit Union and will ensure that the output files are compatible with the Program.

1. Member’s Responsibilities

The Member will only submit Checks for processing to the Credit Union that meet the definition of “Checks” in Exhibit A and will ensure that the Checks scanned meet the ANSI X9.37 standards for image quality set forth in the Federal Reserve’s Availability of Funds and Collection of Checks, 12 C.F.R. § 229 (“Regulation CC”), or other standards established by the Credit Union or applicable law. Only cashier’s checks, personal checks, substitute checks, payroll checks, or U.S. Treasury checks are eligible for deposit as an Imaged Item. Without limiting the generality of the preceding sentence, the following items are not eligible for deposit as Imaged Items and must be physically deposited with the Credit Union for collection: (i) checks that are drawn on banks located outside of the United States; (ii) checks payable in a medium other than U.S. dollars; (iii) non-cash items (as defined under Section 229.2(u) of Regulation CC); (iv) promissory notes and similar obligations, such as savings bonds; (v) third party checks; (vi) checks drawn on the Member’s or the Member’s affiliate’s account; (vii) checks that are stamped with a “non-negotiable” watermark; (viii) checks that appear to have been altered; (ix) checks that are incomplete; (x) checks that are “stale dated” or “post dated”; (xi) checks that do not contain the proper endorsement(s), including, but not limited to, “for Mobile Deposit Only at First Technology Federal Credit Union”; (xii) money orders; (xiii) travelers checks; and (xiv) any other class of checks or drafts as identified by the Credit Union to the Member from time to time.

The Credit Union’s processing of any Imaged Items that do not meet the requirements under this Agreement or definition in Exhibit A (“Non-qualifying Items”) shall not constitute a waiver by the Credit Union or obligate it to process such Non-qualifying Items in the future. The Credit Union may discontinue processing of Non-qualifying Items at any time, without cause or prior notice.

The Member will not attempt to digitally capture and transmit to the Credit Union any previously truncated and reconverted Substitute Check. Any previously truncated and reconverted Substitute Check must be physically deposited with the Credit Union. Notwithstanding the foregoing, the Credit Union may redeposit any returned Substitute Check or Image Exchange Item consistent with the terms of the Account Agreement.

The Member will (i) ensure that Imaged Items that are deposited using the Services and the corresponding Initial Paper Items are endorsed to include the Member’s signature, the date of deposit, and “for Mobile Deposit Only at First Technology Federal Credit Union”; (ii) handle, process, maintain and destroy Initial Paper Items as set forth in this Agreement and in the Documentation; and (iii) ensure that no financial institution (depository, collecting or payor), drawee, drawer, or endorser receives presentment return of, or otherwise is charged for an Imaged Item more than once in any form.

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The Member will use the Services, including the entering, processing, and transmittal of Imaged Items, in accordance with the Documentation. In addition, the Member will provide, at their own expense, a mobile internet connection, a mobile device with a camera, such as an iPhone or Android phone, that supports all other computer hardware and software, including, but not limited to, a compatible Web browser, and other equipment and supplies required to use the Services, all of which must satisfy any minimum requirements set forth in the Documentation or as otherwise may be acceptable to the Credit Union.

The Member will provide or obtain from another party selected by the Member at the Member's expense, support and maintenance of such internet connection and all other computer hardware, software, and equipment required to use the Services, including without limitation troubleshooting internet connectivity issues with the Member's internet service provider ("ISP"), and the Credit Union will not be responsible.

The Member shall be responsible for verifying the Credit Union's receipt of the Member's submission(s) by verifying that deposits have been posted to the appropriate Accounts, in addition to cooperating in any investigation and resolving any unsuccessful or lost submission with the Credit Union.

The Member shall be responsible for installing and implementing any changes and upgrades to the Software as required by the Credit Union within ten (10) calendar days following notice of such change to ensure compliance with regulatory changes or developments, or to protect the integrity and security of the Software or Services. The Member will ensure that the equipment used for the Services is clean, free from defects, and operating properly, and inspect and verify the quality of images and ensure that the digitized images of Items are legible for all posting and clearing purposes. Imaged Items transmitted to the Credit Union must accurately and legibly provide, among other things, the following information: (i) the information identifying the drawer and the Payor Financial Institution that is preprinted on the check, including complete and accurate MICR information and the signature(s); and (ii) other information placed on the Initial Paper Item prior to the time an image of the Initial Paper Item is captured, such as any required identification written on the front of the Initial Paper Item and any endorsements applied to the back of the Initial Paper Item.

The Member shall exercise due care in preserving the confidentiality of any user identification, password, test key, or other code or authentication method provided by the Credit Union or otherwise required for use of the Services and shall further prevent the use of the Services by unauthorized persons. The Member assumes full responsibility for the consequences of any missing or unauthorized use of or access to the Services or disclosure of any confidential information or instructions by the Member, its employees, or agents.

The Member will retain each Initial Paper Item in accordance with this Agreement unless provided for otherwise in the Documentation. If not directed otherwise by the Credit Union, the Member will store Initial Paper Items in a safe and secure environment for a period of sixty (60) calendar days after such Item has been digitized and processed. The Member shall take appropriate security measures to ensure that: (i) only authorized personnel shall have access to Initial Paper Items, and (ii) that the information contained on such Initial Paper Items or on any corresponding Imaged Items are not disclosed to third parties. Within five (5) business days the Member will provide any retained Initial Paper Item (or, if the Initial Paper Item is no longer in existence, a sufficient copy as determined by the Credit Union at its sole discretion of the front and back of the Initial Paper Item) to the Credit Union as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any Item, or as the Credit Union otherwise deems necessary. After sixty (60) calendar days, Member should destroy the Initial Payment Item.

The Member understands and agrees that an Item that is not paid by a Payor Financial Institution, or is otherwise returned for any reason, will be returned to the member and will result in the Member's Account being charged for the amount of the Item, plus any associated fee as disclosed in the Credit Union's Fee Schedule. The Credit Union's right to charge the Account of the

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Member will apply without regard to whether the Item is timely returned to the Credit Union or whether there is any other claim or defense that the Item has been improperly returned to the Credit Union.

The Member represents, agrees, and warrants to the Credit Union that (except as otherwise specifically disclosed in writing to the Credit Union) the Member is not now engaged, and will not during the term of this Agreement engage, in any business that would result in the Member being or becoming a “money service business” as defined in the Federal Bank Secrecy Act and its implementing regulations.

The Member will not engage, or permit its employees, customers, contractors, or agents to engage in any activity, directly or indirectly, related to the use of the Services that is illegal or fraudulent, or intended to harm, vandalize, misuse, abuse, infect, or damage the system, other users of the Services or the Credit Union’s ability to provide the Services.

Compliance with Law. The Member shall comply with all laws, rules, and regulations applicable to the Member, to the business and operation of the Member, as applicable, and to the Services, including, without limitation, the Uniform Commercial Code and any rules established by an image exchange network through which Image Exchange Items are processed pursuant to this Agreement. The Member shall have the responsibility to fulfill any compliance requirement or obligation that the Credit Union and/or the Member may have with respect to the Services under all applicable U.S. federal and state laws, regulations, rulings, including sanction laws administered by the Office of Foreign Assets Control, and other requirements relating to anti-money laundering, including but not limited to, the federal Bank Secrecy Act, the USA PATRIOT Act and any regulations of the U.S. Treasury Department to implement such Acts, as amended from time to time.

2. Use of the Services

The Member’s Account will be provisionally credited upon the Credit Union’s acceptance of Imaged Items for deposit which are received by the Credit Union from the Member through the Services. The Member will create images of Checks at the Member’s location by use of devices capable of supporting or using the Software (e.g., mobile phone) required by the Credit Union to use the Services. The Member will enter all amounts and any other required information correctly.

The Imaged Items will be transmitted by the Member to the Credit Union, or the Credit Union’s authorized processor, over the internet through a web-based interface.

All deposits received by the Credit Union are subject to the Credit Union’s verification and final inspection and may be rejected by the Credit Union for any reason at the Credit Union’s sole discretion, including the Payor Financial Institution returning the item Unpaid. The Credit Union may at its sole discretion, with or without cause, at any time and from time to time, refuse to process any Imaged Items.

The Credit Union will establish limits on the dollar amounts of Imaged Item deposits in any given day or other time period at the Credit Union’s sole discretion, and such limitations may not be communicated to the Member for security purposes. The limit established for items deposited in any given day is set at 15 items per member per day, not to exceed established dollar limits. A member’s access, or use of this service may be suspended for any reason, at any time. The Credit Union will try to notify the Member in advance but is not obligated to do so.

3. E-Deposit Funds Availability

1. For determining the availability of deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. The business day hours are from 5 pm PT to 4:59 pm PT.

2. In most cases, the Credit Union will make all funds deposited using the Services available by the seventh business day after the day of deposit.
3. If the funds are deposited to an account that was opened in the last thirty (30) days, funds deposited using the Services will be available by the ninth business day after the day of deposit.
4. In accordance with our commitment to provide valued service and benefits, the Credit Union may in its sole and absolute discretion provide availability to your funds earlier than outlined above. Greater funds availability does not constitute an actual or implied agreement between you and the Credit Union, nor does it constitute an actual or implied obligation of the Credit Union. Increases to the amount made available of your aggregate deposits may be withdrawn, limited, or withheld by the Credit Union at any time, without prior notice, reason, or cause.

4. Credit Union Rights and Responsibilities

For all Imaged Items processed by the Member pursuant to this Agreement, either (i) digitized images will be converted to Substitute Checks and presented for payment to established Presentment Points, or (ii) Image Exchange Items will be presented for payment through image exchange networks. The Credit Union may in its sole discretion determine the manner of processing. All such processing and presentment shall be done in accordance with timeframes and deadlines set forth in the Documentation or as otherwise established by the Credit Union from time to time.

Unless otherwise agreed by the Member and the Credit Union, the Credit Union will process any returned Items in accordance with applicable law and the Account Agreements.

In addition to any other rights the Credit Union may have with regard to the Accounts of the Member, the Credit Union may hold and use funds in any Share Account following termination of this Agreement for a period of time reasonably determined by the Credit Union in the event that any Item processed by the Credit Union prior to termination might be returned, charged back, or otherwise cause a loss, liability, cost, exposure, or other action for which the Credit Union may be responsible. Without limitation, the Member recognizes that under the UCC and the rules of any image exchange network, the Credit Union's representations and warranties with respect to Image Exchange Items and Substitute Checks may expose the Credit Union to claims for several years following processing of the Image Exchange Item or Substitute Check.

The Credit Union shall be excused from failing to act or 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 the event of any of the foregoing failures or delays, the Member acknowledges that it may instead deposit directly with the Credit Union any Initial Paper Items for processing and presentment provided such Initial Paper Items have not been previously imaged and processed in connection with the Services. In addition, the Credit Union shall be excused from failing to transmit or delay in transmitting an Item for presentment if such transmittal would result in the Credit Union having exceeded any limitation upon its intraday net funds position established pursuant to Federal Reserve guidelines or if the Credit Union would otherwise be violating any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

To secure all Member obligations to the Credit Union arising from this Agreement, the Member grants to the Credit Union a security interest in all the Member's Accounts at the Credit Union, all funds in those Accounts, any reserve Accounts or funds therein, all Items, whether now or hereafter established by or for the benefit of the Member at the Credit Union, and all proceeds of the foregoing. The Credit Union's security interest will survive after termination of this Agreement. This security interest is supplemental to and not in lieu of the security interest granted by the Member to the Credit Union under the Membership and Account Agreement and any other agreement between the Member and the Credit Union.

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The Credit Union shall not be liable or responsible to the Member or any third party for any loss, bodily harm, property damage, claims of the introduction of a virus or other malicious code into the Member's system, including any which allegedly delay, alter or corrupt the Member's data, whether related to the transmission of Imaged Items or other data to the Credit Union or whether caused by the equipment, Software, the Credit Union, ISPs, internet browsers, or other parties providing communication services to or from the Credit Union to the Member.

The Credit Union may add, delete, or change the features or functions of the Services disclosed in this Agreement, at any time at the Credit Union's sole discretion. If the Credit Union deems it reasonably practicable to do so and if the Credit Union deems the change material and such change adversely affects the Member's usage of the Services, the Credit Union will notify the Member of the change in advance. Otherwise, the Credit Union will notify the Member of the change as soon as reasonably practicable after it is implemented, the Credit Union may cause the Services to be temporarily unavailable to the Member, either with or without prior notice, for site maintenance, security, or other reasons. The Member acknowledges that factors beyond the Credit Union's reasonable control, such as telecommunications failure or equipment failure, may also cause the Services to be unavailable to the Member. The Member may deposit Initial Paper Items and other Items to any Share Account at the Credit Union in person or in any other manner permitted by agreement between the Member and the Credit Union, and the Credit Union will be responsible for maintaining procedures and facilities to enable the Member to do so if the Services are unavailable to the Member.

5. Processing Times

The Services are generally available for use twenty-four (24) hours a day, seven (7) days a week, except during maintenance periods, or such other hours as established by the Credit Union from time to time. However, transmissions to the Credit Union that occur after hours on a Business Day as provided in the Documentation, or on any day that is not a Business Day, are treated as occurring on the next Business Day.

Imaged Items processed for deposit through the Services will be deemed to have been received by the Credit Union for deposit at the time the Imaged Items are actually received and accepted at the location where the Credit Union or its designated agent posts the credit to the Account. A deposit of Imaged Items will be deemed to have been received and accepted by the Credit Union for deposit when all of the following have occurred:

- a) The Credit Union has preliminarily verified that the image quality of the Imaged Items is acceptable to the Credit Union in its discretion, all Item information is complete, and the deposit totals are balanced to the Item information provided for the deposit; and
- b) The Credit Union has successfully performed all further validation routines with respect to the deposit. Notwithstanding the foregoing, Imaged Items received by the Credit Union for deposit may be rejected by the Credit Union at the Credit Union's sole discretion.

Items will be processed and ready for presentment by the Credit Union after the Credit Union receives all acceptable digitized images and associated data for any given transmission from the Member. The Credit Union reserves the right to subsequently reject the Imaged Item if such Item is returned unpaid by the Payor Financial Institution. In the event that an Imaged Item is rejected, whether at time of initial deposit using the Services or subsequently (e.g., upon rejection by a Payor Financial Institution), the Credit Union will provide notice of rejection by email.

The Credit Union will use commercially reasonable efforts to present Items for payment to the applicable Presentment Point within a reasonable period of time following such receipt.

If an Imaged Item is not accepted for deposit, the Member may then submit the Initial Paper Item to the Credit Union for processing or contact the maker to reissue the Check. If the Member submits the Initial Paper Item for processing, the Credit

Union reserves the right to refuse to process the Check for deposit and presentment to the Payor Financial Institution and may instead require the Member to have the maker reissue the Check.

It is the Member's responsibility to understand and build into its transmission schedules the appropriate deadlines necessary to meet the availability schedules of the Credit Union as set forth in the Account Agreements or as otherwise established by the Credit Union. The Member is further responsible for understanding and building into its transmission schedule the changes in transmission windows required by time changes associated with Daylight Savings Time.

6. Security Procedures

The Member will be solely responsible for establishing, maintaining, and following such security protocols as necessary to ensure that output files transmitted directly to the Credit Union are intact, secure, and confidential until received by the Credit Union.

The Member shall comply with online instructions for using the Services by taking reasonable steps to safeguard the confidentiality and security of any passwords, equipment, and other proprietary property or information provided in connection with the Services.

The Member agrees to change the password(s) periodically and whenever anyone who has had access to the password is no longer employed or authorized by Member to use the Services.

The Credit Union may elect, at the Credit Union's discretion, to verify the authenticity or content of any transmission by placing a call to any authorized signer on the Member's Account or any other person designated by the Member for that purpose. The Credit Union may deny access to Services without prior notice if it is unable to confirm any person's authority to access the Services or if the Credit Union believes such action is necessary for security reasons.

The Member warrants each time Imaged Items are transmitted using the Services that the Credit Union's security procedures are commercially reasonable (based on the normal size, type, and frequency of transmissions). The Member agrees to be responsible for any transmission the Credit Union receives through the Services, even if it is not authorized by the Member, provided it includes a password or is otherwise processed by the Credit Union in accordance with this security procedure.

7. Member Representations and Warranties

The Member makes the following representations and warranties with respect to each Item processed by the Member pursuant to this Agreement:

- a) The Imaged Item is a digitized image of the front and back of the unaltered Check and accurately represents all of the information on the front and back of the Check as of the time the Member converted the Check to an Imaged Item;
- b) The Imaged Item contains all endorsements applied by parties that previously handled the Check in any form for forward collection or return;
- c) There will be no duplicate presentment of an Item in any form, including as a digitized image, as a paper negotiable instrument, or otherwise and the Member assumes responsibility for any such duplicate presentment of any Item;
- d) The drawer of the Check has no defense against payment of the Check;

- e) The Member has instituted appropriate procedures to ensure that each Initial Paper Item was authorized by the drawer in the amount and to the payee stated on the Imaged Item;
- f) Files and images transmitted to the Credit Union will contain no viruses or any other disabling features that may have an adverse impact on the Credit Union's network, data, or related systems; and
- g) The Member makes to the Credit Union all encoding, transfer, presentment, and other warranties that the Credit Union is deemed to make under applicable law, including without limitation those under the UCC, and the rules of any image exchange network.

8. Term and Termination

The term of this Agreement will commence upon full execution of this Agreement and will continue thereafter until terminated as follows:

- a) The Member may terminate this Agreement at any time, with or without cause, upon thirty (30) calendar days prior written notice to the Credit Union.
- b) The Credit Union may terminate this Agreement at any time immediately upon notice to the Member, including, without limitation, if the Credit Union discovers any breach by the Member of this Agreement or the Membership and Account Agreement, any willful misconduct, bad checks or fraudulent activities on the part of the Member or any other party with respect to Items processed by the Member under this Agreement, or for any other reason allowed in accordance with the Credit Union's Limitation of Services and Termination of Membership Corporate Policy.

Any termination will not affect any obligations arising prior to termination, such as the obligation to process any Items that were processed, or in the process of being transmitted or collected prior to the termination date, or any returns of the same. Upon termination, the Credit Union may terminate the Member's access to the Services, and the Member will terminate its access to and use of the Services, except to the extent necessary to process and collect Items that were in process prior to the termination date.

All sections of this Agreement which are intended by their terms to survive termination of this Agreement, including without limitation Sections 1, 7, and 10 will survive any such termination.

9. Member Indemnification

The Member will indemnify and hold harmless the Credit Union, its licensors and providers of the Services, and their respective directors, officers, employees, and agents against any and all third party suits, proceedings, claims, demands, causes of action, damages, expenses (including reasonable attorneys' fees and other legal expenses), liabilities, and other losses that result from or arise out of: (i) the wrongful acts or omissions of the Member, or any person acting on the Member's behalf (including, without limitation, the Member's authorized processor, if any) in connection with the Member's use of the Services or processing of Items under this Agreement, including without limitation: (a) the breach by the Member of any provision, representation, or warranty of this Agreement; (b) the negligence or willful misconduct (whether by act or omission) of the Member or any third party acting on behalf of the Member; (c) any misuse of the Program or Services by the Member, or any third party within the control or acting on behalf of the Member; (d) the failure by the Member to comply with applicable state and federal laws and regulations; or (e) any fine, penalty, or sanction imposed on the Credit Union by, any clearing house or any governmental entity, arising out of, or connected with, any Item processed by the Credit Union for the Member or at the Member's instruction; (ii) any act or omission of the Credit Union that is in accordance with this Agreement or instructions from

the Member; (iii) actions by third parties, such as the introduction of a virus that delay, alter, or corrupt the transmission of an Imaged Item to the Credit Union; (iv) any loss or corruption of data in transit from the Member to the Credit Union; (iv) any claim by any recipient of a Substitute Check corresponding to a Check processed by the Member under this Agreement, that such recipient incurred loss due to the receipt of the Substitute Check instead of the Initial Paper Item; or (v) any claims, loss, or damage resulting from the Member's breach of, or failure to perform in accordance with, the terms of this Agreement.

10. Disclaimer

THE CREDIT UNION'S REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES, AND THE MEMBER'S RIGHTS AND REMEDIES, SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. THE CREDIT UNION AND ITS LICENSORS HEREBY DISCLAIM, AND THE MEMBER HEREBY WAIVES AND RELEASES THE CREDIT UNION, ITS LICENSORS AND THEIR RESPECTIVE OWNERS, OFFICERS AND EMPLOYEES FROM ALL OTHER REPRESENTATIONS, WARRANTIES OF ANY NATURE, OBLIGATIONS AND LIABILITIES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY AND ALL DOCUMENTS, SERVICES, INFORMATION, ASSISTANCE, SOFTWARE PROGRAMS, OR OTHER MATTERS PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION (i) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A SPECIFIC USE, PURPOSE OR APPLICATION, OR OTHER IMPLIED CONTRACTUAL WARRANTY; (ii) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; (iii) ANY WARRANTIES OF TIMELINESS OR NON-INFRINGEMENT; AND (iv) ANY OTHER WARRANTY WITH RESPECT TO QUALITY, ACCURACY OR FREEDOM FROM ERROR. NOTWITHSTANDING THE GENERALITY OF THE FOREGOING, NEITHER THE CREDIT UNION NOR ITS LICENSORS WARRANT THAT OPERATION OF THE PROGRAM WILL BE ERROR-FREE OR THAT ITS OPERATION WILL BE UNINTERRUPTED.

11. Credit Union's Liability

The Credit Union will not be liable to the Member for any of the following: (i) any damages, costs or other consequences caused by or related to the Credit Union's actions that are based on information or instructions that the Member provides to the Credit Union; (ii) any unauthorized actions initiated or caused by the Member or its employees or agents; (iii) the failure of third persons or vendors to perform satisfactorily, other than persons to whom the Credit Union has delegated the performance of specific obligations provided in this Agreement; (iv) any refusal of a Payor Financial Institution to pay an Image Exchange Item or Substitute Check for any reason (except in the event of the Credit Union's breach of contract, gross negligence or willful misconduct), including without limitation, that the Image Exchange Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) the Member's or any other party's lack of access to the internet or inability to transmit or receive data; (vi) failures or errors on the part of ISPs, telecommunications providers, or any other party's own internal systems; or (vii) if the Member does not follow or comply with the representations or warranties set forth in Section 7 above.

The Credit Union's liability for errors or omissions with respect to the data transmitted or printed by the Credit Union in connection with this Agreement will be limited to correcting the errors or omissions. Correction will be limited to reprocessing, reprinting and/ or representing the Image Exchange Items or Substitute Checks to the Payor Financial Institution.

Notwithstanding anything to the contrary in this Agreement, the Credit Union's aggregate liability for claims related to this Agreement, whether for breach, negligence, infringement, in tort or otherwise, arising during any twelve (12) month period shall be limited to an amount equal to the greater of: (i) the amount of fees paid by the Member to the Credit Union under this Agreement for such twelve (12) month period; or (ii) \$1,000.

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOSS OF USE OR LOSS OF BUSINESS, REVENUE, PROFITS, OPPORTUNITY OR GOOD WILL, UNDER ANY THEORY OF TORT, CONTRACT, INDEMNITY, WARRANTY, STRICT LIABILITY OR NEGLIGENCE, EVEN IF SUCH PARTY HAS BEEN ADVISED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

The Member and the Credit Union acknowledge and agree that the limitations of liability in this section are a bargained for allocation of risk and liability, and agree to respect such allocation of risk and liability. Each party agrees and acknowledges that the other party would not enter into this Agreement without the limitations of liability set forth in this section.

12. Miscellaneous

Assignment. Neither party may assign its rights or obligations under this Agreement without the written consent of the other party; provided, however, the Credit Union may assign or transfer this Agreement, by operation of law or otherwise, to any person that becomes the successor entity of the Credit Union, in connection with a change of control (which shall include a direct or indirect transfer of all or substantially all of the Credit Union's stock or assets to a third party, a merger, reorganization or other such transaction, or any such transaction by a parent corporation of the Credit Union) and the Member hereby consents to such assignment or transfer in advance. The legal successor(s) resulting from such aforementioned assignment or transfer will succeed to and be bound by this Agreement. The Credit Union may subcontract any of the work, services, or other performance required of the Credit Union under this contract without the consent of the Member. Consent to Breach Not Waived. Neither party will, by the lapse of time, and without giving written notice, be deemed to have waived any of its rights under this Agreement. No waiver of a breach of this Agreement will constitute a waiver of any prior or subsequent breach of this Agreement.

Member Notices. Notices from the Member to the Credit Union must be in writing and must be delivered (i) by regular U.S. mail; (ii) a nationally recognized overnight courier; or (iii) by certified mail, return receipt requested, and (iv) to the address provided by the Credit Union for correspondence in the Account Agreement. Notices from the Credit Union to the Member will be provided by email to the Member's email address in the Credit Union's records.

Email Address. The Member agrees to immediately notify the Credit Union of any changes in the Member's email address.

Force Majeure. Neither party will be liable to the other for any delay or interruption in performance as to any obligation in this Agreement resulting from governmental emergency orders, judicial or governmental action, emergency regulations, sabotage, riots, terrorist action, vandalism, labor strikes or disputes, acts of God, fires, electrical failure, major computer hardware or software failures, equipment delivery delays, acts of third parties, or delays or interruptions in performance beyond its reasonable control.

Entire Agreement: Amendment. The Credit Union may amend this Agreement at any time and from time to time as determined in its sole discretion and without prior notice to the Member. This Agreement will not be more strongly construed against either party, regardless of who is more responsible for its preparation. Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other of its provisions. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior agreements or understandings. Any amendment or modification of this Agreement shall be in writing and executed by duly authorized representatives of the Credit Union.

Severability. If any part of this Agreement is found to be illegal or unenforceable, then that part will be curtailed only to the extent necessary to make it, and the remainder of the Agreement, legal and enforceable.

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Applicable Law. This Agreement will be governed by federal law (including, but not limited to, federal laws and regulations applicable to the Credit Union as a federally chartered credit union), and to the extent not preempted, by the internal laws of the State of California (without regard to that state's conflict of law provisions).

Relationship of Parties. Nothing in this Agreement creates a joint venture, partnership, principal agent, or mutual agency relationship between the parties. No party has any right or power under this Agreement to create any obligation, expressed or implied, on behalf of the other party.

Headings. The titles or captions used in this Agreement are for convenience only and will not be used to construe or interpret any provision hereof.

Exhibit A

Definitions

“Business Day” means a calendar day other than a Saturday or a Sunday, days on which banks are authorized or required to be closed in the State of California, and/or federal holidays.

“Check” means an Initial Paper Item, except that Check does not include a Substitute Check or a remotely created check.

“Documentation” means all documentation, application, user set-up form, system requirements guide, schedule of fees, the user manual, any other user guides/quick references, all instructions (including on-line instructions) relating to the Services which the Credit Union may provide to the Member from time-to-time in connection with the Program or Services.

“Imaged Item” means the digitized image of a Check that is created by the Member and transmitted to the Credit Union using the Services.

“Image Exchange Item” means a digitized image of an Item cleared and settled directly with a Payor Financial Institution without conversion to a Substitute Check.

“Initial Paper Item” means a Check in paper form that is payable or endorsed to the Member and in the ordinary course of member's business would be deposited for credit to the Member's account with the Credit Union.

“Item” means a Check that is payable on demand, drawn on or payable through or a credit union or other financial institution in the United States, whether negotiable or not, and payable or endorsed to the Member, and includes Initial Paper Items, Substitute Checks, and Image Exchange Items. Such term does not include Non-Cash Items or Items payable in a medium other than United States money.

“Non-Cash Item” means an Item that would otherwise be an Item, except that: (i) a passbook, certificate, or other document is attached; (ii) it is accompanied by special instructions, such as a request for special advice of payment or dishonor; (iii) it consists of more than a single thickness of paper, except an Item that qualifies for handling by automated check processing equipment; or (iv) it has not been preprinted or post-encoded in magnetic ink with the routing number of the Payor Financial Institution.

“Payor Financial Institution” means a United States bank, savings and loan association, credit union, clearinghouse, or a government agency that pays or clears Checks in the regular course of its operations or business that is to make payment of an Item to the payee(s) named on the Item.

“Presentment Point” means any Federal Reserve Bank, financial institution, local clearing house, courier or other entity or location for the delivery of cash letters or other presentment of Electronic Items or Substitute Checks.

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“Program” means collectively the procedures, protocols, and software used by the Credit Union and its licensors and contractors in connection with the electronic processing of Items, and includes without limitation the Services.

“Services” means the services described in this Agreement provided by the Credit Union to the Member to enable the processing of Items digitally as Image Exchange Items through image exchange networks or through creation of Substitute Checks and presentment to established Presentment Points.

“Software” means any software which may be required by the Credit Union for use in receiving, validating, and packaging images and data from a bulk file to be forwarded to the Credit Union for additional processing.

“Substitute Check” means a paper reproduction of an Item that satisfies the requirements and definition of “substitute check” set forth in Regulation CC.

“UCC” means the Uniform Commercial Code.