

Consumer Mobile Deposit Capture Agreement

SPIRE Credit Union Mobile Deposit Capture Agreement (“Agreement”) provides the general rules that apply to SPIRE Credit Union Member’s use of Mobile Deposit Capture Product (“MDCP”) described below and provided by SPIRE Credit Union (“The Credit Union”). The terms and conditions of this Agreement supplement the SPIRE Internet Banking Agreement and Disclosure and your existing Account Agreements and Disclosures governing your accounts with SPIRE.

The terms “we,” “us” and “our” refer to SPIRE Credit Union. “You” or “your” refer to Member.

This agreement is governed by and subject to all applicable federal laws and the laws of the State of Minnesota, as well as regulations and rules that may be promulgated in accordance with federal and state law. When used in this agreement, the term “applicable law” includes all of the above.

1. Description of Product

MDCP includes the software, hardware and processes that allow you to electronically capture an image (or picture) of an eligible check or other item using a mobile capture device, such as a smartphone or similar device, and transmit the item to The Credit Union for deposit into your designated account from any remote location.

2. Acceptance of These Terms

Your use of MDCP constitutes your acceptance of this Agreement. The Credit Union reserves the right, in its sole discretion, to change, modify, add or remove portions from MDCP as it deems necessary or desirable. The Credit Union will provide you notice at least thirty (30) days prior to the effective date of the change and will provide a link or written Internet address to a location on The Credit Union’s website where the change is described. It is your responsibility to read the notice of change. Your continued use of MDCP after notification shall constitute acceptance of any changes.

3. Term and Termination

This Agreement shall be effective as of the date the Member begins the use of MDCP and will continue until terminated in writing by Member or The Credit Union.

4. Rules

4.1 Eligible and Ineligible Items. The following lists describe items which may and may not be used with MDCP:

Eligible Items

- Checks drawn on U.S. financial institutions
- Checks payable to multiple parties if account is owned by same
- Money Orders
- Traveler’s Checks
- Cashier’s Checks

Ineligible Items

- Foreign items
- Savings bonds
- Checks payable to another person
- Items that are missing processing information, such as proper endorsement or illegible or missing account or bank routing numbers
- Items that have been previously electronically captured and endorsed
- Bond coupons
- Treasury Tax & Loan (TTL) payments
- Pay on sight items
- Remotely created checks
- Altered checks
- Returned items
- Checks that are postdated or checks dated more than 6 months prior to date of deposit

- 4.2 **Exposure Limit Review.** In accordance with applicable law, an exposure limit, which is the largest deposit allowed on a single business day, must be established before MDCP is initiated for Member, and re-approved annually thereafter. By agreeing to the Mobile Deposit Capture Agreement and submitting a signed MDCP Application, you authorize The Credit Union to obtain any information necessary, including a credit report, to complete the exposure limit review.
- 4.3 **Adverse Change.** If The Credit Union, in its sole judgment, determines that there has been an adverse change in Member's financial condition, The Credit Union may terminate this Agreement effective immediately.
- 4.4 **Funds Availability.** Items received through MDCP will be subject to the same availability schedule, requirements and restrictions as paper checks deposited in our offices. The availability schedule can be obtained at all offices and online at our website.
- 4.5 **Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through MDCP as "For remote deposit only, account # _____" or as otherwise instructed by The Credit Union. You agree to follow any and all other procedures and instructions for use of MDCP as The Credit Union may establish from time to time.

5. The Credit Union Responsibilities

- 5.1 **Acceptance of Items.** The Credit Union will credit your account for all qualifying items if received by the deadline in correct and usable form. As set out in detail in Section 6.6.2 below, The Credit Union reserves the right to reject any item that is inaccurate or not eligible for processing, and is not responsible for any delays in funds availability as a result of rejected items.
- 5.2 **Return Items.** The Credit Union will process and return unpaid items in accordance with The Credit Union's published guidelines and schedules, as governed by applicable law, and will as necessary, convert check images into substitute checks for processing.
- 5.3 **Reporting.** The Credit Union will provide MDCP information in appropriate format and media necessary to operate MDCP, including balance information and the ability to display and print any MDCP transaction deposited.
- 5.4 **Liability and Disclaimer.** The Credit Union shall not be liable to Member other than as required by applicable law when the procedures of The Credit Union are followed and such procedures are reasonable. The Credit Union is not responsible for detecting Member errors contained in any deposit created and transmitted to The Credit Union by Member. The Credit Union is not responsible for loss resulting through error by other banks or other entities involved in the collection process.
- 5.5 **Reliance on Information Sent.** The Credit Union shall be entitled to rely on any information sent via Member's remote capture device through MDCP. The Credit Union is not responsible for any losses that may result from the unauthorized use of MDCP.

6. Member Responsibilities

- 6.1 **Documentation Requirement.** Member agrees to provide information as required by applicable law or by The Credit Union, when requested.
- 6.2 **Ensuring that Data is Accurate and Usable.** The Member agrees that it is responsible for insuring that all items are correct and usable, both in content and form. Transmitted items will be rejected or may be held for further research and verification if they exceed the exposure limit, if the image quality is unacceptable, if there has been a duplication of items, if the transaction is out of balance or otherwise cannot be processed, is inaccurate, incomplete or inadequate. If rejected, it is the sole responsibility of Member to correct and resubmit the information to The Credit Union. Member is responsible for all delays in funds availability for any items rejected or held.
- 6.3 **Receipt of Deposit Verification.** If Member does not receive a receipt of deposit following a transmission, it is the sole responsibility of Member to determine why the transmission was not received, and The Credit Union is not responsible for determining the cause or for processing the deposit.
- 6.4 **Daily Item Balancing.** Member agrees to verify MDCP items, using online banking, deposited on the previous business day and immediately notify The Credit Union of any error. The Credit Union will make every effort to assist Member in resolving transmission and posting errors, but all adjustments will be made in accordance with The Credit Union's ACCOUNT AGREEMENT AND DISCLOSURES and applicable law.
- 6.5 **Risk Management.** Member shall be responsible for protecting against unauthorized access to MDCP information and data in accordance with applicable law, which includes, but is not limited to the following:
 - a) Maintaining mobile access device with recommended identification codes, settings, software and parameter updates provided by The Credit Union and/or your mobile access device vendor;
 - b) Changing passwords periodically or when requested by The Credit Union;
 - c) Using virus and malware detection software approved by your mobile access device vendor as available;

- d) Avoiding the use of operating system or access device features that “remember” pass codes or account information;
- e) Permanently destroying or erasing all memory components, hard drives and all electronic media used with MDCP that have become obsolete, unusable or which are defective.
- f) Destroying or storing replaced memory cards in a secure environment before activating new access devices; and
- g) Notifying The Credit Union immediately of any breach of access device or any unauthorized access to confidential information. Member further agrees to notify The Credit Union before making any oral or written statements that may be published by newspaper, radio, television or Internet.

6.6 Procedural Requirements. Member agrees that it has access to annually updated rules and regulations for MDCP and agrees to follow the procedures defined in information provided to Member by The Credit Union.

6.7 Disposal of Transmitted Items. You agree to retain any item deposited through MDCP for at least 30 calendar days from the date of the image transmission. After 30 days you agree to destroy the item that you transmitted as an image, mark it “VOID”, or otherwise render it incapable of further transmission, deposit, or presentment. You are required to implement such procedures to ensure that the original items are not accessible by unauthorized persons during the storage, destruction and disposal process and, once destroyed, the original items are no longer readable or capable of being reconstructed. During the time the retained item is available, you agree to promptly provide it to The Credit Union upon request.

7. Payment to The Credit Union

Mobile Deposit Capture is a free service. At The Credit Union’s sole discretion, the fee may be adjusted in the future after you have received at least thirty (30) days’ notice. If you agree to the fee change, your continued use of MDCP will constitute acceptance. The Credit Union is not responsible for any fee that may be charged to you by your mobile device provider.

8. Liability and Indemnity

The Credit Union’s responsibility and liability to Member for any liabilities, claims, losses, costs, expenses (including attorney’s fees and costs) or damages of any kind, including without limitation direct or indirect, special, incidental, consequential and punitive damages, arising in connection with any aspect of this MDCP, including but not limited to the use or the inability to use any MDCP feature, or any failure, error, omission, interruption, defect, delay in operation or transmission, computer viruses or malware, or any line or system failure related to MDCP, are strictly limited to those expressly provided by applicable law. MEMBER AGREES TO HOLD HARMLESS, DEFEND AND INDEMNIFY THE CREDIT UNION, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, AND ALL PERSONS IN PRIVACY WITH IT FROM AND AGAINST ANY LIABILITIES, CLAIMS, LOSSES, COSTS, EXPENSES (INCLUDING ATTORNEY’S FEES AND COSTS) OR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL AND PUNITIVE DAMAGES, ARISING IN CONNECTION WITH ANY ASPECT OF MDCP, EVEN IF THE LOSSES RESULTED FROM THE NEGLIGENCE OF THE PARTIES INDEMNIFIED HEREIN. THE CREDIT UNION’S LIMITED RESPONSIBILITY AND LIABILITY AS SET FORTH HEREIN CONSTITUTES MEMBER’S SOLE AND EXCLUSIVE REMEDIES UNDER THIS AGREEMENT IN LIEU OF ALL OTHER REMEDIES, WHETHER EXPRESSED OR IMPLIED AND WHETHER AT LAW OR IN EQUITY, AND THE CREDIT UNION HEREBY DISCLAIMS, AND MEMBER WAIVES AND RELINQUISHES ITS RIGHT TO ANY OTHER REMEDY AND CLAIMS.

9. Authorized Equipment and Software

Member agrees to purchase and use equipment and software that are compatible with MDCP and approved by The Credit Union. The Credit Union shall have no liability or responsibility for any damages, losses or claims by Member as a result of any software or equipment used in conjunction with MDCP and transactions contemplated by this Agreement, and Member’s sole recourse with respect to any such damages, losses or claims shall be against the manufacturer or provider of such software and equipment.

10. Miscellaneous

10.1 Benefits and Assignment of Agreement. The terms and provisions of this Agreement shall inure to the benefit of and be binding upon Member, The Credit Union and its respective successors and assigns. Member may not assign its rights under this Agreement. The Credit Union may assign or delegate certain of its rights and responsibilities under this Agreement as it deems necessary.

10.2 Entire Agreement. This Agreement along with the SPIRE Mobile Deposit Capture application constitutes the entire understanding between the parties as to the MDCP, and supersedes any and all previous agreements with respect thereto.

10.3 No Oral Agreements. No officer or employee of The Credit Union has authority to orally modify any provision of this Agreement. Member acknowledges that there are no oral conditions, representations, agreements or commitments

affecting the Agreement and that it has not entered into this Agreement in reliance upon any representation made by The Credit Union.

- 10.4 Ownership of System.** Member agrees that certain MDCP features are provided by The Credit Union to Member under a sublicensing agreement with third-party vendors. Member agrees that The Credit Union may in the future contract with additional third-party vendors for development and/or delivery of MDCP features or enhancements as it deems necessary or desirable. Member agrees that the vendors used are the sole owners and licensors for their MDCP features and that at no time during the term of this Agreement, or after termination, will Member have any claim or interest in the MDCP, other than Member's information and data.
- 10.5 Severability.** If any of the provisions of this Agreement are deemed invalid under any applicable law, all remaining provisions shall remain in full force and effect.
- 10.6 Notice.** Notices from The Credit Union to Member may be made by any method selected by The Credit Union, including United States Postal Service, email, facsimile or text message. Notices from Member to The Credit Union shall be made through United States Postal Service or email. Member may advise The Credit Union by telephone of any issue needing immediate attention, but such notice must be followed up in writing. All such notices will be made to the address listed and shall be effective upon receipt.
- 10.7 Headings.** Headings to sections of this Agreement are included for ease of reference and shall not be deemed to create rights, remedies, claims or defenses arising under this Agreement.
- 10.8 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

Contact Information:

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