



## Mobile Deposit Capture Terms and Conditions Agreement

This Mobile Deposit Capture Service Agreement contains the terms and conditions for the use of Mobile Deposit Services that Brazos Star Credit Union may provide to you. The word "Mobile Deposit" or "Mobile Deposit Service" means the remote check deposit capture service offered by Brazos Star Credit Union through the mobile application. The word "account" means any one or more deposit accounts you have with Brazos Star Credit Union. By using the Mobile Deposit Service, you and any joint owners or authorized users, jointly and severally, agree to the terms and conditions in this Agreement, and any amendments. Other agreements you have entered with Brazos Star Credit Union, including your Membership and Account Agreement, as amended from time to time, are incorporated by reference and made a part of this Agreement.

**Services.** The Mobile Deposit Service ("Service") is designed to allow you to make deposits to your checking or share accounts from a remote location by imaging checks and delivering the images and associated deposit information to Brazos Star Credit Union or Brazos Star Credit Union's designated processor. An "image" is defined as the electronic image of the front and back of an item, in addition to other required information, as specified by us, in the format we specify.

**Acceptance of these Terms.** Your use of the Service constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change on our website by providing a link to the revised Agreement. You will be prompted to accept or reject any material change to this Agreement the next time you use the Service after Brazos Star Credit Union has made a material change. Your acceptance of the revised terms and conditions along with the continued use of the Service will indicate your consent to be bound by the revised Agreement. Further, Brazos Star Credit Union reserves the right, in its sole discretion, to change, modify, add, or remove portions from the Service. Your continued use of the Service will indicate your acceptance of any such changes to the Service. By using Mobile Deposit Capture, you also accept all the terms and conditions of the Membership and Account Agreement and the Truth in Savings Schedule and Disclosures for Depository and Transaction Accounts.

### Definitions

In this Agreement, the following terms have the following meaning:

"You" and "your" means the Brazos Star Credit Union Credit Union member who enrolls in or uses the internet banking services. "We," "us" and "our" mean Brazos Star Credit Union Credit Union. "Remote Deposit Capture Service" or "Mobile Remote Deposit" or "Service" means the use of the software and/or hardware provided by Brazos Star Credit Union Credit Union to capture images of eligible items and deposit them to eligible accounts. "Accounts" means the accounts on which you are the owner or joint owner at Brazos Star Credit Union Credit Union,

and for which remote deposit capture services are available. "Business Days" are Monday through Friday, excluding Federal Bank holidays.

**Limitations of Service.** When using the Service, you may experience technical or other difficulties. We do not 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 with prior notice. We reserve the right to change, suspend or discontinue the Service, in whole or in part, or your use of the Service, in whole or in part, immediately and at any time without prior notice to you.

**Hardware and Software.** In order to use the Service, you must obtain and maintain, at your expense, compatible hardware and software including mobile applications as specified by Brazos Star Credit Union from time to time. Brazos Star Credit Union is not responsible for any third-party software you may need to use the Service. Any such software is accepted by you as is and is subject to the terms and conditions of the software agreement you enter directly with the third-party software provider at the time of download and installation.

**Fees.** Deposited ineligible items listed below are subject to a Return Deposit Item fee. Consult the credit union's Rates and Fee Schedule for current fees.

#### **Eligible Accounts**

To use the Service, you must be a Brazos Star Credit Union member or joint owner of a Brazos Star Credit Union account in good standing. Additionally, we may establish other criteria for determining the eligibility of accounts (for example, the length of time the account has been open) at our sole discretion. You or we may terminate the Service on any account at any time and for any reason.

**Eligible items.** You agree to scan and deposit only "items" as that term is defined herein. An "Item" is an original check, cashier's check, official check, U.S. Treasury check, or, at our option, a government issued document promising a payment to you at a future date ("Registered Warrant"), within the United States and payable in U.S. currency that is payable to you. For purposes of collection, Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC with the exception of Registered Warrants which may not be governed by the Uniform Commercial Code and Regulation CC prior to the payment date. You also agree that Images transmitted using the Service are not subject to the Funds Availability requirements of the Federal Reserve Board Regulation CC. When the image of the check that was transmitted to Brazos Star Credit Union 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 image and deposit any of the following types of checks or other items which shall be considered ineligible items:

- Checks payable to any person or entity other than the person or entity that owns the account that the check is being deposited into.

- 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 payable jointly, unless deposited into an account in the name of all payees.
- Checks previously converted to a substitute check or remotely created checks, as defined in Reg. CC.
- Checks drawn on a financial institution located outside the United States.
- Checks not payable in United States currency.
- Checks dated more than 6 months prior to the date of deposit unless otherwise stated on the check.
- Checks payable on sight or payable through Drafts as defined in Regulation 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 Mobile Deposit capture service offered at any other financial institution.
- Checks or items that are drawn or otherwise issued by the U.S. Treasury Department.
- Checks that are in violation of any federal or state law, rule, or regulation.
- The item is not prohibited by Brazos Star Credit Union's current procedures relating to the Services or which are otherwise not acceptable under the terms of your Brazos Star Credit Union Membership and Account Agreement.

We may review or verify any item deposited through the Service, and we may reject an item for Deposit for any reason without liability.

**Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Service as: "FOR MOBILE DEPOSIT ONLY AT BRAZOS STAR CU" and the Account number or as otherwise instructed by Brazos Star Credit Union. You agree to follow all other procedures and instructions for use of the Service as Brazos Star Credit Union may establish from time to time. You understand that without the two required endorsements any item can and will be refused for deposit.

### **Availability of Funds**

Checks deposited through the Service will be converted to image items for processing. The services are subject to transaction limitations and the Funds Availability Disclosure, as set forth in the Membership and Account Agreement and Truth-in-Savings schedule, which govern the use of your account(s). We are notifying you in advance that deposits made by the Mobile Remote Deposit program do not fall under the standard provisions of Federal Reserve Board Regulation CC – Expedited Funds Availability Act. As such, longer hold periods may apply. You agree to receive notice of extended hold times via the e-mail address provided in the account agreement. Brazos Star Credit Union 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 other such factors as Brazos Star Credit Union, in its sole discretion, deems relevant.

**Destruction of Original Items**

After you use the Service to deposit an item, you agree not to deposit the same item anywhere else or through any other channel. You agree to retain the item for 90 days or longer if we request it, and then destroy or otherwise make it incapable of further deposit or presentment. You agree to prominently mark the item as “Electronically Presented” or “Void” and to properly dispose of an item to ensure that it is not represented for payment. You agree to be liable for the failure to destroy items as described in this Agreement, or if an item is deposited through the Service and the same item is later presented or deposited again. You will promptly provide any retained item, or a sufficient copy of the front and back of the item to Brazos Star as requested to aid in the clearing and collection process, to resolve any claimed by third parties with respect to any item, or for our audit purposes.

**Receipt of Items.** We reserve the right to reject any item transmitted through the Service, 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. 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 Brazos Star Credit Union is not liable for any loss, costs, or fees you may incur because of our chargeback of an ineligible item. An image of an item shall be deemed received when you receive a confirmation from Brazos Star CU that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or complete. We reserve the right to place any applicable hold as regulated by Regulation CC on any item that is transmitted for deposit.

**Presentment.** The way the items are cleared, presented for payment, and collected shall be in Brazos Star Credit Union's sole discretion subject to the Membership and Account Agreement and other Disclosures governing your account.

**Errors.** You agree to the provisions of your Electronic Fund Transfers Agreement regarding your responsibilities to notify us of errors applying to items deposited through the Service. You agree that the deposit of an item through the Service is not an “Electronic Funds Transfer” under the Federal Consumer Financial Protection Bureau’s Regulation E. You agree to notify Brazos Star Credit Union of any suspected errors regarding items deposited through the Service right away, and in no event later than 30 days after the applicable account statement is sent. Unless you notify Brazos Star Credit Union within 30 days, such a statement regarding all deposits made through the Service shall be deemed correct, and you are prohibited from bringing a claim against Brazos Star Credit Union for such alleged error.

**Errors in Transmission.** By using the Service, you accept the risk that an item may be intercepted or misdirected during transmission. Brazos Star Credit Union bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.

**Image Quality.** The image of an item transmitted to Brazos Star Credit Union using the Service must be legible, as determined at the sole discretion of Brazos Star Credit Union. Without

limiting the foregoing, the image quality of the items must comply with the requirements established from time to time by Brazos Star Credit Union, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association.

**User Warranties and Indemnification.** You warrant to Brazos Star Credit Union that:

- You will only transmit eligible items.
- You will not transmit duplicate items.
- You will not re-deposit or re-present the original item.
- You will store and destroy items to prevent duplicate presentment of the item by you or another party.
- All information you provide to Brazos Star Credit Union is accurate and true.
- You will comply with this Agreement and all applicable rules, laws, and regulations.
- You are not aware of any factor which may impair the collectability of the item.
- You warrant that files submitted by you to Brazos Star Credit Union do not contain computer viruses or malware.
- You agree to indemnify and hold harmless Brazos Star Credit Union from any loss for breach of this warranty provision.

### **Indemnity**

You agree to be solely liable for the use or misuse of the Services, and you agree to indemnify, defend and hold us and any third party provider of software or services harmless from any legal action or claim asserted against us and/or third-party providers by any other party relating to your use of the Service and any claims, liabilities, damages, costs and expenses (including reasonable attorney fees) incurred by us/or third-party provider as a result of your use or misuse of the Service.

### **Limitations on Service**

You agree not to hold us liable for interruptions in the availability or functionality of the Service, which may occur without notice to you for technical or other reasons.

### **Amendments**

We may add to, change, or delete the terms of this Agreement by providing notice to you. We may also add to, change, or delete some functionalities or features of the Service at any time without notice. If you do not consent to a modification of this Agreement or the Service, you may terminate and discontinue your use of the Service at any time by notifying us.

**Cooperation with Investigations.** 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.

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

**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. If 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.

**Ownership & License.** You agree that Brazos Star Credit Union retains all ownership and proprietary rights in the Service, associated content, technology, and website. Your use of the Service is subject to and conditioned upon your complete compliance with this Agreement. Without limiting the effect of the foregoing, any breach of this Agreement immediately terminates your right to use the Service. Without limiting the restriction of the foregoing, you may not use the Service (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to Brazos Star Credit Union's business interest, or (iii) to Brazos Star Credit Union's actual or potential economic disadvantage in any aspect. You may use the Service only for non-business, personal use in accordance with this Agreement. You may not copy, reproduce, distribute, or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the Service.

**Disclaimer of Warranties.** YOU AGREE YOUR USE OF THE SERVICE 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 SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICE (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 SERVICE OR TECHNOLOGY WILL BE CORRECTED.

**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 SERVICE 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 SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM

(WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF BRAZOS STAR CREDIT UNION HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

**Enforcement.** You agree to be liable to Brazos Star Credit Union for any liability, loss, or expense as provided in this Agreement that Brazos Star Credit Union incurs because of any dispute involving your accounts or services. You authorize Brazos Star Credit Union to deduct any such liability, loss, or expense from your account without prior notice to you. This Agreement shall be governed by and construed under the laws of the State of {Credit Union State} as applied to contracts entered solely between residents of, and to be performed entirely in, such state. In the event either party brings a legal action to enforce the Agreement or collect any overdrawn funds on accounts accessed under this Agreement, the prevailing party shall be entitled, subject to Texas law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions, if applicable. Should any one or more provisions of this Agreement be determined illegal or unenforceable in any relevant jurisdiction, then such provision may be modified by the proper court, if possible, but only to the extent necessary to make the provision enforceable and such modification shall not affect any other provision of this Agreement.