

VyStar Credit Union  
REMOTE CHECK DEPOSIT SERVICE AGREEMENT

1. **Service and Service Terms.** The following terms and conditions apply to VyStar Credit Union REMOTE CHECK DEPOSIT SERVICE (Service) that VyStar Credit Union may provide to Member. Member accepts and agrees that the Service or any portion of the Service may be provided by one or more subcontractors. The provisions of VyStar Credit Union Membership Booklet and applicable service terms are incorporated into this Agreement by reference.
2. **Overview and definitions.** This Agreement states the terms and conditions by which VyStar Credit Union (Credit Union) will deliver to Member, the Service, as described below.
  - 2.1 "Member" means a person that has a membership with VyStar Credit Union.
  - 2.2 "Business Day" means any day which Credit Union is open to conduct substantially all of its services, but does not include Saturday, Sunday or Federal holidays.
  - 2.3 "Scanner" means any device acceptable to Credit Union, that provides for the capture of images from original items and for transmission through a clearing process.
  - 2.4 "Item" means a check, a paper item, or an electronic item (i.e. an electronic image of an item together with information describing that item). Acceptable items include personal checks, government checks, business checks, money orders, traveler's checks and cashier's or certified checks drawn on a US financial institution and in US funds. It is understood that Member will only be transmitting electronic images of the front and back of items. In order for an item to be processed for deposit, it must be restrictively endorsed in the proper location on the back of the item with the following words: "Account # \_\_\_\_\_", with the correct account number inserted and signed by the payee.
  - 2.5 "Service" means the specific Remote Check Deposit Service provided by Credit Union. The Service shall only be provided for items received for personal, family or household purposes that are being deposited into an account at VyStar Credit Union.
  - 2.6 "Service Start Date" means the date that the Service is first utilized by the Member.
  - 2.7 "Technology" means Credit Union's or its subcontractor's deposit capture applications and processes designed to facilitate the electronic clearing of Items. Said applications are accessed through scanners, utilizing software and hardware provided by or acceptable to Credit Union, and are proprietary access points to payment processing networks and systems used to complete the clearing of items. Technology may include but is not limited to Member service support, reports, software, software tools, user interface designs, and documentation, and any derivatives, improvements, enhancements or extensions thereof developed or provided by Credit Union or its subcontractors and used in the provision of Services hereunder.
  - 2.8 "Access Systems" means all services, hardware, software and other technology (including high speed Internet access service) necessary to access the Service.
  - 2.9 "Subcontractors" means any third party service provider of the Service.
  - 2.10 "Term" shall mean the term of this Agreement beginning as of the Service Start Date until terminated as provided herein.
3. **Member Obligations; Suspension of Service.**

3.1 Hardware, Software and System Requirements. In order to utilize the Service, Member must have the following hardware and software with the indicated specifications:

- Windows 2000®, Windows XP®, Windows Vista™ operating systems or Mac OS X® Version 10.3+ operating system software
- Internet Explorer® 6.0+, Firefox® 2.0+ or Safari™1.2+ for Mac®
- High-speed Internet connection
- Document scanner with TWAIN driver
- Java® Runtime Environment 1.6+

3.2 Member Responsibilities. To access your account(s) with the Credit Union, Member must have an eligible checking account with the Credit Union, and have an established high speed Internet email address. When using the Service, Member shall provide, at Member's sole cost and expense, all Access Systems and Member shall be solely responsible for installing, maintaining, securing and supporting all such Access Systems. The Member is responsible for providing a valid Internet email address.

The Credit Union is not responsible for any error or failures from any malfunction of any Access Systems, and the Credit union is not responsible for any computer virus or related problems that may be associated with the access to or use of the Service. Credit Union does not guarantee that the Service will be compatible with all computer systems and Internet browsers, routers or firewalls. Further, Credit Union does not and cannot control the flow of data to or from Credit Union's network, its service provider's networks or other portions of the Internet. Accordingly, Credit Union cannot guarantee that Member's connection to the Internet will not be impaired or disrupted, and Credit Union hereby disclaims any and all liability resulting from or related to such events.

3.3 Withdrawal of Access/Suspension of Service. Credit Union reserves the right to deny, suspend or revoke access to the Service immediately, in whole or in part, in its sole discretion, without notice if Credit Union believes Member is in breach of this Agreement or otherwise using or accessing the Service inconsistent with the terms and conditions hereof. Further, Credit Union or its subcontractor shall have the right to suspend the Service immediately in the event of an emergency.

3.4 Handling of Transmitted Items. Member shall be responsible for safekeeping and destruction of original items which are scanned, transmitted electronically and deposited using the Service and indemnifies and holds Credit Union harmless from any liability with respect to (i) the safekeeping, use or destruction of the original items after they are scanned, transmitted and deposited electronically using the Service, or (ii) for any Items being submitted for deposit or presented for payment more than once. There are no laws or regulations that state how long original items should be retained prior to destruction, therefore, retention timeframes are set at the Member's discretion.

3.5 Account Statement Examination. Unless Member notifies Credit Union of any errors to deposits made through the Service within 60 days after the applicable account statement is mailed or otherwise provided to Member, such statement regarding all deposits made through the Service shall be deemed to be correct.

3.6 Processing of Items. Images of items transmitted by Member are not considered received by Credit Union until Member has received an electronic confirmation of the receipt of the deposit from Credit Union. However, receipt of the confirmation from Credit Union does not mean that the transmission was error free or complete. Items transmitted by the Member and received by Credit Union or its subcontractors by 5:00 p.m. Eastern Time Monday through Friday, shall be credited to the Member's applicable account on the same Business Day. Items received by Credit Union after 5:00 p.m. Eastern Time on any Business Day shall be credited to the Member's applicable account on the next successive Business Day.

3.7 Funds Availability. All transactions are subject to proof and verification and accepted in accordance with the terms of the Membership and Account Agreement and Funds Availability Policy. Any crediting of the Member's account for items deposited via this Service is provisional, subject to verification and final settlement. Any dishonored items will be returned as an image of the original or a substitute check as the charged-back item. Any dishonored item is subject to a fee according to the Credit Union Fee Schedule at the time of the return.

#### **4. Warranties and Disclaimers**

4.1 Member shall not use the Service in any way that could potentially harm Credit Union's network or sites, or the network or sites of its third party service providers. Member shall not nor shall they permit or assist others to abuse or fraudulently use the Service. Member shall not use the Service in any way that: (i) transmits any item or other materials via the Service that is deceptive or fraudulent; (ii) violates any law, statute, ordinance, or regulation (including without limitation the laws and regulations governing banking and criminal activity); (iii) transmits or distributes any viruses, worms, time bombs, Trojan horses, or other destructive software of devices; (iv) attempts to break or circumvent security, or in fact, breaks or circumvents security of any computer network of Credit Union, its subcontractors or service providers.

4.2 Disclaimer. Credit Union warrants that the Service shall be performed in a work person like and professional manner consistent with banking industry standards. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICE IS PROVIDED ON AN "AS IS" BASIS, AND CREDIT UNION HEREBY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

#### **5. LIMITATION OF LIABILITY**

5.1 LIMITATION OF LIABILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER THE CREDIT UNION NOR ANY OF ITS SUBCONTRACTORS OR SERVICE PROVIDERS SHALL BE RESPONSIBLE FOR ANY LOSS, PROPERTY DAMAGE OR BODILY INJURY ARISING OUT OF YOUR USE OF THE SERVICE, WHETHER CAUSED BY THE CREDIT UNION, ITS SUBCONTRACTORS OR SERVICE PROVIDERS, AS WELL AS MEMBER'S USE OF THE SERVICE, EQUIPMENT, SCANNERS, OR SOFTWARE PROVIDED UNDER THIS AGREEMENT. IN NO EVENT SHALL THE CREDIT UNION OR ANY OF ITS SUBCONTRACTORS OR SERVICE PROVIDERS BE RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, ECONOMIC OR OTHER DAMAGES ARISING IN ANY WAY OUT OF THE INSTALLATION, USE OR MAINTENANCE OF THE SERVICE, EQUIPMENT OR SOFTWARE USED BY THE MEMBER OR CREDIT UNION IN CONNECTION WITH OPERATION OF THE SERVICE, EQUIPMENT, SCANNERS OR SOFTWARE.

#### **6. Termination.**

6.1 Termination. Credit Union may immediately terminate the Service or any portion of the Service if Credit Union determines that such Service or portion of any Service is in violation of any law or regulation, or in its sole discretion and with notice, decides to cease providing this Service. Except in the event of emergency or to safeguard Credit Union's accounts, networks or systems, Credit Union shall give written notice of such termination or access limitation, which may be given by Internet secure message, or sent to you at the address shown on our records, or sent to you by electronic mail message (email). Member may terminate the Service with notice to Credit Union in person, by phone, written notification through postal mail or by electronic mail message (email). No minimum time is required by the member for notification to Credit Union.

#### **7. Miscellaneous Provisions.**

7.1 Notices. Member agrees that any notices required or permitted under this Agreement may be given electronically.

7.2 Governing Law. This Agreement will be governed by and interpreted in accordance with federal laws and regulations, and to the extent there is no applicable federal law or regulation, by the State of Florida.

7.3 Subcontractors. Credit Union may use third party service providers to provide some or all of the Service under this Agreement on behalf of Credit Union.

7.4 Amendments. Unless applicable law provides otherwise, this Agreement may be amended by notice sent electronically or by mail to Member at Member's last address known to Credit Union to be effective not less than thirty (30) days after the day transmitted or mailed. Credit Union shall not be bound by any modification of this Agreement unless Credit Union expressly agrees to the modification in writing. Member shall have the right to terminate the Agreement prior to the effective date of the amendment. By choosing to continue using the Service, Member will accept the amendments. This Agreement supersedes all prior agreements and amendments.

7.5 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all existing agreements and all other related communications, written or oral.

10/20/2009