

# ViaMobile Agreement

Effective May 17, 2016



Please read these Agreements carefully before accessing or using this service. Via Credit Union's Mobile Banking product is defined, and will be referred to, as ViaMobile throughout the rest of the agreement. Via Credit Union's Online Banking product is defined, and will be referred to, as ViaConnect throughout the rest of the agreement. Via Credit Union's Remote Deposit Capture product is defined, and will be referred to, as Mobile Deposit throughout the rest of the agreement. By accessing or using these services, you agree to be bound by the terms and conditions set forth below. If you do not wish to be bound by these terms and conditions, you may not access or use these services.

ViaMobile is offered as a convenience and supplemental service to our ViaConnect services. It is not intended to replace access to ViaConnect from your personal computer or other methods you use for managing your accounts and services with us. ViaMobile allows you to access your account information, transfer funds, and conduct other banking transactions. To utilize the ViaMobile service, you must be registered to use ViaConnect.

We reserve the right to limit the types and number of accounts eligible and the right to refuse to make any transaction you request through ViaMobile. We also reserve the right to modify the scope of the service at any time.

We may offer additional ViaMobile services and features in the future. Any such added ViaMobile services and features will be governed by this agreement and by any terms and conditions provided to you at the time the new ViaMobile service or feature is added and/or at the time of enrollment for the feature or service, if applicable. From time to time, we may amend these terms and modify or cancel the ViaMobile services we offer without notice, except as may be required by law.

ViaMobile may not be accessible or may have limited utility over some network carriers. In addition, the service may not be supportable for all devices. Via Credit Union cannot guarantee and is not responsible for the availability of data services provided by your mobile carrier, such as data outages or "out of range" issues. Your wireless carrier may assess you fees for data or text messaging services. Please consult your wireless plan or provider for details.

## Use of Service

You agree to accept responsibility for learning how to use ViaMobile in accordance with the instructions and agree that you will contact us directly if you have any problems with ViaMobile. We may modify the service from time to time at our sole discretion. In the event of any modifications, you are responsible for making sure you understand how to use ViaMobile as modified. You also accept responsibility for making sure that you know how to properly use your device and we will not be liable to you for any losses caused by your failure to properly use the service or your device. You will not hold Via Credit Union liable for any incompatibility of the Software with your mobile device or for any loss or damage to any mobile device which may be caused by the Software or the installation process.

## **Other Agreements**

You agree that, when you use ViaMobile, you remain subject to the terms and conditions of your existing agreements with Via Credit Union except as expressly otherwise stated herein; and with any unaffiliated service providers, including, but not limited to, your mobile service provider and that this agreement does not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of ViaMobile (such as data usage or text messaging charges imposed on you by your mobile service provider for your use of or interaction with ViaMobile), and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your provider directly without involving us.

Any deposit account, loan or other banking product accessed through this service is also subject to the Account Agreement, ViaConnect Agreement, Fee Schedule, and your loan agreements. You should review the account disclosures carefully, as they may include transaction limitations and fees which might apply to your use of ViaMobile.

## **Permitted ViaMobile Transfers**

Transactions in ViaMobile are subject to the terms and limitations disclosed in the Account Agreement, ViaConnect Agreement, Fee Schedule, and your loan agreements. You may transfer or withdrawal up to the available balance in your account at the time of the transfer, except as limited under this agreement or your deposit or loan agreements. Via Credit Union reserves the right to refuse any transaction that would draw upon insufficient or unavailable funds, lower an account below a required balance, or otherwise require us to increase our required reserve on the account. We may process transfers that exceed your available balance at our discretion. If we process the transfer and unless your overdraft protection is provided via a ViaGEM Loan, you agree to cover any overdraft amount plus any applicable fees. We may limit the type, frequency and amount of transfers for security purposes and may change or impose the security limits without notice, at our option. You agree to confirm the completion of each transfer in your account balance and transaction history before withdrawing transferred funds.

# **Mobile Deposit**

## **Mobile Deposit**

The Remote Deposit Capture Service (Mobile Deposit) is designed to allow you to make deposits to your checking or savings account from home or other remote locations by scanning checks and delivering the images and associated deposit information to Via Credit Union or Via Credit Union's designated processor.

## **Acceptance of these Terms**

Your use of Mobile Deposit constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change via mail, email, or on our website(s) by providing a link to the revised Agreement. Your acceptance of the revised terms and conditions along with the continued use of Mobile Deposit will indicate your consent to be bound by the revised Agreement. Further, Via Credit Union reserves the right, in its sole discretion, to change, modify, add, or remove portions from Mobile Deposit. Your continued use of the Mobile Deposit will indicate your acceptance of any such changes to Mobile Deposit.

## **Limitations of Mobile Deposit**

When using Mobile Deposit, you may experience technical or other difficulties. We will attempt to post alerts on our website or send you a text message to notify you of these interruptions in Mobile Deposit. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. Mobile Deposit may have qualification requirements, and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue Mobile Deposit, in whole or in part, or your use of Mobile Deposit, in whole or in part, immediately and at any time without prior notice to you. Occasionally, Via Credit Union, or its service providers, will perform routine or emergency system maintenance that may result in periods in which the system is unavailable. Via Credit Union will strive to limit such periods of maintenance to a minimum.

## **Hardware and Software**

In order to use Mobile Deposit, you must obtain and maintain, at your expense, compatible hardware and software as specified by Via Credit Union from time to time. Via Credit Union is not responsible for any third party software you may need to use Mobile Deposit. Any such software is accepted by you as is and is subject to the terms and conditions of the software agreement you enter into directly with the third party software provider at time of download and installation.

## **Eligible items**

The terms "Check" and "Item" are interchangeable as a negotiable instrument. You agree to scan and deposit only "check(s)" as that term is defined in Federal Reserve Regulation CC ("Regulation CC"). You agree that the image of the check transmitted to us shall be deemed an "item" within the meaning of Articles 3 and 4 of the Uniform Commercial Code.

## **Unacceptable Items for Deposit**

You agree that you will not use Mobile Deposit to scan and deposit the following items:

- Any check drawn on your personal account in which the deposit is being made;
- Any check that is made payable to another party and then endorsed to you by such party;
- Any check that appears to contain altered information;
- Any check payable jointly, unless deposited into an account in the name of all payees;
- Any check previously converted to a substitute check, as defined in Reg. CC;
- Any check drawn on a financial institution located outside the United States or is written in an amount in non U.S. currency;
- Any check that is a remotely created check, as defined in Reg. CC;
- Any check dated more than 6 months prior to the date of deposit;
- Any check with "non-negotiable," "void," or other word or phrase indicating that the check is not valid (whether stamped in print or as a watermark);
- Any check that is incomplete;
- Any check that has been re-deposited or returned such as "non-sufficient funds" or refer-to-maker" or returned for any other reason;
- Any check that has previously been negotiated or deposited into any account at Via Credit Union or any other financial institution;
- Any check that has previously been submitted for deposit and subsequently rejected by us;
- Any check on which a stop payment order has been issued or for which there are insufficient funds;
- Money Orders;

- Traveler’s Checks;
- Insurance drafts;
- Tax Refund Checks;
- Credit card cash advance checks; and
- Savings Bonds.

Deposits of this nature will result in the termination of Mobile Deposit and an immediate reversal of the credit to your Account. A reversal means the amount of the item(s) deposited will be removed from your Account and will reduce your Account balance. The reversal may also result in a negative balance in your Account.

### **Check Requirements**

Any image of a check must accurately and legibly provide all the information on the front and back of the check. Prior to scanning the original check, **you must restrictively endorse the back of the check with “For ViaCU Mobile Deposit”, and your signature.** You agree to follow any and all other procedures and instructions for use of Mobile Deposit as Via Credit Union may establish from time to time. The scanned image of the check transmitted to us must accurately and legibly provide, among other things, the following information: (1) your endorsement; (2) the information identifying the drawer and the paying bank that is preprinted on the check, including complete and accurate MICR information and signatures; and (3) other information placed on the check prior to the time 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. The image quality for the check will meet the standards for image quality established by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve Board, and any other regulatory agency, clearinghouse or association.

### **Receipt of Checks**

We reserve the right to reject any check or item transmitted through Mobile Deposit at our discretion, without liability to you. We are not responsible for checks or 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 Via Credit Union that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete or will be considered a deposit and credited to your Account. We reserve the right to charge back to your Account, at any time, any item that we subsequently determine was not an eligible item. You agree that Via Credit Union is not liable for any loss, costs, or fees you may incur as a result of our chargeback of an ineligible check or item.

### **Deposited Items Returned Unpaid**

In the event that a check or item that you transmit to us for remote deposit for credit to your Account is dishonored, rejected, or returned for any reason, you authorize us to debit the amount of the check or item from your Account, or offset the amount from any of your other accounts, and assess appropriate fees per the Via Credit Union fee schedule. You understand that returned deposit activity may result in cancellation of your Mobile Deposit privileges.

### **Business Day and Availability of Funds**

Our Mobile Deposit business days are Monday through Friday, excluding holidays, until 4:00 p.m. Eastern Time. In general, if an image of an item you transmit through Mobile Deposit is received and accepted before 4:00 p.m. Eastern 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 that items transmitted using Mobile Deposit are not subject to the funds availability requirements of Regulation CC of the Federal Reserve. You also agree that the items are not subject to the dispute resolution process or

requirements established under the Electronic Funds Transfer Act or Regulation E. We will make funds available for checks and items received, accepted, and successfully processed through Mobile Deposit according to our standard funds availability policy.

### **Member Service and Support**

General questions related to the operation or use of Mobile Deposit is available during the days and hours as published in our web site. Members may also email Via Credit Union for assistance at [viacu@viacu.org](mailto:viacu@viacu.org).

### **Fees**

Via Credit Union may impose fees for Mobile Deposit. Applicable fees are disclosed in Via Credit Union's fee schedule. You are responsible for paying the fees for use of Mobile Deposit. Via Credit Union may change the fees for Mobile Deposit at any time. You authorize Via Credit Union to deduct any such fees from any account in your name.

### **Longer Delays May Apply**

You understand that funds deposited via Mobile Deposit, while generally available by the 2nd business day after we receive and approve them, may be delayed for a longer period. We will notify you if availability of funds are delayed and will tell you when the funds will be available.

### **Disposal of Transmitted Items**

Upon your receipt of a confirmation from Via Credit Union that we have received an image that you have transmitted, you agree to retain the check for at least 60 days from the date of the image transmission. After 60 days, you agree to destroy the check that you transmitted as an image, mark it "VOID" or otherwise commercially render it incapable of further transmission, deposit, or presentment. During the time the retained check is available, you agree to promptly provide it to Via Credit Union upon request.

### **Changes to Contact Information**

You agree to notify us immediately of any changes to your contact information, including your email address, residential and/or mailing address, and telephone number(s), so that all your records at Via Credit Union can be updated accordingly. You authorize us to send information and inquiries to the email address on your Account.

### **Deposit Limits**

We reserve the right to impose limits on the dollar amount and/or number of items or deposits that you transmit using Mobile Deposit and to modify such limits from time to time. Your limit will be displayed on screen at the time of deposit.

### **Errors and Disputes**

You agree to notify Via Credit Union of any suspected errors regarding items deposited through Mobile Deposit promptly, and in no event later than 60 days after the account statement is sent. Unless you notify Via Credit Union within 60 days, such statement regarding all deposits made through Mobile Deposit shall be deemed correct, and you are prohibited from bringing a claim against Via Credit Union for any alleged error.

## **Accountholder Warranties**

You make the following warranties and representations with respect to your use of Mobile Deposit and each image of an original check you transmit to us using Mobile Deposit:

- Each image of a check transmitted to us is a true and accurate rendition of the front and back of the original check, without alterations;
- The amount, payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate;
- Each check that you submit to us for deposit will not be resubmitted in any format to us or to any other financial institution for payment and will not cause the same drawer's account to be debited twice;
- Other than the digital image of an original check that you remotely deposit through Mobile Deposit, there are no other duplicate images of the original check;
- Each original check was authorized by the drawer in the amount stated on the original check and to the payee stated on the original check;
- You have not knowingly failed to communicate any material information to us;
- You will retain possession of each original check deposited using Mobile Deposit for the required retention period and neither you nor any other party will submit the original for payment;
- You will not use Mobile Deposit for any illegal transactions;
- Files and images transmitted to us will contain no viruses, malware or any other disabling features that may have an adverse impact on our network, data, or related systems.

## **Accountholder Indemnification Obligation**

You understand and agree that you indemnify us and hold us harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorney's fees and expenses, arising from your use of Mobile Deposit and or breach of this Agreement. You understand and agree that this indemnification shall survive the termination of this Agreement.

## **Termination of Mobile Deposit**

You may terminate Mobile Deposit provided for in this Agreement by contacting us in writing, via email, or by calling us at (765) 674-6631. We may terminate your use of Mobile Deposit at any time without notice. In the event of termination of Mobile Deposit, you will remain liable for all transactions performed on your account.

## **Relationship to Other Disclosures**

The information in this Agreement applies only to Mobile Deposit described herein. Provisions in other disclosure documents as may be revised from time to time remain effective for all other aspects of your Account.

## **Enforceability**

We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

## Governing Law

You understand and agree that this Agreement, the disclosures set forth herein and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by and construed in accordance with the internal laws of the State of Indiana, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. You also agree to submit to the personal jurisdiction of the Circuit or Superior Courts of Grant County, Indiana. Further, you agree to abide by any applicable rules, laws, or regulations as they pertain to payment systems.

## Definitions

As used in this Agreement, the following words have the meanings given below:

*Check* (as defined in Regulation CC) means:

- A negotiable demand draft drawn on or payable through or at an office of a financial institution;
- A negotiable demand draft drawn on a Federal Reserve Bank or a Federal Home Loan Bank;
- A negotiable demand draft drawn on the Treasury of the United States;
- A demand draft drawn on a state government or unit of general local government that is not payable through or at a financial institution;
- A United States Postal Service money order; or
- A traveler's check drawn on or payable through or at a financial institution.
- The term check includes an original check and a substitute check.

NOTE: The term *check* does not include a noncash item or an item payable in a medium other than United States money. A draft may be a *check* even though it is described on its face by another term, such as *money order*. For purposes of this Agreement, the term *check* also includes a demand draft of the type described above that is nonnegotiable.

*Item* (as defined in Article 4 of the Uniform Commercial Code) means an instrument or a promise or order to pay money handled by a bank for collection or payment.

*Remotely Created Check* (as defined in Regulation CC) means a check that is not created by the paying bank and that does not bear a signature applied, or purported to be applied, by the person on whose account the check is drawn.

*Substitute Check* (as defined in Regulation CC) means a paper reproduction of an original check that—

- Contains an image of the front and back of the original check;
- Bears a MICR line that, except as provided under ANS X9.100-140 (unless the Board by rule or order determines that a different standard applies), contains all the information appearing on the MICR line of the original check at the time that the original check was issued and any additional information that was encoded on the original check's MICR line before an image of the original check was captured;
- Conforms in paper stock, dimension, and otherwise with ANS X9.100-140 (unless the Board by rule or order determines that a different standard applies); and
- Is suitable for automated processing in the same manner as the original check.

You represent and agree to the following by enrolling for ViaMobile or by using the included services:

- **Account Ownership/Accurate Information.** You represent that you are the legal owner of the accounts and other financial information which may be accessed via ViaMobile. You represent and agree that all information you provide to us in connection with ViaMobile is accurate, current and complete, and that you have the right to provide such information to us for the purpose of using ViaMobile. You agree not to misrepresent your identity or your account information. You agree to keep your account information up to date and accurate. You represent that you are an authorized user of the Device you will use to access ViaMobile.
- **User Security.** You agree to take every precaution to ensure the safety, security and integrity of your account and transactions when using ViaMobile. You agree not to leave your Device unattended while logged into ViaMobile and to log off immediately at the completion of each access by you. You agree not to provide your username, password or other access information to any unauthorized person. If you permit other persons to use your Device, login information, or other means to access ViaMobile, you are responsible for any transactions they authorize and we will not be liable for any damages resulting to you. You agree not to use any personally identifiable information when creating shortcuts to your Account.
- **User Conduct:** you agree not to use ViaMobile or the content or information delivered through ViaMobile in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret or other proprietary rights or rights of privacy, including any rights in the Software; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of ViaMobile to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination or false advertising); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to ViaMobile; (i) interfere with or disrupt the use of ViaMobile by any other user; or (j) use ViaMobile in such a manner as to gain unauthorized entry or access to the computer systems of others.
- **No Commercial Use or Re-Sale.** You agree that the Service is only for the personal or business use of individuals authorized to access your account information. You agree not to make any commercial use of ViaMobile or resell, lease, rent or distribute access to ViaMobile.
- **Availability.** We make no representation that any content or use of ViaMobile is available for use in any location in the United States or outside of the United States.

### **Disclaimer of warranties**

You agree your use of ViaMobile and all information and content (including that of third parties) is at your risk and is provided on an "as is" and "as available" basis. We disclaim all warranties of any kind as to the use of ViaMobile, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and no infringement. We make no warranty that ViaMobile (i) will meet your requirements, (ii) will be uninterrupted, timely, secure, or error-free, (iii) the results that may be obtained from ViaMobile will be accurate or reliable and (iv) any errors in ViaMobile or technology will be corrected.



### **Limitation of liability**

You agree that we will not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including, but not limited to damages for loss of profits, goodwill, use, data or other losses resulting from the use or the inability to use ViaMobile 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 ViaMobile, regardless of the form of action or claim (whether contract, tort, strict liability or otherwise), even if via credit union has been informed of the possibility thereof.