

Mobile Deposit Terms and Conditions

In this Service Agreement (“Agreement”), the term “Mobile Deposit” shall mean “Remote Deposit”, the words “you” and “your” mean the member who enrolls or uses the services described in this Agreement. The words “Credit Union”, “CAP COM”, “us” and “we” mean Capital Communications Federal Credit Union. Your use of this service constitutes your acceptance of the terms and conditions of this agreement. You and CAP COM agree as follows:

Mobile Check Deposit. We will provide services (“Mobile Deposit”) that permit you to submit electronic check images and associated information (“Check Images”) to us via an approved mobile device (“Mobile Device”) for deposit to your account(s) in lieu of certain original checks (“Original Checks”).

In providing Mobile Deposit, we may utilize and rely upon one or more Third Party Service Provider(s) (“TPSP”) to provide file acknowledgement, file transmission, database storage, database access, data communications and other services to the Credit Union. The Credit Union may change the service provider at any time. You agree to waive any and all rights or recourse, directly or indirectly, against any TPSP.

You may submit Check Image deposits to us through our TPSP with respect to Original Checks that are acceptable for deposit into your account(s) and as further described in this Agreement. Check Image deposits are subject to all provisions of the account agreements between you and CAP COM that apply to check deposits. The total amount of Check Images we will accept on any one (1) day cannot exceed the amounts based upon your account status. Please note your determined limit will appear within the app. This amount may be modified by us from time to time. Notwithstanding the foregoing, we may choose in our sole discretion to process Check Images that exceed this limit.

Upon receipt of the Check Image, CAP COM and/or our TPSP will review the Check Image for acceptability. You understand and agree that receipt of a Check Image does not occur until after we notify you of receipt of the Check Image via the Deposit History feature. You understand that, in the event you receive a notification from CAP COM confirming receipt of a Check Image, such notification does not mean that the Check Image is free from errors or that CAP COM is responsible for any information you transmit to CAP COM. CAP COM is not responsible for any Check Image that is not received from you. Following receipt of the Check Image, CAP COM may process the Check Image by preparing a “substitute check” or clearing the item as a Check Image. Notwithstanding anything to the contrary, CAP COM reserves the right, within its sole and absolute discretion, to accept or reject any item for mobile deposit into your account. CAP COM’s acceptance of your check(s) does not guarantee the check(s) will clear the payee’s account. You understand that funds deposited may not be available for immediate withdrawal, and are subject to CAP COM’s check hold policy. You understand that any amount credited to your account for items deposited using the services is a provisional credit and you agree to indemnify CAP COM against any loss suffered because of the acceptance of the Check Image deposits.

Software Application. The Mobile Deposit service includes the Software Application (“Application”). The Application resides on servers located at the Credit Union’s TPSP, and is made available to Credit Union members by means of the Internet. We grant you a limited, non-exclusive, and non-assignable right and license to have access to, and use of, the Application in accordance with the terms of this Agreement. Upon our acceptance of this Agreement, we will provide you with access to the Application. The Application may be used solely in connection

with the Mobile Deposit service and may not be used by you for any other reason. You may not grant any sublicenses to the Application. You agree that you will not (i) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Application, (ii) copy or reproduce all or any part of the technology or Application, or (iii) interfere, or attempt to interfere with the technology or Application. The Application does not include various third party operating systems and applications that will be required to use the Application. You will be solely responsible for such third party software. You acknowledge that the Application contains trade secrets and other proprietary and confidential information, whether or not the Application contains any copyright or other proprietary notice. You agree to take commercially reasonable precautions to protect the confidentiality of the Application. You (i) will not print, copy, or duplicate any portion of the Application, (ii) will not alter any copyright notices on the Application, (iii) will not make the Application available in any form to anyone except your agents for purposes specifically related to your authorized use, (iv) will take appropriate action with any persons permitted access to the Application to inform them of the confidential nature thereof and to obtain their compliance with the terms of this Paragraph, (v) will only use the Application for your personal use and not for the benefit of any other person or entity, and (vi) will comply with all Credit Union procedures and requirements for use of the Application. The provisions of this Paragraph will survive termination of this Agreement.

Equipment and System Requirements. At your sole expense, you must acquire Mobile Devices and telecommunication services necessary for the Mobile Deposit service, Your Mobile Device must be compatible with Mobile Deposit. You will arrange with established telecommunication companies for the transmission of data between you and the Credit Union, and we will have no responsibility with respect to such companies or their services.

Check Image Requirements. You will submit Check Images to the Credit Union in such format, with such information, as we may require from time to time. Without limiting the foregoing,

a. Check Images may only be submitted for Original Checks payable to you and drawn on financial institutions located in the United States. Exception items must be deposited in person at a branch location.

b. Check Images may not be submitted for Original Checks drawn by you or for “substitute checks” as defined by federal law.

c. Only one Check Image may be submitted for each Original Check.

d. Check Images may not be submitted for any Original Check that:

- is stamped with a “non-negotiable” watermark.
- contains evidence of alteration to the information on the Original Check.
- is incomplete.
- is “stale dated” or “postdated”.
- has been returned not payable as a result of insufficient funds, stop payment or other related reasons.

e. Prior to imaging, you will properly endorse each Original Check with the following:

- Your name (i.e., signature)
- The words “For deposit only”
- Your account number to which the check is being deposited
- The words “For mobile deposit” (for mobile device)
- The date (mm/dd/yyyy)

f. Before transmitting a Check Image to the Credit Union, you will (i) inspect the Check Image, (ii) compare the Original Check with the Check Image, (iii) verify that the

Check Image clearly and accurately displays the payee, the drawer's signature, the date, the Original Check number, the amount, the MICR encoded information and all other information on the Original Check, and (iv) correct any errors.

Service Availability. Generally, the Mobile Deposit service may be used 7 days a week, 24 hours a day (the "Service Hours"), provided, however, that Check Images only will be posted to your account as provided below. Access to the Mobile Deposit service may be unavailable on a regular basis for maintenance. Credit Union will use commercially reasonable efforts to cause the Mobile Deposit service to be accessible to you during the Service Hours, except for scheduled maintenance and required repairs, and except for any interruption due to causes beyond the reasonable control of, or not reasonably foreseeable by, Credit Union, including, but not limited to, any Force Majeure Event as defined in the Paragraph below. In the event of any interruption or failure of the Mobile Deposit service during Service Hours, other than as permitted by this Paragraph, you will promptly notify the Credit Union by calling our eCommerce Team at (800) 468-5500. In the event that the Service is unavailable, you acknowledge that you can deposit an Original Check at our branches or through our ATMs or by mailing the Original Check to the Credit Union at: CAP COM Federal Credit Union, 4 Winners Circle, Albany NY 12205.

Limitations on Dollar Amount. You understand and agree that you cannot exceed the limitations on dollar amounts of mobile deposits that are set forth by CAP COM.

Acceptance, Rejection and Correction of Check Images. Barring any unforeseen circumstances such as, but not limited to, delays related to inclement weather, power outages, computer system failures, or the lack of system connectivity, Check Images presented to the Credit Union before 3 p.m. EST Monday through Friday are posted to your account the same day we receive them. Check images presented after 3 p.m. Monday through Thursday will be posted to your account by noon the next business day. Check images presented after 3 p.m. on Friday through 7 a.m. Monday will be posted to your account by noon on Monday. In the event of a holiday, deposits will be posted on the next business day. You are responsible to determine whether a Check Image has been received by the Credit Union and deposited to your account. A Check Image has been deposited when the transaction appears in Deposit History. If a Check Image has a status of "pending," the Check Image has not been submitted for processing by you. If a Check Image has a status of "submitted" or "held for review," it has not yet been accepted by us for deposit to your account. In our sole discretion, we may reject any Check Image. We may correct the amount of any deposit by debiting or crediting your account(s) within a reasonable time after discovery of an error. You will cooperate with us to investigate unusual transactions or poor quality transmissions.

CAP COM is not liable for any service or late charges levied against you due to CAP COM's rejection of any item. In all cases, you are responsible for any loss or overdraft plus any applicable fees charged to your account due to an item being returned.

CAP COM will send you a written or electronic notice of transactions that are unable to be processed because of returned items. With respect to any item that you transmit to CAP COM for Mobile Deposit that is credited to your account, in the event such item is dishonored, you authorize CAP COM to debit the amount of the item(s) from your account.

Email Address. You agree to notify CAP COM immediately if you change your email address, as this is the email address where CAP COM will send you notification of any receipt or rejection of mobile deposit items or any changes to the service.

Availability of Funds. Funds deposited using the Mobile Deposit service will be available in accordance with our funds availability policy as indicated on https://www.capcomfcu.org/siteassets/pdfs/checkholdpolicy_addendum_201806.pdf. CAP COM may make such funds available sooner 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 CAP COM, in its sole discretion, deems relevant.

Handling Checks after Imaging. After the Check Image is accepted by the Credit Union, you will mark each Original Check "processed." You will retain each Original Check in a secure location for not less than 60 days and not more than 90 days. Upon our request at any time or from time to time, you will deliver to us within one day all Original Checks in your possession. You will be responsible if any person receives presentment or return of, or otherwise is charged for, the Original Check or a paper or electronic representation of the Original Check such that the person will be asked to make a payment based on an Original Check that it already has paid. To reduce the risk of a second presentment, you will use a commercially reasonable method (e.g., shredding) to destroy Original Checks promptly after your retention period has expired. *You acknowledge that the Check Image thereafter will be the sole evidence of the Original Check.* You acknowledge that if Check Images are dishonored and returned unpaid for any reason, we may charge back the Check Image to your accounts. You will notify us immediately by telephone with written confirmation if you learn of any loss or theft of Original Checks.

In Case of Errors. In the event that you believe there has been an error with respect to any original Check Image transmitted to CAP COM for deposit or a breach of this Agreement, you will immediately contact CAP COM regarding any such error or breach as set forth below by calling (800) 468-5500 or by secured message through Connect-24 online.

Periodic Statement. Any mobile deposits made through the Mobile Deposit will be reflected on your monthly account statement. You understand and agree that you are required to notify CAP COM of any alleged error relating to images transmitted using the service by no later than 60 days after the monthly statement, that includes said transaction, has been made available to you by CAP COM. You are responsible for any errors that you fail to bring to CAP COM's attention within such time period. Any delay of error notification beyond 60 days may not preserve your liability limitations.

Termination of the Services. You may, by written or verbal request, terminate the services provided for in this Agreement. In addition, your ability to use this service may be terminated without notice by CAP COM if you fail to meet the requirements or you fail to comply with the requirements of the services. In the event of termination of the Services, you will remain liable for all transactions performed on your account.

Your Representations, Warranties and Covenants.

- a. You represent that you have duly executed and delivered this Agreement.
- b. With respect to each Check Image, you represent, warrant and agree that:
 - i. Each Check Image transmitted to us is a true and accurate rendition of the front and back of the Original Check, without any alteration, and the drawer of the Original Check has no defense against payment of the Original Check;

ii. The person on whose account the Original Check is drawn authorized the issuance of the Original Check in the amount stated on the Original Check and to the payee stated on the Original Check;

iii. You are authorized to enforce each item transmitted or are authorized to obtain payment of each item on behalf of a person entitled to enforce such transmitted item;

iv. You will not deposit or otherwise endorse to a third party the Original Check and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the item (either the Original Check, or a paper or electronic representation of the Original Check) such that the person will be asked to make payment based on an item it has already paid; and

v. You make to the Credit Union all representations and warranties that the Credit Union makes or is deemed to make to any party pursuant to law or regulation without limitation, and all warranties as defined in the Check Clearing for the 21st Century Act made by the Reconverting Bank and Truncating Credit Union.

Privacy and Security. Any security procedures required in connection with the Mobile Deposit service are strictly confidential. You will ensure the safety and integrity of deposited items from the time of receipt until the time of destruction of the Original Checks. You will take reasonable measures to safeguard your computer systems or Mobile Devices. At our request, you will perform a security assessment and/or review with Credit Union. If warranted in Credit Union's reasonable judgment, Credit Union reserves the right to monitor you, and you agree to cooperate with Credit Union to permit such monitoring, to confirm that you have satisfied your obligations. You are responsible for keeping all usernames and passwords secret and confidential, and for any communications or transactions that are made using your usernames and passwords and any other obligation which may result from such use. You are responsible for requesting a new username and password if you believe that any of your usernames or passwords have been stolen or might otherwise be misused. You shall take appropriate actions to address incidents of unauthorized access to information concerning Original Checks and Check Images maintained by you, including notifying Credit Union as soon as possible of any such incident and fully informing Credit Union of the details of any such incident. You will report any breach of confidentiality promptly to Credit Union.

a. **Securing Images on Mobile Devices.** When using the Mobile Deposit service via a Mobile Device, you understand that Check Images captured using your Mobile Device are stored on the device only until the associated deposit has been successfully submitted. You agree to promptly complete each deposit. In the event that you are unable to promptly complete your deposit, you agree to ensure that your Mobile Device remains securely in your possession until the deposit has been completed or to delete the associated images from the Application.

Force Majeure. Except for your obligations to pay the Credit Union hereunder, neither party will be liable to the other party for any failure or delay in performance caused by reasons beyond its reasonable control, including, but not limited to, restrictions of law, regulations, orders or other governmental directives, labor disputes, acts of God, third-party mechanical or other equipment breakdowns, fire, explosions, fiber optic cable cuts, interruption or failure of telecommunication or digital transmission links, Internet failures or delays, storms or other similar events (each a "Force Majeure Event").

Compliance with Law. You will comply with all laws, rules and regulations that apply to banking transactions. You will agree to use the Mobile Deposit service for lawful purposes and in compliance with all applicable laws, rules and regulations. You warrant that you will only

transmit Check Images that are acceptable for deposit and have handled the Original Checks in accordance with applicable laws, rules and regulations.

Credit Union's Liabilities. The Credit Union's duties and responsibilities are limited to those described in this Agreement. We are not liable for any act or omission of anyone else, including you. We will not be liable to you for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Application or by any interruption of service or loss of use thereof or for any loss of business, howsoever caused. You agree that we will have no liability if information is intercepted by an unauthorized person, either in transit or at your home or place of business, or if Check Image transmission is interrupted, lost or delayed.

THE MOBILE DEPOSIT SERVICE, INCLUDING, BUT NOT LIMITED TO, THE APPLICATION, IS PROVIDED "AS IS". THERE IS NO WARRANTY OF MERCHANTABILITY, NO WARRANTY OF FITNESS FOR A PARTICULAR USE, AND NO OTHER WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, REGARDING THE MOBILE DEPOSIT SERVICE OR THE APPLICATION. THERE IS NO WARRANTY THAT YOUR USE OF THE MOBILE DEPOSIT SERVICE OR THE APPLICATION WILL BE UNINTERRUPTED OR ERROR FREE. THERE IS NO WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE INFORMATION CONTAINED IN THE APPLICATION OR AGAINST INFRINGEMENT. YOU ASSUME ALL RISKS OF THE USE, RESULTS AND PERFORMANCE OF THE MOBILE DEPOSIT SERVICE AND THE APPLICATION. THE CREDIT UNION IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF PROFITS, REVENUE OR DATA, WHETHER IN AN ACTION IN CONTRACT, TORT, PRODUCT LIABILITY, STATUTE OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. THE CREDIT UNION WILL NOT BE LIABLE FOR DIRECT DAMAGES EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT. ANY LIABILITY THE CREDIT UNION MAY HAVE (WHETHER IN CONTRACT, TORT, OR OTHERWISE) WILL NOT EXCEED THE AMOUNT YOU PAID THE CREDIT UNION UNDER THIS AGREEMENT FOR THE 30 CALENDAR DAYS PRIOR TO THE TIME THE CREDIT UNION INCURRED THE LIABILITY. YOU MAY NOT BRING ANY ACTION AGAINST THE CREDIT UNION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT, THE APPLICATION, OR THE MOBILE DEPOSIT SERVICE, MORE THAN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CAUSE OF ACTION.

Indemnification. You will indemnify and hold harmless CAP COM, its TPSP, and their respective directors, officers, shareholders, members, 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) your wrongful acts or omissions, or any person acting on your behalf, in connection with your use of the Mobile Deposit service under this Agreement, including without limitation (a) the breach by you of any provision, representation or warranty of this Agreement, (b) the negligence or willful misconduct (whether by act or omission) of you or any third party acting on your behalf, (c) any misuse of the Mobile Deposit service by you, or any third party within the control or on your behalf, (d) your failure to comply with applicable state and federal laws and regulations, or (e) any fine, penalty or sanction imposed on us by, any clearing house, or any governmental entity, arising out of or in connection with any Mobile Deposit service processed by us for you at your instruction; (ii) any act or omission by us that is in accordance with this Agreement or instruction from you; (iii) your improper operation, mechanical failure or failure to properly service or maintain any personal computer(s) in connection with the Mobile Deposit service, (iv) actions by third parties, such as the introduction of a virus that delay, alter or corrupt the transmission of Mobile Deposit service; (v)

any loss or corruption of data in transit from you to us; (vi) any claim by any recipient of a substitute check corresponding to a check processed by you under this Agreement, that such recipient incurred loss due to the receipt of the substitute check instead of the original check; or (vii) any claims, loss or damage resulting from your breach of, or failure to perform in accordance with, the terms of this Agreement.

Amendment and Term. We may amend this Agreement at any time by giving you prior notice of any changes. Unequivocal beneficial changes require no advance notification. You may terminate this Agreement upon prior notice to us. We may terminate this Agreement immediately without notice to you. All warranties, representations and covenants you make and all obligations you incur before termination survive termination.

Governing Law. This Agreement will be governed by and interpreted in accordance with the laws of the State of New York as applied to agreements executed and performed entirely in New York by New York residents. Any claim or controversy arising out of or related to this Agreement or any breach hereof shall be venued in New York State Supreme Court, Albany County, or the United States District Court for the Northern District of New York. Each party hereby consents to and submits to the jurisdiction and venue of such courts.

Notices. Any notice, request or other communication you are required or permitted to give under this Agreement must be in writing and sent by certified or registered United States mail, return receipt requested; postage prepaid, to CAP COM Federal Credit Union, 4 Winners Circle, Albany NY 12205. Notices will be effective when we receive them. At our discretion we may give notice to you by mail or by email. We may give notice of changes in terms or we may revise the terms and conditions in this Agreement and make it available in our branches. Any notice that we mail is considered given 48 hours after we place it in the mail, postage paid, for delivery to your address as shown on our records. Any notice delivered electronically is considered given 24 hours after it is first made available through the Services. If a specific notice period or type of notice is required by applicable law, the notice will be binding in accordance with such law. Either party may change the address to which notice is to be delivered to it under this Agreement by giving notice to that effect to the other party in the manner provided in this Paragraph.

Assignment. You may not assign your rights or obligations under this Agreement without the prior written consent of us. We may assign our rights or obligations under this Agreement without prior notice to you.

Miscellaneous. The parties agree that this Agreement and the provisions related to Mobile Deposit contained within the New Account Terms and Conditions Packet constitute the complete and exclusive expression of the terms of the agreement between the parties regarding the Mobile Deposit service. These Terms and Conditions supersede all other agreements, whether oral or written, understandings, representations, conditions, warranties, covenants, and all other communications between the parties relating to the subject matter of this Agreement. This Agreement controls to the extent of any inconsistency between this Agreement and the Mobile Deposit Capture provisions contained within the New Account Terms and Conditions Packet. The parties agree that this Agreement may not in any way be explained or supplemented by a prior or existing course of dealing between the parties or by any prior performance between the parties pursuant to this Agreement or otherwise. You authorize us to procure such credit reports and other financial information regarding you as we may desire from time to time during the term of this Agreement.

Use of the Mobile Deposit System constitutes your agreement to and understanding of these Terms and Conditions.