

REMOTE DEPOSIT CAPTURE AGREEMENT

West Community Credit Union (“Credit Union”) and the Member (defined below) hereby enter into, as of the date the Credit Union grants access to the Service (the “Effective Date”), this Remote Deposit Services Agreement.

1. **Background.** Credit Union offers and Member desires to use, the Remote Deposit Capture service that allows Member to scan checks remotely and transmit the check images to the Credit Union for processing and provisional deposit into Member’s account at the Credit Union on the terms and conditions set forth in the Agreement (the “Service”).
2. **Definitions.**
 - a. Account means Member's deposit account at the Credit Union into which Checks transmitted electronically under this Agreement will be deposited.
 - b. Account Agreement with respect to any Account means the Credit Union's agreements and disclosures governing the Account, as they may be amended from time to time.
 - c. Agreement means this Remote Deposit Capture Agreement and any amendments, exhibits or addenda now existing or which may become part of this document as provided herein.
 - d. Business Day means any day that the Credit Union is operating and open for business except Saturday, Sunday, and all federal holidays. All transactions, deposits, instructions, and entries received by Credit Union on a day which is not a Business Day will be treated as if received on the next Business Day.
 - e. Check means a draft that is payable on demand, drawn on or payable through or at an office of a United States Financial Institution, whether negotiable or not, and payable or endorsed to Member, and includes Original Checks and Substitute Checks. Such term does not include Non-cash Items or items payable in a medium other than United States money. Notwithstanding the foregoing, “Check” shall not include an Original Check or Substitute Check issued by and drawn on the Account. However, the Credit Union's processing of items that do not meet this definition shall not constitute a waiver by the Credit Union of its right to refuse to process such items or obligate Credit Union to process nonconforming items in the future. The Credit Union may discontinue processing of nonconforming items at any time, with or without cause or prior notice.
 - f. Electronic Item means a digitized image of a Check, an Image Exchange Item, or any other electronic version of a Check or other electronic item (such as items processable through the automated clearinghouse (ACH) system) approved by the Credit Union for processing through Remote Deposit.
 - g. Image Exchange Item means a digitized image of a Check cleared and settled directly with a Payor Financial Institution without conversion to a Substitute Check.

- h. Member means any member of the Credit Union who establishes access to Mobile Money Services and/or Mobile Banking Services and thereby accepts the terms of this Agreement.
 - i. Non-cash Item means an item that would otherwise be a Check, 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 a Check that qualifies for handling by automated check processing equipment; or (iv) it has not been pre-printed or post-encoded in magnetic ink with the routing number of the Payor Financial Institution.
 - j. Original Check means the first paper Check issued with respect to a particular payment transaction.
 - k. Payor Financial Institution means the United States Financial Institution ordered in a Check to make payment to the payee(s) named on the Check.
 - l. Remote Deposit means collectively the procedures, protocols, equipment and software used by the Credit Union and its licensors and contractors in connection with the electronic processing of Checks, and includes without limitation the related Software and Services.
 - m. Software means that portion of the software or mobile device application developed, licensed and/or provided by the Credit Union and its licensors for operation of Remote Deposit, including, but not limited to devices, protocols, and other tools used to authenticate the identity of the Credit Union and its website as well as the Members and its users, that the Credit Union delivers or provides to Member hereunder. Software includes any protocols, tools, or functionality delivered via the internet.
 - n. Substitute Check means a paper reproduction of a Check that satisfies the requirements and definition of “substitute check” set forth in 12 C.F.R. §229 *et seq.* (Regulation CC).
 - o. United States Financial Institution means (i) any entity, located in the United States, engaged in the business of banking, provided its deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, (ii) to the extent it acts as a payor, the U.S. Treasury, the U.S. Postal Service, or a State or local government, and (iii) privately insured credit unions.
3. **Fees.** The Credit Union will charge the Member checking account \$0.50 for each check that is accepted.
4. **Services.** The Credit Union shall provide to Member the services described in this Agreement to enable Member to use Remote Deposit to convert Checks to Electronic Items for the processing of such Checks electronically. Member understands and acknowledges that images created will be transmitted to the Credit

Union instead of physically transporting the checks to a local depository. When necessary, the Credit Union will prepare Substitute Checks / Image Replacement Documents (as that term is defined in the Check Clearing For the 21st Century Act, also known as Check 21) to facilitate the deposit and collection of Electronic Items.

5. Member's Responsibilities.

- a. Member will maintain an Account at the Credit Union for the receipt of deposits of digitized images of Checks, in accordance with the applicable Account Agreement.
- b. Member will install the Software in accordance with any instructions from the Credit Union, and will install and implement any changes and upgrades to the Software as the Credit Union may require.
- c. Member understands and acknowledges that transmitting an Electronic Item does not mean the Credit Union received the Electronic Item. The Credit Union deems an Electronic Item received when it acknowledges receipt. The Credit Union is not responsible for Electronic Items it does not receive or for images dropped during transmission. If an Electronic Item is incomplete, contains errors, or has any other problems, the Credit Union will make a commercially reasonable effort to notify the Member via email.
- d. Member will not attempt to transmit to Credit Union any previously truncated and reconverted Substitute Check. Any previously truncated and reconverted Substitute Check must be physically deposited. Notwithstanding the foregoing, the Credit Union may redeposit any returned Substitute Check or Image Exchange Item consistent with the terms of the Account Agreement.
- e. Member will not electronically present items exceeding the limitations established by the Credit Union from time to time in the Credit Union's sole and absolute discretion. Member acknowledges that the Credit Union may reject any items exceeding its limitations. The Credit Union may, in its discretion, require the Member to maintain a separate account or line of credit to fulfill reserve requirements. If the Credit Union accepts items exceeding its limitations it shall not constitute a waiver by the Credit Union of its right to reject such items or obligate the Credit Union to accept items exceeding the limits in the future.
- f. Member will ensure that no financial institution (depository, collecting or payor), drawee, drawer or endorser with respect to a Check processed by Member will receive presentment or return of, or otherwise be charged for, the Check (including the Original Check or Substitute Check), corresponding Electronic Item, and/or other paper or electronic representation of the Check such that such person will be asked to make payment based on an item that it already has paid.
- g. Member will retain each Check for a reasonable period of time, but in no event fewer than 30 days after such Check has been digitized and processed. Member will promptly provide any retained Check (or, if the Check is no

longer in existence, a sufficient copy of the front and back of the Check) to the Credit Union as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any Check. Member shall store retained Checks securely and establish security procedures that limit access to retained Checks. After the Member's retention period has expired, Member shall destroy the Checks using cross shredding or a destruction method of similar quality. Member shall take reasonable measures to protect against unauthorized access to or use of Consumer Information (as such term is defined in the Fair and Accurate Credit Transaction Act) in connection with the storage and/or destruction of the Checks.

- h. Member understands and acknowledges that it is responsible for having adequate telecommunications mobile device (smart phone) and Internet access. Member further agrees at all times to maintain reasonable network and device security. Member agrees to maintain network security that conforms to generally recognized information security industry standards and best practices.
- i. 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 Bank Secrecy Act and its implementing regulations.
- j. Member shall promptly examine paper or electronic statements for each of his or her Credit Union Accounts as soon as they are received and notify Credit Union of any errors in accordance with the Account Agreement.
- k. Member will not engage in any activity directly or indirectly related to the use of the Service that is illegal, fraudulent, or gambling related.

6. **Member Representations and Warranties.** Member warrants that it has full and complete authority to enter into this Agreement and that this Agreement does not conflict with any laws, regulations, court orders, or agreements applicable to Member. With respect to each Electronic Item, Member represents and warrants the following:

- a. It is in possession of the Original Check which is made payable to the Member.
- b. It is a digitized image of the front and back of the Check and accurately represents all of the information on the front and back of the Check as of the time Member converted the Check to an Electronic Item.
- c. It contains all endorsements applied by parties that previously handled the Check in any form for forward collection or return. All endorsements are authentic and for good title to the instrument.
- d. Member has not and will not deposit the original check.
- e. Member is entitled to enforce the Check.

- f. The signatures on the Check are authentic.
- g. The Check has not been altered or modified.
- h. All transfer and presentment warranties made under the applicable laws and any account agreements between Member and Credit Union are effective.
- i. There are no duplicate items contained in the Electronic Item, and Member has not and will not transmit a duplicate Electronic Item.
- j. Any transmission of an Electronic Item are free of any virus or other defect that might affect a computer system into which it is received and opened.

7. Check Endorsement Requirements

- a. Prior to scanning any check through the Remote Service, you agree to restrictively endorse the original check "For Mobile Deposit Only" or as otherwise instructed by the Credit Union. You agree to follow all other instructions provided to you by the Credit Union for capturing and transmitting check images and associated deposit information via the Remote Service.

8. Credit Union's Responsibilities

- a. The Credit Union will deliver to Member, or otherwise provide access to, the Software.
- b. The Credit Union will provisionally accept for deposit to the designated Account digitized images of Checks that are transmitted to the Credit Union in compliance with this Agreement. Digitized images shall be deemed received only upon successful receipt of the transmission of such images that are complete, usable, and adhere to the specifications in this Agreement. If the digitized images are not complete, are distorted, altered or corrupted, or do not adhere to such data specifications, the Credit Union or its agents, in their sole discretion, may refuse to process such Electronic Items, in which event Member's deposit will be adjusted and notification will be provided. The data on the Electronic Item itself shall prevail over any data entered by the member through the Software and the Credit Union may rely on the data on the check in the event of any discrepancies. Provisional acceptance means that the credit is made to the Member's Account subject to final payment of the Checks.
- c. The Credit Union will regard a transmission of a file as in-fact received only if it provides acknowledgement of receipt. Acknowledgement of receipt of a transmission does not mean that the Credit Union acknowledges that the transmitted file contains no errors or that it is responsible for the information in the transmitted file. Any credit that the Credit Union gives for the transmitted file is provisional, and Member shall indemnify the Credit Union for any loss sustained by the Credit Union for acceptance of the transmitted file.
- d. Member's Electronic Item will be processed after the Credit Union has received Member's transmission of the Electronic Item. The Credit Union will

use commercially reasonable efforts to present Image Exchange Items and Substitute Checks for collection. Credit Union, in its sole discretion, shall determine the manner in which Electronic Items shall be presented for payment to the drawee bank. Likewise, Credit Union, in its sole discretion, shall select the clearing agents used to collect and present the Electronic Items and Credit Union's selection of clearing agents shall be considered to have been designated by Member.

- e. Unless the Credit Union notifies Member otherwise, for Electronic Items totaling more than \$2,000 on any one business day: the first \$200 deposited on any one business day will be available to the Member according to the Credit Union's general policy. Electronic Item deposits in excess of \$200 made through the Service will generally be available on the second (2nd) business day after the day of deposit. This subparagraph (e) does not supersede any other provisions of the Credit Union's general policy.
- f. If a Payor Financial Institution returns an item to the Credit Union, the Credit Union will charge the Account for such returned item, and may either (i) return the item to Member, or (ii) re-present it to the Payor Financial Institution before returning it to Member. Items may be returned as Image Exchange Items, rather than Substitute Checks, as agreed to by the Credit Union. If a Payor Financial Institution or other third party makes a claim against the Credit Union or seeks a re-credit with respect to any Electronic Item processed hereunder, the Credit Union may provisionally freeze or hold aside a like amount in the Account pending investigation and resolution of the claim.

9. **Suspension of Services.** The Credit Union may suspend immediately the Services or the processing of any Check or corresponding Electronic Item if the Credit Union has reason to believe that there has been a breach in the security of Remote Deposit, fraud involving Member's Account or such Check, or any uncertainty as to the authorization or accuracy of Electronic Items. The Credit Union reserves the right at any time to process Electronic Items on a collection basis.

10. **Security Procedures.** Member shall establish and maintain security procedures to ensure that Electronic Items transmitted to the Credit Union are intact, secure, and confidential until received by the Credit Union. If the Credit Union provides minimum security procedures in addition to those in this Agreement, Member agrees to abide by those security procedures. In any event, Member shall limit access to any PINs, passwords, User ID's, or other codes (collectively "Password") and equipment to persons authorized to act on the account under the Account Agreement. Member shall change any Passwords periodically. Member shall notify the Credit Union immediately if it has reason to believe the security of any information transmitted under the Services has or may have been breached. The Credit Union may deny access to the Services without prior notice if, in its sole discretion, it believes it necessary for security reasons. The Credit Union may elect, at its sole discretion, to verify the authenticity or content of any transmission by contacting any authorized signer on Member's Account or any other person designated by Member for that purpose.

11. **Right to Offset; Security Interest.** Credit Union shall have the right to offset any fees or other liabilities arising under this Agreement against the Account without notice to Member. Member grants the Credit Union a security interest in the Account and all of Member's other accounts with Credit Union, including any present and future principal, interest, dividends, and the proceeds thereof, as collateral security for the performance of Member under this Agreement. In the event Member initiates insolvency or bankruptcy proceedings, Credit Union shall be deemed a secured party for all purposes with respect to the Member's accounts and all amounts held in the accounts.
12. **Termination.** The Credit Union or Member may terminate this Agreement at any time. Such termination shall be effective on the third business day following the day of receipt of written notice of such termination, except in the event of Member's breach of this Agreement, fraud, or as deemed necessary by Credit Union for any reason in its sole discretion. In such event, Credit Union may terminate this Agreement and deny access to the Services immediately. Any termination will not affect Member's obligations arising prior to the effective date of the termination. Member will keep its Account at the Credit Union open until the later of (i) 60 days after the date of termination, or (ii) final payment with respect to all processing fees and outstanding Checks, and will keep in such Account an amount sufficient to cover any remaining outstanding checks. If any such outstanding checks or returned items exceed the amount in the Account, Member will pay such excess to the Credit Union upon demand, plus all applicable fees and charges related to the overdraft. Member will also continue to retain Checks and forward Checks to the Credit Union as provided in this Agreement.
13. **Intellectual Property Provisions.** Member acknowledges and agrees that all right, title and interest in and to the Software and all other intellectual property rights including but not limited to copyrights, patents, trademarks and trade secrets, pertaining to the Software are and shall remain owned exclusively by the Credit Union.
14. **Confidential Information.** Member acknowledges that the Credit Union will disclose information to third parties about Your Account or the Image Exchange Items Member deposits; to enable Member's access to the Services and the System, when it is necessary for completing deposits, and as required by law.
15. **Member Indemnification.** Member will indemnify and hold harmless the Credit Union, its licensors and providers of the Services, and their respective directors, officers, shareholders, 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 arising from or resulting from (i) the wrongful acts or omissions of Member, or any person acting on Member's behalf, arising in connection with Member's use of Remote Deposit, the Service or processing of Checks hereunder, including without limitation (a) a breach by Member of any provision, representation or warranty of this Agreement, (b) the negligence or willful misconduct (whether by act or omission) of Member, or any third party on behalf of Member, (c) any modifications or changes to the Software made by Member or any third party within the control or on behalf of Member, (d) any misuse of Remote Deposit by Member or any third party within the

control or on behalf of Member, or (e) the failure by Member to comply with applicable state and federal laws and regulations; (ii) any act or omission of the Credit Union that is in accordance with this Agreement or in accordance with instructions from Member; (iii) actions by third parties, including the introduction of a virus, that delay, alter or corrupt the transmission of an Electronic Item to the Credit Union; or (iv) any claim by any recipient of a Substitute Check corresponding to a Check processed by Member hereunder, that such recipient incurred loss due to the receipt of the Substitute Check instead of the Original Check.

16. Credit Union's Liability.

- a. The Credit Union shall not be liable to Member for (i) any damages, costs or other consequences caused by, arising or resulting from, or related to the Credit Union's actions that are based on information or instructions that Member provides to the Credit Union; (ii) any unauthorized actions initiated or caused by Member; (iii) the failure of third persons or vendors to perform satisfactorily or the failure of any product of a third person or vendor to perform satisfactorily; (iv) any refusal of a Payor Financial Institution to pay an Electronic Item or Substitute Check for any reason (other than the gross negligence or willful misconduct of the Credit Union), including without limitation that the Check, Electronic Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) Member's or any other party's lack of access to the Internet or the inability to transmit or receive data; (vi) data loss, corruption, failures or errors on the part of Internet service providers, telecommunications providers or any other person's or party's internal systems; (vii) rejecting a file transmitted by Member to the Credit Union; (viii) files which the Credit Union does not receive or for images that are distorted or corrupted during a transmission; (ix) alterations made to files after they are transmitted to the Credit Union by Member; and (x) any errors or failures resulting from defects in or malfunctions of Member's computer hardware or software.
- b. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, LIABILITY FOR ERRORS WITH RESPECT TO DATA TRANSMITTED OR PRINTED BY THE CREDIT UNION SHALL BE LIMITED TO CORRECTING THE ERRORS. CORRECTION SHALL BE LIMITED TO REPRINTING AND/OR RE-PRESENTING SUBSTITUTE CHECKS OR ELECTRONIC ITEMS TO THE PAYOR FINANCIAL INSTITUTION.
- c. IN NO EVENT WILL THE CREDIT UNION BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS OR LOSS OF ANY OPPORTUNITY OR GOOD WILL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

17. Disclaimer. THE CREDIT UNION'S REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES, AND MEMBER'S RIGHTS AND REMEDIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. THE SOFTWARE IS PROVIDED BY THE CREDIT UNION AND ITS LICENSORS

"AS IS". MEMBER HEREBY WAIVES AND RELEASES THE CREDIT UNION AND 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 THE SOFTWARE AND ANY AND ALL MATTERS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION: (i) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR 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. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER THE CREDIT UNION NOR ITS LICENSORS WARRANT THAT OPERATION OF THE SOFTWARE WILL BE ERROR-FREE OR UNINTERRUPTED.

18. **Amendments.** From time to time, the Credit Union may amend any of the terms and conditions contained in this Agreement. Such amendments shall become effective as stated on any notice sent to the Member or when posted to the Credit Union's website.
19. **Applicable Law and Jurisdiction.** This Agreement will be governed by and be construed in accordance with the laws of the State of Missouri.
20. **Assignment.** Member may not assign its rights or delegate its duties under this Agreement without the Credit Union's prior written consent. Credit Union may assign this Agreement without Member's prior consent upon notice as may be provided by law.
21. **Compliance with Laws.** Member shall comply with all federal and state laws, rules, and regulations including, but not limited to, Regulation CC, the Uniform Commercial Code and any rules established by an image exchange network through which Image Exchange Items are processed pursuant to this Agreement. Member shall have the responsibility to fulfill any compliance requirement or obligation that Credit Union and/or Member may have with respect to the Service 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 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.
22. **Entire Agreement.** This Agreement supplements, but does not replace, any agreement Member may have executed with respect to other services including, but not limited to, Member's Account Agreement. This Agreement (as may be amended from time to time) and the Account Agreement constitute the entire agreement between Member and the Credit Union with respect to the subject matter hereof, supersede any prior agreements between the Credit Union and Member with respect to the subject matter hereof, and shall be binding upon the Credit Union, Member and

their respective successors and permissible assigns. In the event of any inconsistency between this Agreement and the Account Agreement, this Agreement will govern.

23. **Force Majeure.** Credit Union shall not be liable for any delay or interruption in performance of 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.

24. **Notices and Notices of Errors.**

Notifications required by this Agreement are to be directed to the Credit Union at the address or phone numbers listed below.

Address: 4161 Highway K
O'Fallon, MO 63368

Phone #: 636-720-2400