

## **Remote Device Application Agreement and Online and Mobile Banking Agreement**

In order to participate in and receive Innovations Financial Credit Union's online and mobile banking service, you must agree to the Remote Device Application Agreement and the Online and Mobile Banking Agreement set forth below. The Remote Device Application Agreement and the Online and Mobile Banking Agreement are separate agreements. **BY SELECTING THE "I AGREE" BUTTON BELOW, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THE REMOTE DEVICE APPLICATION AGREEMENT AND THE ONLINE AND MOBILE BANKING AGREEMENT.**

### **Definitions**

In the Remote Device Application Agreement and the Online and Mobile Banking Agreement:

1. The singular includes the plural.
2. "Account" means any and all deposit and share accounts owned by you; provided; however, for purposes of identifying the account to and from which credits will be made through use of the remote Deposit Service and debits will be made through use of the Bill Pay and E-Payment Services described below, "Account" means your share draft checking account.
3. "OMB Agreement" means this Online and Mobile Banking Agreement. This is a separate agreement from the Remote Device Application Agreement.
4. "Application" means Credit Union's delivery channel for various services, information, and other functions that can be added to a Remote Device, available at [www.innovationsfcu.org](http://www.innovationsfcu.org).
5. "Check 21" means the Check Clearing for the 21st Century Act.
6. "Client Content" means any information, data, or messages provided by or on behalf of Credit Union, any Third Party Provider, or an End User using Service for transmission to a Network Operator or by another means of transmission which arose out of the use of Service.
7. "Cookie" is a small file containing certain pieces of information that a web site creates when you visit the site that help track user traffic patterns and can store information about you.
8. "Credit Union", "we", "us" and "our" means Innovations Financial Credit Union.
9. "End User" means any user of a Network Operator's network.
10. "Image" means 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.
11. "Image Replacement Document" or "IRD" means a substitute check, as defined in Check 21.
12. "Item" is an original: check, cashier's check, official check, U.S. Treasury check, or any other payment instrument, drawn on a financial institution within the United States and payable in U.S. currency that is payable to you. Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC.
13. "Line of Credit" means any and all lines of credit issued by Credit Union to you.
14. "Loan" means any and all loans extended by Credit Union to you.
15. "Network Operator" means a mobile network carrier or operator or SMS aggregator which is directly or indirectly engaged in the performance of any Service.
16. "Online Banking" means computer home banking Service.
17. "Remote Deposit" means to deposit Items to your Account by creating an Image of the Item using a Remote Device, and transmitting that Image to us for deposit.
18. "Remote Device" means any device acceptable to us from time to time that provide access to Service, including the capture of Images from Items and for transmission through the clearing process. Supported devices are subject to change without prior notice to you.
19. "Remote Device Application Agreement" means the agreement governing the use of the Application you must download to your Remote Device in order to use the Service. This is a separate agreement from the OMB Agreement.

20. "Service" means any services available using a Remote Device, including but not limited to the Credit Union's Online Banking, Text Banking, Remote Deposit, Bill Payment and Remote Device Application.
21. "Text Banking" or "SMS" means two-way short message service connectivity services to devices on supported mobile network carrier or operator or SMS aggregator.
22. "Third Party" means any and all persons or entities not a party to these agreements.
23. "You" and "Your" means each person or business who uses or authorizes use of Service.

## **Remote Device Application Agreement**

**YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS BEFORE USING THIS PRODUCT. BY CLICKING THE "I AGREE" BUTTON AND INSTALLING THE SOFTWARE, YOU ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS REMOTE DEVICE APPLICATION AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS REMOTE DEVICE APPLICATION AGREEMENT, CLICK THE "I DO NOT AGREE" BUTTON AND DO NOT INSTALL THE APPLICATION.**

This Remote Device Application Agreement sets forth the terms and conditions of your use of the accompanying Application.

### **Ownership**

You acknowledge and agree that Application licensor is the owner and will remain the owner of all rights, title and interest in and to the downloaded software to be used for access to Service from Credit Union, as well as any accompanying user documentation and all copies, improvements, modifications, enhancements, upgrades, derivative works, or other changes thereof which are made available to you (if any), regardless of the media or form in which they may exist (collectively the "Application"). Such rights, title, and interest include but are not limited to all copyright, patent, trade secret, trademark and other intellectual property rights therein. Application licensor has licensed the Application to Credit Union to enable it to make it available to you subject to the following terms and conditions.

### **License**

Application licensor grants you a limited, personal, nonexclusive, nontransferable license to use the Application in accordance with the terms of this Remote Device Application Agreement. All rights not expressly granted to you by this Remote Device Application Agreement are hereby reserved by Application licensor. Nothing in this license entitles you to receive hard-copy documentation, technical support, telephone assistance, or updates to the Application. The rights granted to you hereunder include no rights whatsoever with respect to any source code. Application licensor retains all rights not expressly granted to Credit Union hereunder. No right of license to you will be implied by or inferred from this Remote Device Application Agreement except as expressly provided herein.

### **Restrictions**

You may not:

1. Publish, display, disclose, rent, lease, modify, loan, distribute or create derivative works based on the Application or any part thereof;
2. Copy, decompile, reverse engineer, disassemble, translate, adapt or otherwise reduce the Application to human readable form;
3. Create or attempt to create the source code from the object code of the Application;
4. Make any third-party software contained in the Application a standalone product;
5. Take any action that will infringe on the intellectual property or other proprietary rights of Credit Union or any Third Party software provider; or
6. Sublicense or assign the Application.

### **Import/Export Restrictions**

You agree not to import or export the Application or any documentation (or any copies thereof) or any Service utilizing the Application or any documentation in violation of any applicable laws or regulations of the United States

or the country to which you have imported or exported. You agree to indemnify Credit Union and Application licensor from liability if you violate any such laws or regulations.

#### **Representations and Warranties**

You represent, warrant and covenant that you shall comply with all applicable laws, rules, regulations and prevalent industry standards in your use of the Software, including compliance with applicable requirements under state and federal laws and regulations related to data security and nonpublic personal information, as defined or used in such applicable law or regulation.

#### **Termination**

This Remote Device Application Agreement may be terminated by you, Credit Union, or Application licensor at any time, for any reason. Your rights under this License will terminate immediately if you fail to comply with any term or condition of this License. Upon termination, you agree to immediately destroy all copies of the Application and any documentation in your possession or control, together with any and all copies thereof.

#### **Disclaimer Warranty**

EXCEPT AS EXPRESSLY SET FORTH HEREIN, TO THE EXTENT PERMITTED BY LAW, APPLICATION LICENSOR AND CREDIT UNION DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. NEITHER APPLICATION LICENSOR NOR CREDIT UNION WARRANT THAT THE APPLICATION WILL BE ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION OR WILL MEET YOUR REQUIREMENTS. CREDIT UNION MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY APPLICATION, OR ANY HARDWARE OR OTHER MATERIALS NOT PROVIDED BY APPLICATION LICENSOR. NEITHER APPLICATION LICENSOR NOR CREDIT UNION HAVE ANY OBLIGATION TO MAINTAIN OR SUPPORT THE APPLICATION EXCEPT AS EXPRESSLY PROVIDED HEREIN. IF YOU FAIL TO UPGRADE THE APPLICATION TO THE MOST RECENT VERSION AFTER BEING GIVEN THE OPPORTUNITY TO DO SO BY APPLICATION LICENSOR, ALL REPRESENTATIONS AND WARRANTIES REGARDING THE APPLICATION ARE VOID.

#### **Limitation of Remedies**

UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY WILL CREDIT UNION, APPLICATION LICENSOR, OR THEIR SUPPLIERS OR RESELLERS, BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, BUSINESS INTERRUPTIONS, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER PERSONAL OR COMMERCIAL DAMAGES OR LOSSES ARISING FROM THE USE OR INABILITY TO USE THE SERVICE (WHETHER OR NOT DUE TO ANY DEFECTS THEREIN). IN NO EVENT WILL CREDIT UNION OR APPLICATION LICENSOR BE LIABLE FOR ANY DAMAGES EVEN IF CREDIT UNION OR APPLICATION LICENSOR SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM CREDIT UNION'S OR APPLICATION LICENSOR'S NEGLIGENCE TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION.

#### **Indemnification**

You agree to defend, indemnify, and hold harmless Credit Union, Application licensor, their suppliers and their resellers from and against liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from any claims from anybody that result from or relate to your use, reproduction or distribution of the Application.

#### **Content and Services**

Neither Application licensor nor the provider of the wireless network is the provider of any financial services available through or related to the Application, and neither Application licensor nor the provider of the wireless network or any contractor of the provider of the Service available through or related to the Application is responsible for any of the materials, information, products or services made available to you via the Application.

**Governing Law**

The Application will be governed by, and construed in accordance with, the laws of the State of California, without reference to conflicts of laws principles. You agree to be subject to personal jurisdiction in the State of California for the purposes of enforcing these provisions.

**Severability**

If any provision of this Remote Device Application Agreement is found to be invalid, illegal or unenforceable, the validity, legality and enforceability of any of the remaining provisions will not in any way be affected or impaired.

**Entire Agreement**

You further agree that this Remote Device Application Agreement is the complete and exclusive statement of the agreement between you and Application licensor which supersedes all proposals or prior agreements, oral or written, and all other communications between you and Application licensor relating to the subject matter of this agreement. This Remote Device Application Agreement may only be modified by a written agreement signed by you and Application licensor; provided, that no provision of this Remote Device Application Agreement relating to Credit Union may be modified without the additional written agreement of Credit Union.

**Acknowledgement**

By downloading, installing or using any part of the Application software, you indicate that you have read this Remote Device Application Agreement, understand it, and agree to be bound by its terms and conditions.

**Third Party Beneficiary**

Credit Union and its affiliates are hereby made express Third Party beneficiaries of this Remote Device Application Agreement.

**Online and Mobile Banking Agreement**

Please read this information carefully and print a copy and/or retain this information electronically for your records.

**BY SELECTING THE "I AGREE" BOX BELOW, USING ANY SERVICE DESCRIBED BELOW, OR AUTHORIZING ANY OTHER PERSON TO USE ANY SERVICE DESCRIBED BELOW, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THE FOLLOWING.**

**Terms and Conditions**

Except as inconsistent with this Online and Mobile Banking Agreement (OMB Agreement), use of Service is subject to the terms and conditions of your Account agreements, Line of Credit agreements and Loan agreements as amended by Credit Union from time to time, which are incorporated by reference herein. Changes in the terms and conditions of your Account agreements, Line of Credit agreements and Loan agreements may affect the use of Service. This OMB Agreement may be amended by Credit Union at any time in its sole discretion. You will receive notice of amendments as required by applicable law without restatement of the terms herein. You agree to pay any fees and charges assessed against your Account, Line of Credit and/or Loan under the terms of this OMB Agreement, and any other agreement with Credit Union.

This OMB Agreement is governed by our Membership and Account Agreement, our Electronic Funds Transfer Agreement and Disclosure, and our Fee Schedule (herein together called the "Deposit Agreement"). This OMB Agreement is also governed by the Bylaws of the Credit Union, federal laws and regulations, the laws and regulations of the State of Florida and local clearinghouse rules, as amended from time to time. Any disputes regarding this OMB Agreement shall be within the jurisdiction of the federal or state courts of Bay County, Florida. In the event of any dispute arising out of or related to the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and collection expenses in addition to any other recovery.

In addition to this OMB Agreement, you agree to be bound by and will comply with the requirements of the applicable Account Disclosures (provided at Account opening), Innovations Financial Credit Union's policies, and the rules and regulations of any funds transfer system to which the Credit Union belongs.

#### **Account Access**

This OMB Agreement explains the terms and conditions governing the Service. Certain Service(s) offered may be subject to separate agreements. In the event of a conflict between the terms and conditions of this OMB Agreement and those of any such other agreement with respect to a particular Service or feature, the terms and conditions of such other agreement shall apply to the extent of the conflict.

The first time you access your Account confirms your agreement to be bound by all the terms and conditions of this OMB Agreement and acknowledges your receipt and understanding of this OMB Agreement. Each person who uses Service on your behalf or authorizes another person to use Service agrees to this OMB Agreement.

#### **Accessing Your Account**

The Credit Union uses strong authentication for access to Service. Upon initial access, you will be required to provide certain information which you should remember for future use. You may, from time to time, be required to authenticate your privilege to access Service by validating the information you disclosed in your initial Online and/or Text Banking and Application logon.

#### **Fees**

The Credit Union is offering access to Service at no cost, but that can change at any time pursuant to the section describing amendments elsewhere in this document or by changing the Fee Schedule available at the Credit Union's website ([www.innovationsfcu.org](http://www.innovationsfcu.org)). You are responsible for paying the fees for use of the Service or options available within the Service, as changed from time to time. You understand that your wireless network, Internet provider, or mobile service provider may charge fees for your access to our Service and you understand that you will be solely responsible for any such fees or charges. To the extent any of these services are provided by third-party vendors, you will be solely responsible for any fees charged by those vendors.

#### **Accessibility**

You may be able to access your Account or Loan through Service seven days a week, 24 hours a day. However, at certain times, Service may not be available due to system maintenance, communications failures or other factors.

#### **Use of Cookies**

The use of a Cookie is required as a safety precaution for the use of the Service and your refusal of using a Cookie will deny access.

#### **Password**

You will hold your password in strict confidence. You will notify Credit Union immediately of loss or theft of the password. If Credit Union receives such notice, Credit Union, may, in its discretion, freeze your Account, Line of Credit or Loan to prevent further electronic access. Delivering the password to another person constitutes authorization, at any time, for that person to conduct any transaction or inquiry on your Account, Line of Credit and/or Loan using the Service. You shall be liable for all authorized transactions.

If you have reason to suspect your password has been compromised, please contact us immediately by coming into your local branch or calling (850) 233-4400.

You may terminate your password or your use of Service by deactivating your Online and/or Text Banking and/or Application, or by mailing or delivering written notice to Credit Union. However, your notice will not be effective until Credit Union receives your notice and has a reasonable opportunity to act upon it.

The Credit Union's contact information can be found at [www.innovationsfcu.org](http://www.innovationsfcu.org)

## **Business Accounts: Security Procedures and Instructions**

If your Account is an account used primarily for business or commercial purposes, the following provisions are applicable:

You agree that your use of Account Number or Online User ID, together with your Online PIN, constitutes our Security Procedures. You confirm that you have assessed the Security Procedures for Business Online and Mobile Banking and have determined that these features, in combination with your own security measures, are adequate for your Account(s). You acknowledge that the primary purpose of the Security Procedures for Business Online and Mobile Banking is to verify the authenticity of instructions we receive through or in connection with the Service, and whether such Instructions are submitted by your authorized representatives or otherwise on your behalf. Unless we permit you to establish a different security procedure, you agree that the Security Procedures for Business Online and Mobile Banking are commercially reasonable verification of instructions, payment orders and other electronic funds transfers. If we permit you to establish a different security procedure, you agree that procedure is a commercially reasonable method of verifying instructions, payment orders and other electronic funds transfers. You agree that, if we accept an instruction, payment order or other electronic funds transfer in good faith and in compliance with our Security Procedures for Business Online and Mobile Banking, the instruction, payment order or other electronic funds transfer is effective as your order or transfer, as the case may be, whether or not authorized by you. The Security Procedures do not detect and are not intended to detect errors in the content of any instructions, payment orders, or other electronic funds transfers and you acknowledge that no procedure for the detection of errors in the content of instructions, payment orders, or other electronic funds transfers has been agreed upon by you or us. You acknowledge that you are solely responsible for the content, accuracy, and completeness of all instructions, payment orders, or other electronic funds transfers.

## **Joint Accounts**

We do not have joint agreements for our Service. If you are an individual or sole proprietor, you are the only member under this Agreement. However, any of the Accounts to which you have access through our Service may be jointly owned with, or joint obligations with, others. When your Service is linked to one or more joint Accounts, we may act on the verbal, written or electronic instructions of any authorized signer on an Account and shall have no liability for doing so. Joint Accounts using the same user ID will be identified as one service. As such, you understand that joint owners on your membership, loans, or any Account you hold with us will have access to all Services available to your membership, including, but not limited to, online statements that may or may not include information regarding your individual Account(s) with us. We will have no liability for allowing joint Account owners to access information regarding your individual Account(s) via the Service using a valid joint Account ID.

## **Electronic Disclosures**

By using the Service, you agree that we may send you all disclosures, notices, and other communications related to these services electronically via the Service, email, or text message. These communications may include, but are not limited to, periodic statements and change in terms notices.

## **Compliance with Applicable Laws**

You agree that your use of the Service will comply with all applicable laws. We reserve the right to refuse to process any transaction we reasonably believe violates applicable law or we believe is made in connection with any unlawful transaction or activity, including without limitation, gaming, gambling, lottery or similar activities

## **I. Remote Deposit**

Innovations Financial Credit Union may, in its sole discretion, permit you to make Remote Deposits to your Account. In the event of a conflict with any other terms and conditions, the terms and conditions of Remote Deposit usage shall supersede the terms and conditions of the Deposit agreement with respect to the deposits made through the Service.

#### **Remote Capture**

Pursuant to these terms, you may use the Service to deposit Items to your Account by creating an Image of the Item using a Remote Device and transmitting that Image to us for deposit. You may transmit Images to us only from a Remote Device located in the United States. You agree to endorse any Item transmitted through the Service with your signature and adding the restrictive endorsement *"For Mobile Deposit only, Innovations FCU Account # \_\_\_\_\_"* or as otherwise instructed by us, prior to transmission of the Item. You agree to follow any and all other procedures and instructions for use of the Service as we may establish from time to time. You agree Credit Union may, in its sole discretion and without prior notice to you, reject Items not endorsed as set forth herein or as otherwise established by us from time to time.

#### **Hardware and Software Requirements**

You agree to transmit an Image to us using only a Remote Device authorized by us for your use to transmit Images. We may, but are not required to, reject Images that you transmit to us with an unapproved Remote Device or by other means to which we have not given our consent. You are responsible for the security of the Remote Device and for allowing its use only by individuals authorized by you. You agree to implement and maintain specific internal security controls to protect the Remote Device and any personal information. We may require that you implement and maintain additional specific controls, and we may notify you of those controls and amend them from time to time. You are responsible for all costs of using the Service and operating the Remote Device, including, but not limited to, telephone and internet charges. You are responsible for maintaining the system's capacity and connectivity required for use of the Service.

#### **Image Quality**

You are responsible for the quality of any Image that you transmit. If an Image that we receive from you or for deposit to your Account is not of sufficient quality to satisfy the necessary quality standards as we may establish them from time to time, we may reject the Image without prior notice to you. Each Image must include the front and back of the Item and all the information must be clearly readable including, but not limited to, amount, payee name, drawer signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and any endorsement or other information written on the check.

#### **Processing Images**

You authorize us to process any Image that you send us or convert an Image to an Image Replacement Document (IRD). You authorize us, and any other financial institution to which an Image is sent to handle the Image or IRD.

#### **Limits**

We may establish limits on the dollar amount and/or number of Items or deposits permitted to be deposited by you through use of the Service from time to time. 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 the established limits, such deposit will still be subject to the terms herein, and we will not be obligated to allow such a deposit at other times.

#### **Deposit of other items; deposits when Service not available**

You agree that you will not use the Service to deposit anything not meeting the definition of an Item. If you use the Service to transmit anything that is not an Item, or if for any reason we are not able to recognize something transmitted as an Item, we may reject it without prior notice to you. You agree to make those deposits through other channels that we offer, such as at a Credit Union branch, ATM, or mail. You further agree to use such other channels when the Service may not be available.

#### **Returned Items**

You acknowledge that all credits received for deposits made through the Service are provisional, subject to verification and final settlement. You are solely responsible for any Item for which you have been given provisional credit and any such Item that is returned or rejected may be charged to your Account or any other Account in your name. Any Item that we return to you will be returned in the form of an Image or an IRD.

#### **Handling of Transmitted Items**

You agree not to allow an Item to be deposited or presented for payment more than once to the extent that it could result in the payment of the Item more than once. You will not allow the transmission of an Image of an Item that has already been presented to us or to any financial institution by any other means. You will not allow transmission of an Image of an Item that has already been transmitted through the Service. If any Item is presented or deposited more than once, whether by Image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you. For any Image which you have transmitted, you shall be responsible for preventing the transmission of another Image of the Item or presentment of the Item by any other means. You agree to retain the Item for at least 90 calendar days from the date of the Image transmission and, during such 90 day period, securely store the Item and deliver any original Item to us upon our demand. You agree that, upon expiration of such 90 day period, you shall destroy any Item of which you have transmitted an Image or otherwise render it incapable of transmission or presentment.

#### **Cooperation with Investigations**

You agree to cooperate with us in the review or investigation of any transactions, poor quality transmissions or claims, including without limitation, by providing promptly upon request and without further cost, any originals or copies of Items in your possession and your records relating to Items and transmissions.

#### **Item Processing**

At our sole discretion, we may process the Images you send to us electronically through other financial institutions, or we may create IRD that will be processed through traditional check processing methods. If you send us Images that are incomplete, that fail to satisfy the necessary quality requirements, or otherwise do not allow us to meet the requirements of Check 21 or any exchange agreement that would cover our further electronic transmission of Images that you send us, or we are otherwise unable to process Images that you send us, we may charge the Images back to your Account. You agree to be bound by any clearinghouse agreements, operating circulars, and image exchange agreements to which we are a party.

#### **Receipt of Items**

We reserve the right to reject any Image or Item transmitted through the Service, at our discretion, without liability to you. We are not responsible for Images we do not receive or for Images that are dropped during transmission. You shall be responsible for verifying our receipt of an Image or Item transmitted through the Service by verifying that deposits have been posted to the appropriate Account. If we send you a confirmation that we have received an Image or Item and accepted your deposit, the confirmation does not mean that the transmission was complete or error free.

#### **Funds Availability**

If an Image you transmit through the Service is received and accepted before 2:00 p.m. Central Time on a business day that we are open, we consider that day to be the day of your deposit. Otherwise, we will consider that the deposit was made on the next business day we are open. You agree, however, that Items transmitted through the Service are not subject to the funds availability requirements set forth in the "Funds Availability Policy and Disclosure" section of the Credit Union's Membership Agreement and Account Disclosures or Regulation CC of the Federal Reserve Board. Nevertheless, we will generally make deposits made through the Service available for your use on the third (3<sup>rd</sup>) business day after the day of your deposit. We reserve the right to delay availability up to sixty (60) days from the date we receive payment for Items transmitted through the Service.

#### **Errors**

You agree to notify us of any suspected errors regarding Items deposited through the Service as soon as possible, and in no event later than 60 days after the applicable Credit Union Account statement is sent, or made available, to



you. Unless you notify us within 60 days, such statement regarding all deposits made through the Service shall be deemed correct, and you are prohibited from bringing a claim against us for such alleged error.

#### **Indemnification and Limitations on Liability**

In addition to the indemnifications and limitations on liability contained in the Membership Agreement and Account Disclosures you hereby indemnify and hold harmless Credit Union and each of its directors, officers, employees, agents, successors, and assigns ("Indemnitees") from and against all liability, loss, and damage of any kind (including attorneys' fees and other costs incurred in connection therewith) incurred by or asserted against such Indemnatee in any way relating to or arising out of (a) the Service, (b) any Image, Item or IRD, (c) any failure by you to comply with the terms of this Agreement or breach by you of any representation or warranty contained herein, (d) any failure by you to comply with applicable laws and regulations, or (e) any acts or omissions of you or any third party. This paragraph shall survive the termination of this Agreement for any reason.

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. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, 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 PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICE (I) WILL MEET YOUR REQUIREMENTS, OR (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. FURTHER, WE MAKE NO WARRANTY THAT (i) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICE WILL BE ACCURATE OR RELIABLE, OR (ii) ANY ERRORS IN THE SERVICE OR TECHNOLOGY WILL BE CORRECTED.

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 THE SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF. WITHOUT IN ANY WAY LIMITING THE FOREGOING, YOU AGREE FURTHER THE CREDIT UNION SHALL NOT BE LIABLE FOR ANY DAMAGES OTHER THAN THOSE CAUSED SOLELY AND DIRECTLY BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND ITS LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL IN FEES YOU PAID FOR THE USE OF THE SERVICE DURING THE SIX MONTH PERIOD PRIOR TO THE SUPPOSED ACT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

#### **Representations and Warranties**

You make the following representations and warranties to us:

1. You and any user you authorize represent, warrant and covenant that you will use the Service only for lawful purposes and in compliance with all applicable laws, rules, regulations and prevalent industry standards and with our reasonable instructions, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any Third Party.
2. You will use the Service to transmit and deposit Images of Items only.
3. You will transmit only Images of Items acceptable for deposit through the Service and will handle Items as agreed herein.
4. You are a person authorized to enforce each Item or are authorized to obtain payment of each Item on behalf of a person entitled to enforce an Item.
5. Items submitted for deposit through use of the Service are valid Items and you will reimburse and indemnify the Credit Union for all losses, damages, and expenses, including reasonable attorney's fees, incurred in defending any allegation that such Items are invalid or fraudulent.
6. Items have not been altered.
7. Each Item bears all required and authorized endorsements.

8. Each Item has been endorsed as described in this document or within Online Banking or Application.
9. All of the warranties set forth in Section 4-207 of the Uniform Commercial Code.
10. All Images accurately and legibly represent all of the information on the front and back of the Item.
11. You will not use the Service to transmit or deposit any Item, (i) payable to any person or entity other than you, (ii) which you know or should know to be fraudulent, altered, unauthorized, or missing a necessary endorsement, (iii) that is a substitute check or Image Replacement Document, (iv) that is drawn on an institution located outside of the United States, (v) that is not payable in United States currency, (vi) that is dated more than 6 months prior to the date of deposit, (vii) that is created by you purportedly on behalf of the maker, such as a remotely created check, or (viii) 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.
12. No depository bank, drawee, drawer, or endorser will receive presentment or return of, or otherwise be charged for, a substitute check, the original check, or a paper or electronic representation of a substitute check or the original check such that that person will be asked to make a payment based on a check that it already has paid.
13. You will use Service in the manner required by this OMB Agreement.
14. You understand that acceptance of this OMB Agreement is required for use of Service.
15. Communications to Credit Union on a mobile phone will be in such a way that the MSISDN (mobile phone number) is capable of being captured and stored by Credit Union.
16. You, if acting on behalf of yourself, someone else, or a business entity, are fully authorized to execute this OMB Agreement.
17. You are not engaged in any business that would result in your being or becoming a "money service business" as defined in the Federal Bank Secrecy Act and its implementing regulations.
18. All information you provide to us is accurate and true.

You shall be deemed to have repeated each of the foregoing representations and warranties each time you transmit an Image through use of the Service.

## **II. Bill Payment**

You may make Bill Pay Payment(s) (BPP) through Online Banking or Application to any business, person or professional (Payee) that has an address which can be verified. BPP may be made only to Payees with a United States payment address. Credit Union and/or BPP vendor reserves the right to refuse to accept any bill payment transaction. BPP for alimony, child support, taxes, government fees, or court ordered payments are not always accepted. You can make these payments, but Credit Union does not guarantee that it will be accepted or posted in a timely fashion. You do so at your own risk.

BPP will be sent to the Payee either electronically or by paper check mailed to the Payee via the U.S. Postal Service or other delivery services that may be available from time-to-time. The choice of electronic or paper check is solely at the discretion of Credit Union BPP vendor. Checks, electronic payments, and withdrawal orders of any kind can be drawn on your Account in any order. You should be aware that all other transactions may affect the funds available to make your payment.

When you schedule a bill payment transaction, you authorize Credit Union to reduce the Account balance accordingly. If the available balance in the Account is not sufficient to make payments you have authorized, Credit Union may either refuse to pay the item or make the payment and thereby overdraw the Account. In either event, you are responsible for any insufficient funds and overdraft charges that may be imposed, as stated in any Credit Union agreements. Credit Union reserves the right to refuse to honor payment requests that may reasonably appear to be fraudulent or erroneous but in no circumstance has the duty to monitor transactions for fraud or errors. You are responsible for any BPP request you make that contains an error or is a duplicate of another payment. We are not responsible for any BPP that is not made if you did not properly follow the instructions for making such payment.

When a BPP is scheduled, an estimated delivery date is given, based on the method of delivery being used to make the payment. However, payments should be scheduled at least five (5) business days before the business day on which a bill payment is due to ensure there is sufficient time to process and deliver the payment. Credit Union is not responsible for payment delivery delays caused by the U.S. Postal Service, other delivery services used, or for payment processing delays after the Payee has received the payment. Any charges imposed as a result of your failure to transmit bill payment transactions at least five (5) business days before a payment is due are your responsibility. Credit Union's responsibility for any late payment beyond this timeframe is strictly limited to the late charge only, up to a MAXIMUM of \$50. The Credit Union is not responsible for finance charges, interest, indirect, incidental, special or consequential damages related to the late payment.

Online Banking or Application may be used to authorize automatic recurring BPP. You may schedule recurring payments to be automatically initiated for a fixed amount on a weekly, biweekly, monthly, quarterly or annual basis. The day on which the payment is to be sent is referred to as the "Date/Recurrence." If the payment date/recurrence is scheduled for a non-business day, it will be processed on the prior business day. If your frequency settings for the recurring payment specify the 29th, 30th, or 31st as a particular day of the month for processing and that day does not exist in the month of the calculated processing date, then the last calendar day of that month is used as the calculated processing date.

Credit Union is only responsible for exercising ordinary care in processing and sending payments upon your authorization in accordance with this Agreement. Credit Union will not be liable in any way for damages you incur for any of the following reasons: (a) insufficient funds in your Account to make the payment on the processing date; (b) delays in mail delivery; (c) changes to the payee's address or account number unless Credit Union has been advised of the change in advance; (d) failure of any payee to correctly account for or credit the payment in a timely manner; or (e) any other circumstances beyond the control of the Credit Union.

The BPP Service and related documentation are provided "as is" without any warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

### **III. Electronic Payments: ACH, Transfers, Person-to-Person, and other**

You may make other electronic payments through Online Banking or Application to any business, person or professional (Payee). Electronic Payments ("e-PAYMENTS") may be made only to Payees within the United States, if the necessary information needed for the delivery method is entered. Credit Union reserves the right to refuse to accept any e-PAYMENT transaction. e-PAYMENTS will be sent to the Payee either electronically via Automated Clearing House (ACH) or by some other electronic delivery method. The choice of delivery method is solely at the discretion of Credit Union e-PAYMENTS vendor. Checks, electronic payments, and withdrawal orders of any kind can be drawn on your Account in any order. You should be aware that all other transactions may affect the funds available to make your payment.

When you schedule an e-PAYMENT transaction, you authorize Credit Union to reduce the Account balance accordingly. If the available balance in the Account is not sufficient to make payments you have authorized, Credit Union may either refuse to pay the item or make the payment and thereby overdraw the Account. In either event, you are responsible for any insufficient funds and overdraft charges that may be imposed, as stated in any Credit Union's agreements. Credit Union reserves the right to refuse to honor payment requests that may reasonably appear to be fraudulent or erroneous but in no circumstance has the duty to monitor transactions for fraud or errors. You are responsible for any e-PAYMENT request you make that contains an error or is a duplicate of another payment. We are not responsible for any e-PAYMENT that is not made if you did not properly follow the instructions for making such payment.

When an e-PAYMENT is scheduled, an estimated delivery date is given, based on the method of delivery being used to make the payment. All payments should be scheduled to allow 1 additional day beyond the estimated delivery

date for the Payee to post the payment. You are responsible for any charge that may be imposed as a result of your failure to allow for 1 additional day. Credit Union's responsibility for any late charges is strictly limited to the late charge only, up to a MAXIMUM of \$50. The Credit Union is not responsible for finance charges, interest, indirect, incidental, special or consequential damages related to the late payment.

Online Banking or Application may be used to authorize automatic recurring e-PAYMENTS. You may schedule recurring payments to be automatically initiated for a fixed amount weekly, biweekly, monthly, or quarterly. The day on which the payment is to be sent is referred to as the "Date/Recurrence." If the payment date/recurrence is scheduled for a non-business day, it will be processed on the prior business day. If your frequency settings for the recurring payment specify the 29th, 30th, or 31st as a particular day of the month for processing and that day does not exist in the month of the calculated processing date, then the last calendar day of that month is used as the calculated processing date.

#### **Stopping BILL PAYMENTS or e-PAYMENTS**

The following steps may be taken to delete or stop pending BILL PAYMENTS or e-PAYMENTS:

##### **Deleting Payments**

If you have scheduled a BPP or e-PAYMENT and would like to cancel the payment, you must do so before the payment is processed. The time varies based on the settlement method being used for the payment. If you cannot access the online banking service to request that the payment be deleted, please contact the Credit Union for further assistance, prior to the cut-off time.

##### **Liability for Failure to Delete a Payment**

You cannot delete or cancel a payment after it has been processed. Credit Union is liable only if you notify Credit Union during business hours at least one (1) business day or more before the scheduled payment date and Credit Union has not already processed the payment. Otherwise, Credit Union is not responsible for any indirect, incidental, special or consequential damages, except to the extent such limitation of liability is not permitted by law.

##### **Stopping Payments**

Once the online payment has been processed, you CANNOT delete or stop BPP settled electronically, or e-PAYMENTS. You may be able to stop a BPP only if it has been paid by paper check. To stop a paper check payment, contact the Credit Union's member service department. The Credit Union will only be able to stop the paper check payment if the paper check has not cleared and is able to process the stop payment request before the paper check payment clears. To be effective, this type of stop payment request must precisely identify the name of the Payee, the Payee-assigned Account number, payment amount and date you scheduled the payment to be processed. If you call, Credit Union will also require you to put your request in writing and get it to Credit Union within fourteen (14) calendar days after you call. Credit Union will charge your Account the regular fee for each stop payment order you give. Credit Union will not be responsible for failing to act on a stop payment if you do not give Credit Union the correct Payee information or if Credit Union does not have a reasonable opportunity to process the stop payment order.

## **IV. Text Banking (SMS)**

Text banking is offered as a free Service and provides you balance and recent transaction history on your account via text message. Message frequency depends on how you use Text Banking Service. Standard text message and data rates from your phone carrier may apply. Please check with your phone carrier for details on their charges. You may cancel Text Banking Service at any time.

By using this Service, you agree not to engage in the following prohibited acts:

- Transmit or allow to be transmitted any Client Content that violates the requirements of any Network Operator through which Client Content is transmitted;
- Transmit or allow to be transmitted any Client Content that is false, inaccurate, misleading, unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically, or otherwise objectionable;
- Transmit or allow to be transmitted any Client Content that harms minors in any way;
- Transmit or allow to be transmitted any Client Content that it does not have a right to make available under any law or under contractual or fiduciary relationships;
- Transmit or allow to be transmitted any Client Content that infringes any patent, trademark, trade secret, copyright, or other proprietary rights or rights of publicity or privacy of any party;
- Utilize any unsolicited or unauthorized advertising, promotional materials, "junk mail", "spam", or any other forms of solicitation;
- Interfere with or disrupt the Service or servers or Network Operator networks connected to this Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service;
- Transmit or utilize any (a) viruses, worms, Trojan horses, or other code that might disrupt, disable, harm, erase memory, or otherwise impede the operation, features, or functionality of any software, firmware, hardware, wireless device, computer system or network, (b) traps, time bombs, or other code that would disable any software based on the elapsing of a period of time, advancement to a particular date or other numeral, (c) code that would permit any Third Party to interfere with or surreptitiously access any End User personal information, or (d) content that causes disablement or impairment of Service, equipment or any Network Operator;
- Intentionally or unintentionally violate any applicable local, state, national or international law, or any regulations having the force of law;
- Provide any material support or resources (or conceal or disguise the nature, location, source, or ownership of material support or resources) to any organization designated by the United States government as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act;
- Collect or store personal data about End Users in connection with the prohibited conduct and activities set forth hereinabove.

Notwithstanding anything to the contrary in this OMB Agreement, in no event shall Credit Union or any Third Party be liable to an End User for any charges billed to an End User or charges that the End User is assessed by Credit Union or a Network Operator in or in connection with the receipt or transmission of other messages or content.

## **V. General Terms**

### **Intellectual Property**

This Agreement does not transfer to you any ownership or proprietary rights in the Service or any associated software or any part thereof. We or our agents retain all intellectual property rights, title and interest in and to the Service, Remote Device and any associated software.

Neither you nor any user you authorize will (a) sell, lease, distribute, license or sublicense the Service; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Service or any part of it in any way for any reason; (c) provide, disclose, divulge or make available to or permit use of the Service by any third party; (d) copy or reproduce all or any part of the Service; or (e) interfere, or attempt to interfere, with the Service in any way.

### **Indemnification and Limits on Liability**

Except where we are liable under the terms of this Agreement or another agreement governing the applicable Account(s), you agree to indemnify, defend, and hold us, our affiliates, officers, directors, employees, consultants,

agents, service providers, and licensors harmless from any and all third-party claims, liability, damages, and/or costs (including but not limited to reasonable attorney's fees) arising from:

- A third-party claim, action, or allegation of infringement, misuse, or misappropriation based on information, data, files, or other content or materials you submit to us.
- Any fraud, manipulation, or other breach of this Agreement or the Service.
- Your violation of any other applicable laws or rights of a third party, including but not limited to rights of privacy, publicity or other property rights.
- The provision of the Service or use of the Service by you or any third party.
- Any transactions or attempted transactions covered by this Agreement from a qualifying Account.

We reserve the right to defend/control (at our own expense) any matter otherwise subject to indemnification by you. In such a case, you will cooperate with us in asserting any available defenses. You won't settle any action or claims on our behalf without our prior written consent.

You are providing this indemnification without regard to whether our claim for indemnification is due to the use of the Service by you or joint owners on your account.

We will make every reasonable effort to provide full performance of the Service, and on a timely basis to resolve disputes that may arise. We will only be responsible for acting on instructions that we actually receive. We cannot assume responsibility for any malfunctions or capacity reductions or other problems in your equipment or in public communications networks not under our control that may affect the accuracy or timeliness of transactions you perform. Our only liability is to correct errors within our control. We are not responsible or liable to you for any loss, damage or injury caused by the Service. Neither will we be liable for any consequential, incidental, special, indirect or punitive loss or damage, including but not limited to dishonor of checks or other items or expenses which you may incur or suffer by reason of this agreement or the services we provide, whether or not the possibility or likelihood of such loss, damage, or expense is known to us.

WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE DIGITAL BANKING SERVICES WE PROVIDE YOU UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

You agree to hold Credit Union harmless for any failure of the Service due to electronic, mechanical or similar problems beyond the control of the Credit Union.

#### **Termination**

We may terminate or suspend the Service, or your use of the Service, immediately and at any time with or without notice to you. You may terminate your use of the Service at any time by giving notice to us. Your notice will not be effective until we receive your notice of termination and we have had a reasonable time within which to act upon it. Notwithstanding termination, any Image transmitted through the Service shall be subject to this Agreement.

#### **Amendment**

We may change this Agreement at any time. We may add new terms and conditions and we may delete or amend existing terms and conditions. We generally send you advance notice of the change. If a change is favorable to you, however, we may make the change at any time without advance notice. If you do not agree with the change you may discontinue using the Service. However, if you continue to use the Service, your continued use shall be deemed your acceptance of and agreement to the change.

#### **Severability**

Any provision of this Agreement that is unenforceable shall be ineffective to the extent of such provision, without invalidating the remaining provisions of this Agreement. If performance of the Service would result in violation of any law, regulation, or governmental policy, this Agreement shall be deemed amended to the extent necessary to comply therewith.

#### **Entire Agreement**

This Agreement, the Deposit Agreement and the Remote Deposit Website Information contain the entire agreement between the parties relating to the subject matter addressed herein, and supersede any prior or contemporaneous understandings or agreements, whether oral or written, between the parties regarding the subject matter contained herein.

#### **Headings**

The headings preceding the text of the sections and subsections of this Agreement are used solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement.

#### **Assignment**

This Agreement shall not be assigned or delegated by you without the prior written consent of Credit Union.

#### **Waiver**

To be effective, any waiver or modification of any term or condition stated in this OMB Agreement must be in writing and signed by an authorized officer of the Credit Union and shall not be considered as a waiver of any future or other obligation or right.

**ELECTRONIC SIGNATURE – By selecting the “I Agree” button below, you consent and agree that your User ID and password which were used to access this page constitute your signature, acceptance and agreement to the terms and conditions provided in the Remote Device Application Agreement and the Online and Mobile Banking Agreement, including, but not limited to, the Remote Deposit, Bill Payment, and Text Banking (SMS) provisions set forth in the Online and Mobile Banking Agreement, as if actually signed by you in writing. Further, you agree that no certification authority or other third party verification is necessary to prove the validity of your electronic signature. You agree that the lack of such certification or third party verification will not in any way affect the enforceability of your signature or any resulting contract between you and Innovations Financial Credit Union.**

**[Insert “I Agree” and “I Do Not Agree” Buttons]**