

# **SUMA FEDERAL CREDIT UNION**

## **MOBILE REMOTE DEPOSIT AGREEMENT**

SUMA Federal Credit Union, a federal credit union, and “Member” as defined below, hereby enter into, as of the date the Credit Union grants access to the Services (the “effective date”), this Mobile Remote Deposit Agreement (“agreement”). The agreement consisting of general terms and conditions, exhibits, and any amendments attached hereto or hereafter by mutual consent of the parties, and incorporated by this reference.

### **Mobile Remote Deposit Capture General Terms and Conditions**

This agreement establishes the rules that govern the processing of deposited checks through member’s account(s) at the Credit Union using Mobile Remote Deposit. 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 you, the member. Examples of such notices might include, but are not limited to, newsletters, disclosures, etc. By using the Mobile Remote Deposit, you accept all the terms and conditions of this agreement. Please read it carefully. The terms and conditions of member’s Membership Agreement and the Truth-In-Savings Schedule for member’s deposit accounts and each of member’s loan agreements continue to apply notwithstanding anything to the contrary in this agreement.

The remote deposit capture services ("Mobile Deposit" or "Services") are designed to allow you to make deposits to your share draft or savings accounts from your camera-enabled mobile device capable of capturing check images and information and electronically delivering the items and associated deposit information to SUMA (Yonkers) Federal Credit Union or its designated processor. The device must capture an image of the front and back of each check to be deposited in accordance with the Procedures; must read and capture the magnetic ink character recognition ("MICR") line on each check; and must read and capture all such other data and information as is required by this Agreement or Federal Reserve regulations for the processing of these checks for payment.

### **Fees and Charges**

SUMA (Yonkers) Federal Credit Union offers the benefits and convenience of the Services to you free. SUMA (Yonkers) Federal Credit Union reserves the right to charge fees for the Services in the future.

### **Rules, Laws and Regulations**

You agree to abide by and comply with all local, state, and federal rules, laws and regulations. These rules include but are not limited to Regulation CC “Expedited Funds Availability Act”, its Subparts B, C and D (Subpart D implements the Check Clearing for the 21st Century Act (Check 21 Act). The Bank Secrecy Act (BSA), and laws administered by the United States of America which are in existence as of the date of this agreement and as amended from time to time.

### **Definitions**

In addition to all the other terms defined herein, the following terms shall have the following meanings:

1. “We”, “Our”, “Us”, and “Credit Union” shall mean SUMA Federal Credit Union, its employees, directors, officers, representatives, and agents.

2. “You”, “Your”, and “Member” shall mean the account holder authorized by Credit Union to use the Mobile Remote Deposit, and any user authorized to exercise control over funds deposited in member’s account through the Mobile Remote Deposit program.
3. “Account” or “Accounts” shall mean the individual share draft, savings share(s) deposited with Credit Union through the Mobile Remote Deposit program.
4. “Check” or “Checks” shall mean negotiable demand draft(s) drawn or payable through an office of a United States based financial institution, as well as demand draft(s) drawn on a Federal Reserve Bank or a Federal Home Loan Bank or on the Treasury of the United States. Check(s) include original check(s) and substitute check(s). Check(s) do not include noncash items payable in a medium other than United States dollars. A draft may be a check even though it is described on its face by another term, such as “money order.”
5. “Image item” means digitized image(s) of check(s) that are created by you and transmitted to the Credit Union using the services.
6. “Services” means any of the Mobile Remote Deposit functions offered and or used by you in connection with this agreement, including optional and future services added by an addendum.
7. “System” means the program that is maintained by the Credit Union, or other third parties, that you connect to through the internet in order to access the services.
8. Mobile Remote Deposit may be commonly referred to as Mobile Deposit.

## **Services and Funds Availability**

Once approved for the Mobile Remote Deposit program, you may use the services to deposit checks into your account(s) with the Credit Union, subject to the terms of this agreement. Checks deposited through the services 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 Agreement and Truth-In-Savings schedule, which govern the use of your account. We are notifying you in advance that deposits made by the Mobile Remote Deposit program do not fall under the standard provisions of 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 your Account Application or via other means that SUMA Federal Credit Union may deem appropriate.

## **Deposit Limits**

SUMA Federal Credit Union reserves the right to establish and assign to you deposit limits for the Service (including limits on the dollar amount and/or number of Checks that you may transmit through the Service each day) and to modify such limits from time to time in its sole discretion, and you agree to comply with all such limits. Our current daily deposit limit is \$5,000 per day.

Local checks made through the Mobile Remote Deposit program will generally be available according to the following scenario:

A daily aggregate of checks deposited via Mobile Remote Deposit should not exceed \$5,000.00, out of which \$200.00 will be available immediately and the rest of the amount will be put on hold and will be made available on the second business day following review.

The monthly aggregate of checks deposited via Mobile Remote Deposit should not exceed \$15,000.00.

Certain limitations and exclusions to the above noted limits may be made based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and such

other factors as SUMA Federal Credit Union, in its sole discretion, deems relevant.

## **Returned Deposits**

Any credit to your account using Mobile Remote Deposit is provisional. If a check deposited through Mobile Remote Deposit is dishonored, rejected, or otherwise returned as unpaid by the drawee bank, or the item is rejected, or returned by a clearing agent or collecting bank, for any reason, including, but not limited to, issues relating to the quality of the image, you agree that an original check will not be returned to you, but that we may charge back the amount of the original check and provide you with an image of the original check, a paper reproduction of the original check or a substitute check. You will reimburse us for all loss, cost, damage or expense caused by or relating to the processing of the returned item. Without our approval, you shall not attempt to deposit or otherwise negotiate an original check if it has been charged back to you.

We may debit any of your accounts to obtain payment for any item that has been rejected or returned, for any adjustment related to such item or for any warranty claim related to such item, whether or not the rejection, return, adjustment or warranty claim was made timely.

## **Member Eligibility**

You understand that you must be a SUMA Federal Credit Union member in good standing, and meet all other pre-determined qualifying factors to qualify for the services, such as the following:

- Your account needs to be open for at least 30 days.
- Your account must be clear of the Non-Sufficient Funds situations during the past 24 months.
- The absence of charged-off loans on your account.
- You must be 18 years old.
- You must not have negative balances in any of your share accounts.

To determine if you are eligible for these Services, visit any SUMA FCU branch, SUMA FCU online banking website [www.sumafcu.org](http://www.sumafcu.org), SUMA FCU Mobile App or contact the Member Service Department at 914-220-4900 during the business hours.

## **Access**

To use Mobile Remote Deposit, you must have a compatible mobile device with our system, access to telecommunication services necessary for the Mobile Remote Deposit service. Application upgrades may be required from time-to-time for continued use of the services.

## **Equipment**

You must have a Mobile Device that is acceptable to us and a wireless plan from a compatible mobile wireless provider. You must also use the operating system(s) and software that satisfies all technical specifications and other requirements that we and/or our service provider(s) establish and specify. We and/or our service provider(s) may change these specifications and/or requirements from time to time. The Financial Institution is not responsible for any third party software you may need to use the Services. You agree that you will perform, or cause to be performed by properly trained personnel, all vendor recommended maintenance, repairs, upgrades and replacements. Unless otherwise provided in this Agreement, you are solely responsible, at your own expense, for purchasing, installing, operating, testing and maintaining all hardware and software necessary

to use the Service. You must install and test your Mobile Device, your system, and any other required hardware and software before you make your first deposit through the Service. You accept any such software “as is” and subject to the terms and conditions of the software agreement that you enter into directly with the third party software provider at the time of download and installation. We are not responsible for, and you release us from, any and all claims or damages resulting from, or related to, any computer virus or related problems that may be associated with using the Service, e-mail or the Internet. You agree that all images and files transmitted to us through the Service will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.

## **System Failure**

In the event of a system failure, you agree that, in order to deposit your checks, you must deliver them directly to a Credit Union branch office for processing. If the checks were scanned prior to the system failure, you must obtain our approval before delivering the checks to a branch office for processing.

## **Hours of Access**

Services are available 24 hours per day, 7 days per week, although some or all services may not be available occasionally due to emergency or scheduled system maintenance. Transmission deadlines and funds availability terms and conditions apply. We agree to post notice of any extended periods of non-availability on the Mobile Remote Deposit and or Credit Union website.

## **Transmission**

Transmissions originate from the Credit Union office in Yonkers, NY. Image item deposits initiated through the System are posted to member’s account in real-time, subject to funds availability and System maintenance.

## **Receipt of Items**

We reserve the right to reject any item transmitted through the Services, 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. An image of an item shall be deemed received when you receive a confirmation from SUMA Federal Credit Union that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or complete.

## **Authorized Users**

The Credit Union shall be entitled to rely on the apparent authority of any person who accesses the services using valid member and user login IDs and passwords, including such persons who may not be signers on member’s account. Except as otherwise provided by law, you will indemnify Credit Union and hold it harmless for any loss or expense caused by any person with the apparent authority to access the services. You agree to provide each authorized user a copy of these terms in connection with their use of the services. The Credit Union may elect to verify the authenticity or content of any transmission by placing a call to any authorized signer on your account at our discretion. We may deny your access to the services without prior notice if we are unable to confirm any person's authority to access the services or if we believe such action is necessary for security reasons.

## **Security**

You understand the importance of your role in preventing misuse of your accounts associated with the Mobile Remote Deposit program, and you agree to promptly examine your paper or electronic statement for each of your Credit Union accounts as soon as you receive it and notify us of any errors in accordance with your Account Membership Agreement. You agree to protect the confidentiality of your accounts and account number and passwords. Data transmitted via the services is encrypted in an effort to provide transmission security. Mobile Remote Deposit utilizes identification technology to verify that the sender and receiver, of transmissions related to the services can be appropriately identified by each other. Notwithstanding our efforts to ensure the services are secure, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the internet and potentially can be monitored and read by others. We cannot, and do not, warrant that all data transfers utilizing Mobile Remote Deposit, or e-mail transmitted to and from us will not be monitored or read by others. You agree to notify us immediately if you believe any passwords have been lost, stolen, used without your permission, or otherwise compromised. Call us immediately at our Member Service Department at the number in the contact information section of this agreement.

## **Use of Services**

As a condition to using the services, you agree that you are solely responsible for the use of the Services and that you will use the Services in accordance with this agreement. You agree not to attempt to circumvent the security features of the services or the system or make any improper or unauthorized transfer of funds from accounts via the services or the system. You agree that you are prohibited from engaging in conduct that would violate the proprietary rights of the owner(s) of the system and the services as well as accessing or using the system or the services in any other unauthorized manner. You agree to be liable to the Credit Union and its vendors, for any claims, losses, liabilities, damages, expenses or costs arising as a result of the negligent or intentional misuse of the services or the system by you or your authorized users.

You are prohibited from using the services for any activity that:

1. Would result in you being or becoming a “money service business” as defined in the Bank Secrecy Act and its implementing regulations;
2. Knowingly accepting restricted transactions in connection with another person in unlawful Internet gambling as defined in the Unlawful Internet Gambling Enforcement Act and Regulation GG (Prohibition on Funding of Unlawful Internet Gambling); or
3. Directly or indirectly related to the use of the services that is illegal or fraudulent.

## **Deposit of Original Checks**

You agree that no check deposited to the Credit Union shall cause funds to be debited more than once from the account of the maker. You agree that the original check, a duplicate check image, or any copy of the original check or check image will not be deposited by you with the Credit Union (unless we instruct you to do so) or under any circumstances with any other financial institution.

## **Check Retention Period**

You agree that you will preserve the originals of all checks, processed through the services pursuant to this agreement for ninety (90) calendar days after the day of deposit (“Retention Period”). After you receive the “Deposit Successful” message, write “Mobile Deposit” on the check front. The risk of loss due to the unavailability of the original or copy of a check for any reason, during the retention period, shall be exclusively on the member.

## **Destruction of Original Checks**

You will be fully responsible for the destruction of the checks. You agree to use commercially reasonable method(s) to destroy original checks after the required retention period has expired. You agree to destroy and dispose of the original checks with a high degree of care, including selecting and implementing appropriate destruction and disposal procedures. You are required to implement such procedures to ensure that the original checks are not accessed by unauthorized persons during the storage, destruction and disposal process and, once destroyed, the original checks are no longer readable or capable of being reconstructed (e.g., through the use of competent shredding equipment). The risk of loss associated with the accidental inclusion of a physical check in the check collection process or with a lost, destroyed, stolen or misplaced check shall be exclusively on the member.

## **Member Representations and Warranties**

You represent and warrant that all checks transmitted through the use of the services are made payable to the member, all signatures and endorsements on each check are authentic and authorized, and each check has not been altered.

## **Prohibited Checks**

You agree that checks scanned through the use of the services will not:

- be payable to any person or entity other than you;
- be prohibited by, or received in violation of, any law, rule or regulation;
- be known or suspected (or should have been known or suspected) as fraudulent or otherwise unauthorized by the owner of the account on which the check is drawn;
- have been previously cashed or deposited;
- be postdated or more than six (6) month old;
- be irregular in any way;
- payable to you and another party who is not a joint owner on the account; or
- be drawn on financial institutions that are located outside the United States.

## **Endorsement of Checks**

You agree to properly endorse each check prior to submitting such check through the use of the services.

You agree to restrictively endorse any item transmitted through the Services as "MOBILE DEPOSIT, SUMA Federal Credit Union account #\_\_\_\_\_" or as otherwise instructed by SUMA Federal Credit Union. You agree to follow any and all other procedures and instructions for use of the Services as SUMA Federal Credit Union may establish from time to time. Endorsements must be made on the back of the share draft or check within 1½ inches from the top edge, although we may accept endorsements outside this space. Any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility. For a check payable to you and any joint owner(s) of your account, the check must be endorsed by all such payees and you may only use Mobile Deposit to deposit such check into an account jointly owned by all such payees. If the check is payable to you or your joint owner, either of you can endorse it. If the check is made payable to you and any non-joint owner, you may not deposit the check into your account using the Services. And, you agree never to represent the item. You will promptly provide any retained item, or a

sufficient copy of the front and back of the item, to SUMA Federal Credit Union as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for SUMA Federal Credit Union's audit purposes.

## **Image Quality**

You are responsible for inspecting and verifying the quality of the images associated with image items, thus ensuring that the digitized images of the front and back of original checks are legible for all posting and clearing purposes by the Credit Union. Specifically, you are representing and warranting to Credit Union that:

The image item is an accurate representation of all information on the front and back of the original check at the time the original check was converted to an image item, and the image item contains all endorsements from the original check necessary to permit Credit Union to:

1. Acquire rights of a holder in due course in the collection process of checks and other items;
2. Handle, process, maintain and destroy original checks; and
3. Ensure that neither Credit Union nor any other financial institution (depository, collecting or payor), drawee, drawer or endorser receives presentment or return of, or otherwise is charged for a check or image item more than once in any form.

The image quality of the items must comply with the requirements established from time to time by the American National Standards Institute ("ANSI"), the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association. These requirements include, but are not limited to, ensuring the following information can clearly be read and understood by sight review of the Check image: the amount of the Check (both written and numeric); the payee; the signature of the drawer (maker); the date; the Check number; the information identifying the drawer and the paying financial institution that is preprinted on the Check including the MICR line; and all other information placed on the Check prior to the time of an image of the Check is captured (such as any required identification written on the front of the Check and any endorsements applied to the back of the Check).

## **Adjustments**

Once an image item is captured, the system will display captured encoded fields for your review. You will be required to make corrections to encoding not read or missing from the scanned check, including entering the legal amount of the check. We reserve the right to adjust your deposit after you have submitted it for processing. Adjustments are to correct mistakes in the value of image items deposited, mistakes in encoding, or for missing or illegible image items.

## **Storage, Security and Destruction/Disposal of the Checks**

After you receive confirmation that we have received an image, you must securely store the original Check for 90 days after transmission to us and make the original Check accessible to us at our request. Upon our request from time to time, you will deliver to us within two Business Days, at your expense, the requested original Check in your possession. If not provided in a timely manner, such amount will be reversed from your account. Promptly after the 90-day retention period expires, you must destroy the original Check by first marking it "VOID" and then destroying it by cross-cut shredding or another commercially acceptable means of destruction. After destruction of the original Check, the image will be the sole evidence of the original Check. You agree

that you will never re-present the original Check. You understand that you are responsible if anyone is asked to make a payment based on an original check that has already been paid.

## **Presenting Checks More Than Once**

Once you have used the Service to deposit a Check you agree not to present, or allow anyone else to present, that original Check or a substitute check of that original Check again for deposit through the Service or by any other means. If you or anyone else present a Check or substitute check for deposit more than once, in violation of this Agreement, you agree to indemnify, defend and hold SUMA Federal Credit Union harmless from and against all liability and damages that may result from any claims, suits or demands from third parties with respect to such Check or substitute check. You agree that we may debit from your account the aggregate amount of any Checks that that are deposited more than once. To the extent that funds in your account are insufficient to cover such amount, we shall debit the deficiency amount from any other of your account(s) with the Financial Institution in our sole discretion. If you present a check more than once, your participation in the mobile remote deposit program may be suspended or terminated at our sole discretion.

## **Authentication Method**

You agree that we are entitled to act upon instructions we receive with respect to the Service under your user ID, password, test key or other code or authentication method that we require (these components are referred to herein collectively as your "Authentication Method"). You are liable for all transactions made or authorized with the use of your Authentication Method. We have no responsibility for establishing the identity of any person who uses your Authentication Method. You agree that if you give any component of your Authentication Method to anyone or fail to safeguard its secrecy, you will be in violation of your obligations under your Account Agreement and this Agreement. You agree to take appropriate steps to ensure that all components of your Authentication Method are protected and kept confidential. You agree to indemnify and release us from any and all liability, and agree not to make any claim or bring any action against us, relating to our honoring or allowing any actions or transactions that are conducted under your Authentication Method or acting upon instructions, messages or authorizations provided to us using your Authentication Method. By accessing the Service with your Authentication Method, you authorize us to complete the requested transaction(s) through the Service. Any requests or instructions we receive from you through the Service using your Authentication Method shall be considered "in writing" under all applicable law and shall have the same force and legal effect as a writing signed by you. This includes, but is not limited to, inquiries, deposit transactions, Checks deposited, Check images, changes to accounts or services or any other communication you provide us through the Service using your Authentication Method.

## **Rejection of Deposits**

After we receive Check images and all other required deposit information from you through the Service, we shall provisionally credit your designated account for the total amount of such Checks. The provisional credit is subject to final payment of the Checks and is also subject to your SUMA Federal Credit Union Account Agreement. You agree that all deposits received by us are subject to verification and final inspection and may be rejected by us in our sole discretion, and you shall be liable to SUMA Federal Credit Union for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against the Financial

Institution relating to such deposits. SUMA Federal Credit Union is not liable for any service or late charges that may be imposed against you due to the SUMA Federal Credit Union's rejection of any Check that you transmit for deposit through the Service. In all cases, you are responsible for any loss or overdraft plus any applicable fees to your account due to a Check being returned. You acknowledge and agree that, while we normally provide notice of rejected deposits, we may reject any Check transmitted through the Service in our sole discretion without notice to you, and we will not be liable for any such rejection or failure to notify you of such rejection. If we reject a Check for remote deposit, you must physically deposit the original Check.

## **Unpaid Checks**

Should you fail to produce the original check, you authorize us to deduct that amount from your account.

You are solely responsible for verifying that Checks that you deposit by using the Service have been received and accepted for deposit by SUMA Federal Credit Union. SUMA Federal Credit Union will provide you with notice of any deposits that it is unable to process because Checks were returned unpaid by the payor financial institution. You agree to accept such notices at your e-mail address on file with us, but we may choose any reasonable method for providing such notices to you. In the event that the SUMA Federal Credit Union credits your account for a Check that is subsequently dishonored and returned, you authorize SUMA Federal Credit Union to debit the amount of such Check plus any associated fees from the account. To the extent that funds in your account are insufficient to cover such amount, we shall debit the deficiency amount from any of your other account(s) with SUMA Federal Credit Union in our sole discretion. Our right to charge your account(s) will apply without regard to whether the Check was timely returned or whether there is any other claim or defense that the Check was improperly returned. You understand and agree, that since the original Check is your property, it will not be returned and SUMA Federal Credit Union may charge back an image of the Check, an ACH debit, or other electronic or paper debit, as applicable, to your account. You further agree that any image that we charge back may be in the form of an electronic or paper reproduction of the original Check or a substitute check. You may not use the Service to deposit a substitute check and you may not deposit the original Check through the Service or in any other manner if you receive a dishonored Check. You agree to comply with any additional instructions we may provide to you in connection with returned Checks.

## **Duty to Report Errors**

SUMA Federal Credit Union will provide you with periodic statements that will identify the deposits that you make through the Service. In addition, you may access SUMA Federal Credit Union's Online Banking service for information about your deposits, return items, deposit adjustments, Checks and other transactions on your accounts. You agree that it is your responsibility to review all such information that SUMA Federal Credit Union makes available to you in a timely manner to verify that deposits made through the Service have been received and accepted by SUMA Federal Credit Union and are accurate. Receipt of a Check by us through the Service does not constitute an acknowledgement by us that the Check is error-free or that we will be liable for the Check. You agree to notify us promptly of any errors, omissions, or discrepancies in a deposit within the time periods established in your Account Agreement. You may notify us by e-mailing us at [memberservice@sumafcu.org](mailto:memberservice@sumafcu.org) or writing to SUMA Federal Credit Union, 125 Corporate Blvd, Yonkers, NY 10701, or telephoning us at 914-220-4900. You agree to cooperate in any investigation by SUMA Federal Credit Union of any unsuccessful or lost transmission. Subject to applicable law, any failure by you to notify us

of any error, omission or other discrepancy in accordance with this Agreement and your Account Agreement shall relieve SUMA Federal Credit Union of any liability for such error, omission or discrepancy.

### **Availability of Service/Contingency**

In the event you are unable to capture, balance, process, produce or transmit a file to SUMA Federal Credit Union, or otherwise comply with the terms or the Procedures for any reason, including but not limited to, communications, equipment or software outages, interruptions or failures, you will transport or mail the originals of all checks to the closest SUMA Federal Credit Union location. The deposit of original checks at an office of the Financial Institution shall be governed by the terms and conditions of the Deposit Account Agreement and not by the terms of this Agreement.

### **Data Security**

You will complete each deposit promptly. If you are unable to complete your deposit promptly, you will ensure that your mobile device remains securely in your possession until the deposit has been completed. It is your responsibility to establish and maintain procedures to safeguard against unauthorized deposits. You will notify us immediately by telephone at 914-220-4900 and with written notice at SUMA Federal Credit Union, 125 Corporate Blvd, Yonkers, NY 10701, Attn: Remote Deposit Processing, if you learn of any loss or theft of original checks. You will ensure the safety and integrity of original Checks from the time of receipt until the time of destruction. If warranted in our reasonable judgment, we may audit and monitor you, and you agree to cooperate with us to permit such monitoring, to confirm that you have satisfied your obligations under this Agreement.

### **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.

### **Suspension or Termination**

We are permitted to suspend or terminate any or all of the services immediately should you breach any part of this agreement or of the membership agreement. We are also permitted to terminate any or all of the services immediately if we are no longer able to provide such services.

### **Confidentiality**

You acknowledge that we will disclose information to third parties about your account or the image items you deposit:

1. To enable your access to the services and the system,
2. When it is necessary for completing deposits, and
3. As required by law.

**NOTE:** Items deposited using Mobile Remote Deposit is subject to our verification and final inspection process. We may at any time deposit an image item or return all or part of a deposit of multiple image items to you without prior notice. We are under no obligation to inspect or verify any image item to determine accuracy, legibility or quality of the image item or MICR line information associated with the image item, or for any other purpose. However, we may correct or amend MICR line information associated with an image item to facilitate processing of the image item or a substitute check created from that image item. We may process and collect an image item or a substitute image item through one or more check clearing houses, Federal Reserve Banks, or other private clearing agreements with other financial institutions. We may hold and use funds in any deposit account of yours following termination of this Agreement and the services for such time as we reasonably determine to be necessary for us to be assured that no image item processed by us prior to termination may be returned, charged back, or otherwise become a source or cause for any loss, liability, cost, exposure or other action for which the Credit Union may be responsible, with such right being in addition to any other rights we may have with respect to your accounts. Without limitation, you recognize that under the Rules, the UCC, Regulation CC and the rules of any image exchange network, our representations and warranties to others with regards to image items and substitute checks may expose the Credit Union to claims for several years following processing of any particular image item or substitute check.

a. If a payor financial institution returns an image item to us for any reason, we may charge your applicable account for the returned image item, whether or not the return is timely and proper, and we may further either:

1. Return the image item to you; or
2. Re-present it to the payor financial institution before returning it to you.

Items may be returned as image items, rather than substitute checks, as agreed by the parties. If a payor financial institution or other third party makes a claim against us or seeks a recredit with respect to any image item processed, we may provisionally freeze or hold aside a like amount in the applicable account pending investigation and resolution of the claim;

b. Immediately suspending the services or the system or the processing of any check or corresponding electronic image item if we have reason to believe that there has been a breach in the security of the services or system, fraud involving your account(s) or check(s), or any uncertainty as to the authorization or accuracy of electronic image items, including the right to process electronic image items on a collection basis at any time; and

c. Refusing to process any non-conforming image items, including without limitation any image items that do not meet the definition of a "check" set forth herein.

## **Contact Information**

Notifications required by this agreement are to be directed to us at the address or phone numbers listed below.

SUMA Federal Credit Union  
125 Corporate Blvd, Yonkers NY 10701  
Phone: 914-220-4900

## **Disclaimer of Warranty and Limitation of Liability**

We make no warranty of any kind, express or implied, including any implied warranty of merchantability or fitness for a particular purpose, in connection with the Mobile Remote Deposit Services provided to you under

this agreement. We do not and cannot warrant that Services will operate without errors, or that any or all services will be available and operational at all times. Except as specifically provided in this agreement, or otherwise required by law, you agree that our officers, directors, employees, agents or contractors are not liable for any indirect, incidental, special or consequential damages under or by reason of any services or products provided under this and or by reason of your use of or access to Mobile Remote Deposit Services. The Credit Union shall be responsible only for performing the services expressly provided for in this agreement and shall be liable only for its negligence in performing those services. The Credit Union shall not be responsible for the member's acts or omissions (including without limitation the amount, accuracy, or timeliness of transmittal) or those of any person, including without limitation any Federal Reserve Financial Institution or transmission or communications facility, and no such person shall be deemed the Credit Union's agent. The member agrees to indemnify the Credit Union against any claims, damages, loss liability, or expense (including attorney's fees and expense) resulting from or arising out of any claim of any person that the Credit Union is responsible for any act or omission of the member, or any other person described in this paragraph. In no event shall the Credit Union be liable for any consequential, special, punitive or indirect loss or damage which the member may incur or suffer in connection with this Agreement, including without limitation, loss of damage from subsequent wrongful dishonor resulting from the Credit Union's acts or omissions pursuant to this Agreement. Without limiting the generality of the forgoing provisions, or the provisions of this Agreement, the Credit Union shall be excused from failing to act or from delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond the Credit Union's control. In addition, the Credit Union shall be excused from failing to transmit or delay in transmitting a deposit if such transmittal would result in the Credit Union violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other United States governmental regulatory authority. Notwithstanding any other provision set forth herein to the contrary, in the event of default under the terms of this agreement by the member, the Credit Union shall have all rights and remedies available at law or in equity.

## **Governing Law**

This Agreement shall be construed in accordance with New York law and the laws of the United States of America. We and you agree that jurisdiction over, and venue in any legal proceeding arising out of or relating to this agreement, will exclusively be in the state or federal courts located in Westchester County New York .

## **Severability**

If any provision of this agreement is held to be illegal, invalid or unenforceable under present or future laws, the remaining provisions shall remain in full force and effect.

## **Acceptance**

Your use of the services constitutes your acceptance of this agreement. The credit union reserves the right to change the terms for the services described in this agreement by notifying you of such change in writing and we may amend, modify, add to, or delete from this agreement from time to time. Your continued use of the services will indicate your acceptance of the revised agreement.