



Mobile Check Deposit User Agreement

This Mobile Check Deposit User Agreement ("Agreement") contains the terms and conditions for the use of TopMark Federal Credit Union's Mobile Check Deposit capture services that TopMark Federal Credit Union ("TopMark", "us," or "we") may provide to you as a Consumer or Business customer ("you," or "user").

1. Services. Mobile Check Deposit Service ("Service(s)") is/are designed to allow you to make deposits to any of your shares from home or other remote locations by scanning checks and delivering the images and associated deposit information to TopMark or TopMark's designated processor.

2. Acceptance of these Terms. Your use of the Services constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change via email, or on our website by providing a link to the revised Agreement or by an online secure message. Your continued use of the Services will indicate your consent to be bound by the revised Agreement. Further, TopMark reserves the right, in its sole discretion, to change, modify, add, or remove portions from the Services. Your continued use of the Services will indicate your acceptance of any such changes to the Services.

3. Hardware and Software. In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by TopMark from time to time. See www.TopMarkfcu.com for current hardware and software specifications. TopMark is not responsible for any third-party software you may need to use the Services. Any such software is accepted by you "as is" and is subject to the terms and conditions of the software agreement you enter into directly with the third-party software provider at time of download and installation. You will properly secure all hardware you use in connection with the Service (including, but not limited to, securing the hardware with Security Credentials to prevent unauthorized use).

4. Fees. Fees for returned Items are stated in our fee schedule which has been previously provided to you, and by accessing the Services, you acknowledge receipt of the most current fee schedule from us.

5. Eligible items. You agree to scan and deposit only "checks" as that term is defined in Federal Reserve Regulation CC ("Reg. CC"). When the image of the check transmitted to TopMark is converted to an Image Replacement Document for subsequent presentment and collection, it shall thereafter be deemed an "item" within the meaning of Articles 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:

- Checks containing an alteration on the front of the check or item, or which 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 previously converted to a substitute check, as defined in Reg. CC.
- Checks drawn on a financial institution located outside the United States.
- Checks drawn or otherwise issued by you or any other person on any of your accounts or any account on which you are an authorized signer or joint account holder.
- Checks that are remotely created checks, as defined in Reg. CC.
- Checks not payable in United States currency.

- Checks dated more than 6 months prior to the date of deposit.
- Checks or items prohibited by TopMark's current procedures relating to the Services or which are otherwise not acceptable under the terms of your TopMark account.
- Checks payable on sight or payable through Drafts, as defined in Reg. CC.
- 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 check deposit capture service offered at any other financial institution.
- Checks or items that are drawn or otherwise issued by the U.S. Treasury Department.

6. Deposit Limits. We may establish limits on the dollar amount and/or number of items or deposits, and such limits may be subject to change without notice. These limits are available to view on www.topmarkfcu.com. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times.

7. Endorsements and Procedures. You agree to restrictively endorse any item transmitted through Mobile Check Deposit Service with the signature of all payees and by designating the item as "For Mobile Deposit Only, TopMark FCU". You agree to follow any and all other procedures and instructions for use of the Service as we may establish from time to time.

8. Availability of Funds. You agree that items transmitted using the Services are not subject to the fund's 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 on a business day that we are open, we consider same day as long as TopMark Federal CU receives all deposit files by 4:30 PM ET. Files received after this cut-off time will be credited on the following business day. The funds deposited using the Services will generally be made available the one business day after the day of deposit (provided no hold is placed). Deposits made on weekends and credit union holidays will not be considered received until the next business day. If a hold is placed on your deposit, you will be able to see it in the Pending menu in Online or Mobile Banking.**

9. Disposal of Transmitted Items. Upon your receipt of a confirmation from TopMark that we have received an image that you have transmitted, you agree to maintain control over and be responsible for secure storage of the check for at least 60 calendar days from the date of the image transmission. After 60 days, you agree to destroy the check that you transmitted as an image, mark it "VOID", or otherwise render it incapable of further transmission, deposit, or presentment. During the time the retained check is available, you agree to promptly provide it to TopMark upon request.

10. Image Quality. The image of an item transmitted to TopMark using the Services must be legible, as determined in the sole discretion of TopMark. Without limiting the foregoing, the image quality of the items must comply with the requirements established from time to time by TopMark, the American National Standards Institute, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearinghouse or association.

11. Receipt of Items. We reserve the right to reject any item transmitted through the Services, at our discretion, without liability to you. We are not responsible for items we do not receive or for images that are dropped during transmission. An image of an item shall be deemed received when you receive a confirmation from TopMark that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete, or will be considered a deposit and credited to your account. We further reserve the right to charge back to your account at any time, any item that

we subsequently determine was not an eligible item. You agree that TopMark is not liable for any loss, costs, or fees you may incur as a result of our chargeback of an ineligible item.

12. Errors in Transmission. By using the Services, you accept the risk that an item may be intercepted or misdirected during transmission. TopMark bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.

13. Errors. You agree to notify TopMark of any suspected errors regarding items deposited through the Services right away, and in no event later than 30 days after the applicable TopMark account statement is sent. Unless you notify TopMark within 30 days, such statement regarding all deposits made through the Services shall be deemed correct, and you are prohibited from bringing a claim against TopMark for such alleged error.

14. Presentment. The manner in which the items are cleared, presented for payment, and collected shall be in TopMark's sole discretion subject to the Deposit Account Terms and Conditions and applicable service terms governing your account.

15. Limitations of Service. When using the Services, you may experience technical or other difficulties. We will attempt to post alerts on www.topmarkfcu.com to notify you of these interruptions in Service. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. Some of the Services have qualification requirements, and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue the Services, in whole or in part, or your use of the Services, in whole or in part, immediately and at any time without prior notice to you.

16. Your Promises and Indemnification. You promise to TopMark Credit Union that:

- You will use the Service only for Paper Items that are payable to, and endorsed by, you.
- You will not transmit any ineligible items.
- You will not transmit duplicate items.
- You will not re-deposit or re-present the original item.
- You will not transmit any item if you are aware of any facts or circumstances that may impair the collectability of that item.
- The digital image of the check transmitted to TopMark is a true and correct image of the original paper check and has not been altered in any manner by you or any third party acting on your behalf.
- All information you provide to TopMark is accurate and true.
- You will comply with this Addendum and all applicable rules, laws and regulations in using this Service.

You agree to indemnify and hold TopMark harmless from any loss resulting from your breach of these promises.

17. Cooperation with Investigations or Audit. You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request and without further cost, any originals or copies of items deposited through the Service in your possession and your records relating to such items and transmissions. We may periodically audit and verify your compliance with this Addendum. You agree to cooperate and provide information or documents, as may be reasonably requested by TopMark in the course of such audit.

18. Termination. We may terminate this Agreement at any time and for any reason. This Agreement shall remain in full force and effect until it is terminated by us. Without limiting the foregoing, this Agreement may be terminated if you breach any term of this Agreement, if you use the Services for any unauthorized or illegal purposes or you use the Services in a manner inconsistent with the terms of your Deposit Account Terms and Conditions or any other agreement with us.

19. Enforceability. We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

20. DISCLAIMER OF WARRANTIES. YOU AGREE YOUR USE OF THE SERVICES 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. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.

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