

# JCU Remote Deposit Agreement

This Remote Deposit Services Agreement, ("Agreement") is the contract which covers your and our rights and responsibilities concerning the Remote Deposit services offered to you by Jordan Credit Union ("Credit Union"). The words "we," "us," and "our" refer to Jordan Credit Union. The word "account" means any one or more deposit accounts you have with Jordan Credit Union. By accepting this Agreement, the member and any joint owners or authorized users, jointly and severally, agree to the terms and conditions in this Agreement, and any amendments.

The Remote Deposit services are offered for the purpose of converting original checks to substitute checks, as such term is defined in the Check Clearing for the 21st Century Act and Federal Reserve Board Regulation CC ("Check 21"), for deposit with Jordan Credit Union and for processing and presentment to a collecting or paying financial institution. The Remote Deposit service is subject to the following terms and conditions and to the instructions, rules and terms contained in the Remote Deposit User Guide provided to you and incorporated by reference herein. We reserve the right to change this Agreement at any time. The member agrees to show this disclosure to anyone with access to their account.

## Remote Deposit Service

- 1.1 **Remote Deposit Capture Process** - The member will scan checks or drafts ("items") with an image capture device ("Scanner") creating an electronic image and the member will transmit an electronic file of such electronic images that the Credit Union will deposit to the member's account. The Credit Union's processing agent shall perform an image quality assessment of scanned checks or items and shall convert items meeting the Credit Union's required standards into substitute checks to facilitate the deposit and collection of such items. The member agrees that the manner in which items (e.g., substitute check, image exchange, ACH) are cleared or presented for payment shall be determined by Jordan Credit Union, in its sole discretion. Jordan Credit Union reserves the right to select the clearing agents through which Jordan Credit Union clears items. The member agrees to be bound by any clearinghouse agreements, operating circulars and image exchange agreements to which Jordan Credit Union is a party.
- 1.2 **Access** - To use Remote Deposit capture service, you must have a device compatible with our system to access telecommunication services necessary for the Remote Deposit capture service. Application upgrades may be required from time-to-time for continued use of the services.

**1.3 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 business or activity that:

- Would result in you being or becoming a "money service business" as defined in the Bank Secrecy Act and its implementing regulations
- 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)
- Directly or indirectly relates to the use of the services that is illegal or fraudulent

**1.4 Check Limits/Deposit Restrictions** - A member may only deposit funds into a designated checking account owned by the member depositing the draft item. All draft items are subject to our check hold policy. In some instances, a check may need to be deposited in person at a branch. A maximum amount of \$3,000 daily, \$5,000 weekly, \$7,500 monthly may be deposited.

**1.5 Check Verification Process** - The member is responsible to make sure that each draft item is completed and endorsed correctly. Jordan Credit Union is not responsible for the verification of check deposits via mobile deposit. We will not be held responsible for any mistakes that arise due to Remote Deposit services. We reserve the right to perform an audit on any account and may require documentation in relation to the findings on that account. If the documentation is not provided, restrictions or revocation of the Remote Deposit service may occur. You are responsible for making sure all check images are legible when using the Remote Deposit capture system. We are under no obligation to post a draft image that is unclear, illegible or otherwise damaged in any way.

**1.6 Funds Availability** - Funds from deposited items will be available according to Jordan Credit Union's Regulation CC funds availability disclosure, as amended from time to time, which is incorporated herein by reference. The member agrees that the scanning and transmitting of checks does not constitute receipt by Jordan Credit Union. Generally, checks scanned and transmitted via Remote Deposit before 4:00 PM MST Monday-Friday

will be posted that same day. We are not responsible for calculating time zone differences, Federal and Utah State Holidays, etc. Acknowledgment of receipt or delivery does not constitute an acknowledgment by Jordan Credit Union that the transmission of a check or items does not contain errors.

- 1.7 **Deposit Acceptance** - The member agrees that Jordan Credit Union may at any time, in its sole discretion, refuse to accept deposits of checks from the member via Remote Deposit. In the event that Remote Deposit capture services are interrupted or are otherwise unavailable, the member may, at his/her option, deposit checks in-person at a Jordan Credit Union branch or via night drop or mail. We are not responsible for any deposits via Remote Deposit capture after a notice is sent that the Remote Deposit service is not available.

## **Member Account**

- 2.1 **Qualifications** - All users must meet the following qualifications:

- Must be a member of Jordan Credit Union
- Must have agreed to the terms and conditions for Online Banking access
- If at any time your qualifying status changes, we reserve the right to terminate your access to mobile deposit

- 2.2 **Member Account** - The member will designate a Jordan Credit Union account as the settlement account to be used for the purposes of settling, in aggregate, the financial transactions requested in connection with the Remote Deposit service. The Credit Union shall provide the member with details of the specific transactions, reported similarly as other transactions may be done, that were a result of access to the service. The member shall be responsible for auditing and balancing of any settlement account.

- 2.3 **Responsibility for Scanning** - The member is solely responsible for scanning deposit items, accessing the service from the Credit Union and for maintaining the member scanning equipment. The member will be responsible for the payment of all telecommunications expenses associated with the service. Jordan Credit Union shall not be responsible for providing or servicing any equipment for the member.

- 2.4 **Deposit Requirements** - The member agrees to only use the Remote Deposit services to deposit checks drawn on financial institutions within the United States, excluding its territories. The member will deposit checks not falling within this requirement in person, using a night drop facility or by U.S. Mail accompanied by a deposit slip issued by Jordan Credit Union. The member agrees that each check it submits for deposit through the Remote Deposit capture service will meet the image quality standards established in American National Standards Institute's standard X9.37.

**2.5 Check Retention & Destruction** - The member agrees that all items belong to the member and not to Jordan Credit Union and that those items shall be handled in accordance with this Agreement and the User Guide. After receipt by Jordan Credit Union of any transmission by the member of imaged items for deposit to the member's account, Jordan Credit Union will acknowledge by electronic means its receipt of such electronic transmission. The member's electronic transmission is subject to proof and verification. The member shall retain the original of all imaged items that have been deposited via Remote Deposit for reasonable period of time in order to verify settlement and credit or to balance periodic statements, but in no case beyond thirty (30) days from the date processed and shall properly destroy and dispose of such original checks after such time. During the period that the member maintains the original checks, the Member understands and agrees that they must use a high degree of care to protect these original checks against security risks. These risks include, without limitation, (i) theft or reproduction of the original checks (including by employees) for purposes of presentment for deposit of these original checks (i.e., after the original checks have already been presented for deposit via the Remote Deposit capture service) and (ii) unauthorized use of information derived from the original checks. When the member destroys and disposes of the original checks pursuant to the requirements of this Agreement, the member understands and agrees to use a high degree of care when selecting and implementing destruction and disposal procedures. Among other things, these procedures must be designed to ensure that the original checks are not accessed by unauthorized persons during the 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.)

**2.6 Presentment Prohibitions** - The member shall not present, or attempt to present, or allow others, either directly or indirectly, to present, or attempt to present, for deposit by any means (i) any substitute check that has already been presented for deposit via Remote Deposit check capture service or (ii) any original check, the substitute check of which has already been presented for deposit via Remote Deposit. In the event that the member, or any third party, presents, or attempts to present, a deposit in violation of this subsection the member agrees to defend, indemnify, and hold Jordan Credit Union and its agents harmless from and against all liability, damage and loss arising out of any claims, suits, or demands brought by third parties with respect to any such substitute check or original check. The member agrees that the aggregate amount of any items which are deposited more than once will be debited from the member's account, and to the extent funds in the member's account are insufficient to cover such amount, any balance shall be debited by Jordan Credit Union from any other deposit accounts with Jordan Credit Union in its sole discretion. The member further acknowledges that the member and not the Credit Union is responsible for the processing and handling of any original items which are imaged and deposited utilizing the service and the member assumes all liability to the drawer of any

item imaged using the service or liability arising from the Credit Union's printing of any substitute check from those images.

**2.7 Member's Representations and Warranties** - The member represents and warrants:

- That it will comply with all federal and state laws, and rules and regulations applicable to online transactions, including those of the National Automated Clearing House for ACH transactions;
- That all checks scanned through Remote Deposit are made payable to the member; That all signatures on each check are authentic and authorized;
- That each check has not been altered;
- That checks do not fall under one of the following categories:
  - 3rd party checks
  - Postdated checks
  - Foreign checks

In the event the member breaches any of these representations or warranties, the member agrees to defend, indemnify and hold Jordan Credit Union and its agents harmless from and against all liability, damages and loss arising out of any claims, suits or demands brought by third parties with respect to any such breach. The member further authorizes Jordan Credit Union to charge its account for the amount of any such demand, claim or suit that constitutes a breach of warranty claim under the provisions of the Uniform Commercial Code.

**2.8 Financial Responsibility** - The member is, and shall remain, solely and exclusively responsible for any and all financial risks, including, without limitation, insufficient funds, associated with accessing the service. The Credit Union shall not be liable in any manner for such risk unless Jordan Credit Union fails to follow the procedures described in materials for use of the service. The member assumes exclusive responsibility for failure to access the service properly in a manner prescribed by the Credit Union, and for the member's failure to supply accurate input information, including, without limitation, any information contained in an application.

**2.9 Account Reconciliation** - The member will verify and reconcile any out-of-balance condition, and promptly notify the Credit Union of any errors within the time periods established in the User Guide (exclusive of weekends and applicable holidays) after receipt of the applicable detail report from the Credit Union. If notified within such period, the Credit Union shall correct and resubmit all erroneous files, reports, and other data at the Credit Union's then standard charges, or at no charge, if the erroneous report or other data directly resulted from the Credit Union's error.

## **Jordan Credit Union's Obligations**

**3.1 Financial Data** - The Credit Union agrees to transmit all the financial data under its control required to utilize the service selected by the member and to act on appropriate instructions received from the member in connection with such service. The Credit Union shall exercise due care in seeking both to preserve the confidentiality of the user number, password, test key, or other code or identifier and to prevent the use of the service by unauthorized persons (and in this connection it is understood and agreed that implementation by the Credit Union of its normal procedures for maintaining the confidentiality of information relating to its members, and where practicable the obtaining by the Credit Union from any third parties engaged in the installation, maintenance and operation of the system of similar undertakings, shall constitute fulfillment of its obligation so to exercise due care) but shall not otherwise be under any liability or have any responsibility of any kind for any loss incurred or damage suffered by the member by reason or in consequence of any unauthorized person gaining access to or otherwise making use of the service. We will act in accordance with our privacy policy. The member assumes full responsibility for the consequences of any misuse or unauthorized use of or access to the service or disclosure of any confidential information or instructions of the member by the member's employees, agents, or other third parties except by circumstances outlined by law. The member agrees not to attempt to circumvent or otherwise tamper with the security controls hereby established by Jordan Credit Union.

**3.2 Service Availability** - The member understands that service availability is at all times conditioned upon the corresponding operation and availability of those computer services and systems used in communicating the member 's instructions and requests to the Credit Union and the Credit Union's response. The Credit Union shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the member in the event of any failure or interruption of such services or any part thereof, resulting from the act or omission of any third party, or from any other cause not reasonably within the control of the Credit Union.

**3.3 Exception Items** - When Jordan Credit Union reviews and processes the member 's electronic file, Jordan Credit Union may reject any electronic image that Jordan Credit Union, in its sole discretion, determines to be ineligible for the service ("Exception Item") including, without limitation, electronic images of items drawn on banks located outside the United States, items drawn on U.S. Banks in foreign currency, electronic images that are illegible (due to poor image quality or otherwise), electronic images of items previously processed, electronic images previously converted to substitute checks, and electronic images with unreadable MICR information. The member agrees that in order to attempt to deposit any Exception Item to any of the member's accounts with Jordan Credit Union, the member shall only do so by depositing the original item on which the Exception Item is based. The member acknowledges and agrees that even if

Jordan Credit Union does not initially identify an electronic image as an Exception Item, the substitute check created by the Credit Union therefrom may nevertheless be returned to Jordan Credit Union because, among other reasons, the electronic image is deemed illegible by a paying bank. Jordan Credit Union's failure to identify an Exception Item shall not preclude or limit the obligation of the member to Jordan Credit Union.

**3.4 Retention of Check Images** - Jordan Credit Union will retain any substitute checks it generates for seven (7) years.

## **Services Fees**

Currently there is no monthly fee for the Remote Deposit service. The member agrees to pay all fees and charges for deposit services as set forth on the Rate and Fee Schedule. All service fees are subject to change by Jordan Credit Union upon thirty (30) days written notice to the member.

## **Warranties; Disclaimer of Warranties**

**5.1 Service Warranty** - The member performs the function of converting an original check to a substitute check. Therefore, the member understands and agrees that the member is responsible, to the extent permitted by law, for all warranties and indemnifications set forth in Check 21 applying to any Reconverting Credit Union and Truncating Credit Union, as such terms are defined by Check 21, including, without limitation, the obligation to only convert an original check that allows for the creation of a substitute check that clearly and accurately represents the information on the front and back of the original check. Jordan Credit Union and its agents may, but shall have no obligation, to screen items or substitute checks for legal compliance. The member agrees to defend, indemnify, and hold Jordan Credit Union and its agents harmless from and against all liability, damage and loss arising out of any claims, suits, or demands brought by third parties with respect to any such substitute checks. We do not guarantee any services, expressed or otherwise, not contained within these terms and conditions.

**5.2 Disclaimer of Liability** - THE MEMBER ACKNOWLEDGES THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE CREDIT UNION IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM THE MEMBER'S USE OF THE SERVICE. THE CREDIT UNION MAKES NO AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICE INCLUDING THE WARRANTY OF TITLE AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE CREDIT UNION DISCLAIMS ANY WARRANTIES REGARDING THE OPERATION, PERFORMANCE OR FUNCTIONALITY OF THE SERVICE (INCLUDING, WITHOUT LIMITATION, THAT THE

SERVICE WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE). THE MEMBER FURTHER ACKNOWLEDGES THAT THERE ARE CERTAIN SECURITY, CORRUPTION, TRANSMISSION ERROR AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET AND/OR TELECOMMUNICATION LINES OR CIRCUITS. THE MEMBER HEREBY ASSUMES ALL RISKS RELATING TO THE FOREGOING. WE ARE NOT RESPONSIBLE FOR ANY FEES THAT MAY ARISE DUE TO DATA USAGE OR OTHER MOBILE DEVICE RATES THAT MAY APPLY TO USING THIS APPLICATION.

## **Jordan Credit Union's Liabilities**

**6.1 Direct Damages** - THE CREDIT UNION'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY THE MEMBER AND ONLY TO THE EXTENT SUCH DAMAGES ARE A DIRECT RESULT OF THE CREDIT UNION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; PROVIDED THAT THE MAXIMUM AGGREGATE LIABILITY OF THE CREDIT UNION RESULTING FROM ANY SUCH CLAIMS SHALL NOT EXCEED THE TOTAL FEES PAID BY THE MEMBER FOR THE SERVICE RESULTING IN SUCH LIABILITY IN THE SIX MONTH PERIOD PRECEDING THE DATE THE CLAIM ACCRUED. IN NO EVENT SHALL THE CREDIT UNION BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND INCLUDING LOST PROFITS WHETHER OR NOT THE CREDIT UNION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE CREDIT UNION'S LICENSORS OR SUPPLIERS WILL NOT BE SUBJECT TO ANY LIABILITY TO THE MEMBER IN CONNECTION WITH ANY MATTER.

**6.2 Member's Duty to Report Errors** - The member shall notify Jordan Credit Union of any errors, omissions, or interruptions in, or delay or unavailability of, the Services as promptly as practicable, and in any event within one business day after the earliest of discovery thereof, or the date discovery should have occurred through the exercise of reasonable care, and, in the case of any error, within fourteen (14) days of the date of the earliest notice to the member which reflects the error. Failure of the member to notify Jordan Credit Union of any error, omission, or other discrepancy within seven (7) days from the date of a loss shall relieve Jordan Credit Union of any liability for such error, omission, or discrepancy. If you believe that your account information has been compromised, contact Jordan Credit Union immediately.

**6.3 Jordan Credit Union's Performance** - The member acknowledges and agrees that Jordan Credit Union shall not be liable for any damages or loss of any kind resulting from any unintentional error or omission by Jordan Credit Union in performing the services, in accordance with or unintentional deviation from the terms and conditions of this Agreement, including exhibits or addenda. The member acknowledges that Jordan Credit Union's systems and procedures established for



providing the services are commercially reasonable. The member shall defend, indemnify, and hold Jordan Credit Union harmless from and against all liability, damage, and loss arising out of any claims, suits, or demands brought by third parties with respect to the services.

**6.4 Limitation** - Jordan Credit Union shall have no liability to the member, or any other person or entity for any loss, damage, cost, or expense arising out of this Agreement or the services regardless of the form in which asserted, whether in contract, tort (including negligence), warranty, or any other legal or equitable grounds, and regardless of whether the remedies available fail of their essential purpose, except as provided by applicable law for any error or delay in performing the services provided for in this Agreement, and shall have no liability for not effecting an entry, if:

- Jordan Credit Union receives actual notice or has reason to believe that the member has filed or commenced a petition or proceeding for relief under any bankruptcy or similar law;
- The ownership of funds involving an entry or the Authorized Representative's authority to transmit an entry is in question;
- Jordan Credit Union suspects a breach of the security procedures;
- Jordan Credit Union suspects that the member account has been used for illegal or fraudulent purposes; or
- Jordan Credit Union reasonably believes that an entry is prohibited by federal law or regulation, or otherwise so provided in the Agreement.

Jordan Credit Union will not be liable if the member fails to report timely any error or discrepancy reflected in a statement prepared by Jordan Credit Union, or if the member fails to report a breach of a security procedure. If Jordan Credit Union fails to perform under this Agreement in accordance with the standards set herein, Jordan Credit Union's liability for damages, losses, and other compensation owing to the member shall be limited to the total fees paid by the member to Jordan Credit Union for the Credit Union failure to perform resulting in such liability in the two (2) month period preceding the date the claim accrued. Jordan Credit Union shall not be liable for any loss, damage, liability, or claim arising directly or indirectly from any error, delay, or failure to perform hereunder which is caused by earthquakes, fires, natural disasters, civil or foreign disturbances, power outages, acts of government, labor disputes, failures in either communication or computer networks, legal constraints, or any other event beyond its control. In no event will Jordan Credit Union be liable for any indirect, consequential, punitive or special damages. Jordan Credit Union will also be excused from failing to transmit or delay in transmitting an entry if such transmittal would result in it exceeding any limitation imposed on it by any governmental or regulatory body.

## **Force Majeure**

The Credit Union shall not be responsible for liability, loss, or damage of any kind resulting from any delay in the performance of or failure to perform its responsibilities hereunder due to causes beyond the Credit Union's reasonable control.

## **Termination**

Notwithstanding any such notice of termination, this Agreement shall remain effective in respect of any transaction occurring prior to termination of services. Upon any termination of this Agreement, (i) the member will immediately cease using the service, and (ii) the member shall promptly remit all unpaid monies due under this Agreement. The Credit Union may immediately suspend or terminate the member's access to the service in the event that the Credit Union reasonably determines such suspension or termination is necessary in order to protect the service or the Credit Union from harm or compromise of integrity, security, reputation, or operation.

## **Indemnification**

The member agrees to indemnify, defend and hold harmless the Credit Union and its shareholders, directors, officers, employees and agents (the "Indemnified Parties") from and against any and all losses, costs, expenses, fees (including, but not limited to, reasonable attorney fees and disbursements), claims, damages, liabilities and causes of actions of third parties resulting or arising from: (a) the member's failure to abide by or perform any obligation imposed upon the member under this Agreement, (b) the willful misconduct, fraud, criminal activity, intentional tort or negligence of the member or any of its representatives involving use of the service; (c) the actions, omissions or commissions of the member, its employees, consultants and/or agents relating to the service; and (d) any transmission or instruction, whether or not authorized, acted upon by the Credit Union in good faith. The member shall be provided with prompt notice of any claims and given full authority and assistance (at the member's expense) for the defense of any such claims; provided that the Credit Union may participate in such defense and settlement with counsel of the Credit Union's own choosing at the Credit Union's own expense; provided, further, however, the member shall have no authority to settle any claim against any Indemnified Party without the prior written consent of such Indemnified Party (which consent shall not be unreasonably withheld).

## **Modification of Services**

Jordan Credit Union reserves the right to modify the Remote Deposit services from time to time without making prior notice to the member, provided, however, that Jordan Credit Union will give the member at least thirty (30) days' notice prior to making any modifications to the Remote Deposit services that would materially alter their functionality.

## **Notices**

Except as otherwise expressly provided herein, the Credit Union shall not be required to act upon any notice or instruction received from the member or any other person, or to provide any notice or advice to the member or any other person with respect to any matter. Except as otherwise provided herein, any notice under this Agreement must be in writing and delivered by express carrier, faxed, or sent by United States registered or certified mail and, if to the Credit Union, addressed to Jordan Credit Union, P.O. Box 1888, Sandy UT 84070-1888.

## **Enforcement**

You agree to be liable to the Credit Union for any liability, loss, or expense as provided in this Agreement that the Credit Union incurs as a result of any dispute involving your accounts or services. You authorize the Credit Union to deduct any such liability, loss, or expense from your account without prior notice to you. This Agreement shall be governed by and construed under the laws of the State of Utah as applied to contracts entered into solely between residents of, and to be performed entirely in, such state; this includes any garnishments or other legal obligations placed upon us by law. We reserve the right to terminate any or all services associated with mobile deposit if you are in violation of any terms hereby stated in this agreement. In the event either party brings a legal action to enforce the Agreement or collect any overdrawn funds on accounts accessed under this Agreement, the prevailing party shall be entitled, subject to Utah law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions, if applicable. Should any one or more provisions of this Agreement be determined illegal or unenforceable in any relevant jurisdiction, then such provision may be modified by the proper court, if possible, but only to the extent necessary to make the provision enforceable and such modification shall not affect any other provision of this Agreement.