

## **MOBILE DEPOSIT SERVICES DISCLOSURE AND AGREEMENT**

In this Disclosure and Agreement, the words “I,” “me,” “my,” “us” and “our” mean the consumer or business member that applied for and/or uses any of the Mobile Deposit Services (the “Services”) described in this Disclosure and Agreement. The words “you,” and “your” mean Abbott Laboratories Employees Credit Union (“Credit Union”). Use of the Mobile Deposit Services (the “Services”), and my Credit Union Account Agreement are hereby incorporated into and made a part of this Disclosure and Agreement. In the event of a discrepancy or contradiction in terms between this Disclosure and Agreement, your approval, or the Credit Union Account Agreement, this Disclosure and Agreement will control.

**Use of the Services.** Following receipt of your notification approving my use of the Services, I am authorized by you to remotely deposit paper checks I receive to my account with you (the “Account”) by electronically transmitting a digital image of the paper checks to you for deposit. My use of the Services constitutes my acceptance of the terms and conditions of this Disclosure and Agreement. Upon receipt of the digital image, you will review the image for acceptability. I understand and agree that receipt of an image does not occur until after you notify me of receipt of the image via the Deposit History feature within Mobile Deposit. I understand that, in the event I receive a notification from you confirming receipt of an image, such notification does not mean that the image contains no errors or that you are responsible for any information I transmit to you. You are not liable for any image that you do not receive. Following receipt of the image, you may process the image by preparing a “substitute check” or clearing the item as an image. Notwithstanding anything to the contrary, you reserve the right, within your sole and absolute discretion, to accept or reject any item for mobile deposit into my Account. I understand that any amount credited to my Account for items deposited using the Services is a provisional credit and I agree to indemnify you against any loss you suffer because of your acceptance of the remotely deposited check. I further understand that all deposits made to a Health Savings Account (HSA) are considered deposits in the current year.

**Guarantee Specific to Deposits Received for Credit to a Consumer or Business Account:** My use of the Services for the purpose of depositing to a Consumer or Business Account constitutes my understanding and agreement that I am personally liable for any expenses Credit Union incurs in attempting to obtain final payment for the item in question, outside of the routine costs associated with item processing, in the event of a default by myself and/or by my Business. This includes but is not limited to recovery of the amount credited in the event of non-payment, collection costs and attorney’s fees as applicable, as well as any and all costs associated with Credit Union enforcing this Guarantee. This Guarantee shall benefit the Credit Union and its successors and assigns.

**Compliance with Law, Rules and Regulations.** I agree to comply with all existing and future operating procedures used by Credit Union for processing of transactions. I further agree to comply with, and be bound by, all applicable state or federal laws, rules,

regulations, orders, guidelines, operating circulars and pronouncements, affecting checks and drafts and ACH transactions, including, but not limited to, all rules and procedural guidelines established by the Federal Trade Commission (“**FTC**”), the Board of Governors of the Federal Reserve, and any other clearinghouse or other organization in which Credit Union is a member or to which rules Credit Union has agreed to be bound. The Rules are incorporated herein by reference. These procedures, rules, and regulations (collectively the “Rules”) and laws are incorporated herein by reference. In the event of conflict between the terms of this Agreement and the Rules, the Rules will control. I also agree that I will not engage in any activity directly or indirectly related to the use of the product or service that is illegal or fraudulent.

**Check Requirements.** Any image of a check that I transmit to you must accurately and legibly provide all the information on the front and back of the check at the time presented to me by the drawer. Prior to scanning the original check, I will indorse the back of the original check. My endorsement will include my signature and the following information: the words “For Mobile Deposit only at ALEC.” The scanned image of the check transmitted to you must accurately and legibly provide, among other things, the following information: (1) the information identifying the drawer and the paying bank that is preprinted on the check, including complete and accurate MICR information and the signature(s); and (2) 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, and any other regulatory agency, clearing house or association. Credit Union reserves the right to reject any check image that is not clear, skewed, or that is suspicious in any manner.

**Rejection of Deposit.** You are not liable for any service or late charges levied against me due to your rejection of any item. In all cases, I am responsible for any loss or overdraft plus any applicable fees to your Account due to an item being returned.

**Items Returned Unpaid.** A written notice will be sent to me of transactions you are unable to process because of returned items. With respect to any item that I transmit to you for mobile deposit that you credit to my Account, in the event such item is dishonored, I authorize you to debit the amount of such item from the Account. Check images that are returned for image quality adjustments will have to be submitted in paper to Credit Union upon receipt of notice of such, to be physically reprocessed; they may not be re-scanned.

**Email Address.** I agree to notify you immediately if I change my email address, as this is the email address where you will send me notification of receipt of mobile deposit items.

**Unavailability of Services.** I understand and agree that the Services may at times be temporarily unavailable due to system maintenance or technical difficulties including those of the Internet service provider and Internet software. In the event that the

Services are unavailable, I acknowledge that I can deposit an original check at your branches or through your ATMs or by mailing the original check to you at Credit Union. It is my sole responsibility to verify that items deposited using the Services have been received and accepted for deposit by you. However, you will send notification of items that are rejected by the next business day following rejection. I understand your preferred method for this notification will be email. In addition, I understand that you may add, delete or change the feature or functionality of the Service, at any time, at your discretion.

**Business Day and Availability Disclosure.** I understand the Services are available Sunday through Saturday, 24 hours a day, except in instances of unexpected downtime or maintenance. I further understand you process deposits between Monday at 9:00 a.m. and Friday 2:00 p.m., Central Time, except during holidays, any other day you are not open for business, or such other hours as established by you from time to time. Cut-off time is 2:00 p.m. Monday through Friday. Transmissions submitted after this time on a business day, or on any other day that is not a business day are treated as occurring on the next business day, which means any deposit made after 2:00 p.m. on Friday would be processed Monday, unless Monday is a holiday.

**Funds Availability.** I understand and agree that, for purposes of deposits made using the Services, the place of deposit is at the Credit Union main office in Gurnee, Illinois. With regard to the availability of deposits made using the Services, the first \$225 of funds from my deposit(s) will be made available as a provisional credit on the date you accept my deposit. For deposits that exceed this amount, the funds in excess of \$225 **may** not be made available until two (2) business days after the date in which you accept my deposit.

Additional delays may occur on a case-by-case basis. For determining the availability of your deposits, every day is a business day except Saturdays, Sundays, and Federal Holidays. Please note that the Expedited Funds Availability Act (Reg. CC) does not apply to deposits made using the Service, thus for determining funds availability, the terms of this agreement apply. If you need the funds from a deposit made available sooner than provided under the Service, please contact us or visit us at one of our Service Center locations to discuss additional options that may be available to you.

**Internal Controls and Audit.** I understand and agree to adhere to the internal controls as described in this agreement and further detailed within this section. Furthermore I agree to comply with the Audit requirements prescribed by the Credit Union within this Agreement.

**Accountholder's Warranties.** I make the following promises, warranties and representations with respect to each image of an original check I transmit to you utilizing the Services:

1. Each image of a check transmitted to you is a true and accurate rendition of the front and back of the original check, without any alteration, and the drawer of the check has no defense against payment of the check.

2. The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
3. I will not deposit or otherwise endorse to a third party the original item (the original check) and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the item (either the original item, or a paper or electronic representation of the original item) such that the person will be asked to make payment based on an item it has already paid.
4. Other than the digital image of an original check that I remotely deposit through your Services, there are no other duplicate images of the original check.
5. I have instituted procedures to ensure that 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.
6. I am authorized to enforce each item transmitted or are authorized to obtain payment of each item on behalf of a person entitled to enforce such transmitted item.
7. I have not knowingly failed to communicate any material information to you and will provide you all reasonable assistance with any questions related to my deposits.
8. I have possession of each original check deposited using the Services and no party will submit the original check for payment.
9. Files and images transmitted to you will contain no viruses or any other disabling features that may have an adverse impact on your network, data, or related systems.
10. I am not engaged in, or affiliated with, any businesses, products or methods of selling other than those disclosed by me to Credit Union. I am not in the business of cashing checks.

**Limitations on Frequency and Dollar Amount.** I understand and agree that I cannot exceed the limitations on frequency and dollar amounts of mobile deposits that are set forth by you. The standard limits are \$10,000 per item deposited and \$10,000 per day in deposits. If I attempt to initiate a deposit in excess of these limits, I understand the deposit may not be accepted. If you permit me to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and you will not be obligated to allow such a deposit at other times.

**Unacceptable Deposits.** I understand and agree that I am not permitted to deposit the following items using the Services:

1. Any item drawn on my own account or any account I am affiliated with at ALEC.
2. Any item that is stamped with a "non-negotiable" watermark.
3. Any item that contains evidence of alteration to the information on the check.
4. Any item issued by a financial institution in a foreign country or not payable in U.S. currency.
5. Any item that is incomplete.
6. Any item that is "stale dated" (more than 6 months old) or "post dated."
7. Any third party check, i.e., any item that is made payable to another party and then endorsed to me by such party.
8. Traveler's checks and money orders.
9. Any item that is not properly endorsed.
10. Any item that requires authorization.

11. A check with any endorsement on the back other than that specified in this Agreement (i.e. qualified (without recourse), conditional (upon graduation), etc.)
12. A check that has been redeposited or returned, such as “nonsufficient funds” or “refer to maker,” or a check that has been returned for any other reason.

**Storage of Original Checks.** I must securely store each original check. If I am using the Service to deposit items into an account to which I am a party I understand this means the original check(s) that I deposit using the Services, must be accessible for a period of 60 days after transmission and final credit is given in my account. After such period expires, all checks must be destroyed in a manner that will assure that the check cannot be reconstituted after 60 days. I understand and agree that I am responsible for any loss caused by my failure to secure or destroy the original checks.

**Accountholder’s Indemnification Obligation.** I indemnify you and hold you harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys’ fees and expenses arising from my use of the Services and/or breach of this Disclosure and Agreement. I understand and agree that this requirement shall survive the termination of this Agreement.

**In Case of Errors.** In the event that I believe there has been an error with respect to any original check or image thereof transmitted to you for deposit or a breach of this Agreement, I will immediately contact you regarding such error or breach as set forth below.

Telephone: 800-762-9988

Email: [mobiledepositcapture@alecu.org](mailto:mobiledepositcapture@alecu.org)

### **Limitations of Liability.**

(a) ANY PROVISION IN THIS AGREEMENT, ANY OTHER AGREEMENT OR THE RULES TO THE CONTRARY NOTWITHSTANDING, CREDIT UNION SHALL ONLY BE LIABLE FOR DAMAGES SOLELY AND PROXIMATELY CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND CREDIT UNION'S LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF (i) MEMBER’S ACTUAL DAMAGES OR (ii) THE TOTAL FEES PAID BY MEMBER TO CREDIT UNION FOR SERVICE. IN NO EVENT SHALL CREDIT UNION OR ANY PROVIDER BE RESPONSIBLE OR LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES, LOSSES OR INJURIES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR COST OF COVER) ARISING OUT OF, OR RELATED TO, THE USE BY MEMBER OF SERVICE OR ANY SERVICE OR THE FAILURE OF CREDIT UNION OR ANY PROVIDER TO PROPERLY PROCESS AND COMPLETE TRANSACTIONS THEREUNDER EVEN IF CREDIT UNION OR SUCH PROVIDER(S) HAVE BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR INJURIES.

(b) MEMBER ACKNOWLEDGES AND AGREES THAT MEMBER'S USE OF SERVICE SHALL BE AT MEMBER'S SOLE RISK, AND THAT SERVICE IS PROVIDED BY CREDIT UNION ON AN "AS IS" BASIS.

(c) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CREDIT UNION MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, IN LAW OR IN FACT, TO MEMBER OR TO ANY OTHER PERSON, AS TO SERVICE OR ANY ASPECT THEREOF, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, OR SUITABILITY, AND CREDIT UNION HEREBY DISCLAIMS ANY AND ALL OF THE SAME. MEMBER AGREES THAT NO ORAL OR WRITTEN ADVICE OR REPRESENTATION OBTAINED FROM ANY CREDIT UNION EMPLOYEE OR REPRESENTATIVE SHALL CREATE A WARRANTY OR REPRESENTATION FOR PURPOSES OF THIS AGREEMENT OR SERVICE TO BE PERFORMED PURSUANT HERETO.

(d) TO THE FULLEST EXTENT ALLOWED BY LAW, AND SUBJECT TO THE FOREGOING PROVISIONS OF THIS SECTION DEALING WITH CREDIT UNION'S LIABILITY FOR DAMAGES SOLELY AND PROXIMATELY CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, CREDIT UNION'S LIABILITY TO MEMBER UNDER THIS AGREEMENT IS LIMITED TO CORRECTING ERRORS RESULTING FROM CREDIT UNION'S FAILURE TO EXERCISE ORDINARY CARE.

(e) CREDIT UNION MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, IN LAW OR IN FACT, TO MEMBER OR TO ANY OTHER PERSON AS TO ANY COMPUTER HARDWARE, SOFTWARE OR EQUIPMENT IN CONNECTION WITH SERVICE, INCLUDING, BUT NOT LIMITED TO, MEMBER'S COMPUTER SYSTEMS OR RELATED EQUIPMENT, MEMBER'S SOFTWARE, OR MEMBER'S INTERNET SERVICE PROVIDER OR ITS EQUIPMENT, OR AS TO THE SUITABILITY OR COMPATIBILITY OF CREDIT UNION'S SOFTWARE, INTERNET DELIVERED SERVICE, EQUIPMENT OR COMMUNICATION INTERFACES WITH THOSE THAT MEMBER USES, OR AS TO WHETHER ANY SOFTWARE OR INTERNET DELIVERED SERVICE WILL PERFORM IN AN UNINTERRUPTED MANNER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(f) CREDIT UNION SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY ERRORS OR FAILURES RESULTING FROM DEFECTS IN, OR MALFUNCTIONS OF, MEMBER'S COMPUTER HARDWARE OR SOFTWARE, FOR THE QUALITY OF PERFORMANCE OR LACK OF PERFORMANCE OF ANY COMPUTER SOFTWARE OR HARDWARE OR INTERNET DELIVERED SERVICES SUPPLIED BY CREDIT UNION TO MEMBER IN CONNECTION WITH THIS AGREEMENT, OR FOR THE TRANSMISSION OR FAILURE OF TRANSMISSION OF ANY INFORMATION FROM MEMBER TO CREDIT UNION, FROM CREDIT UNION TO MEMBER, FROM MEMBER TO ANY PROCESSOR, FROM ANY PROCESSOR TO CREDIT UNION, OR

OTHERWISE. CREDIT UNION SHALL NOT BE RESPONSIBLE FOR NOTIFYING MEMBER OF ANY UPGRADES OR ENHANCEMENTS TO ANY OF MEMBER'S COMPUTER HARDWARE OR SOFTWARE.

**Change in Terms.** You may change the terms and charges for the Services indicated in this Disclosure and Agreement by notifying me of such change in writing and may amend, modify, add to, or delete from this Disclosure and Agreement from time to time My use of the Services after receipt of notification of any change by you constitutes my acceptance of the change.

**Termination of the Services.** I may, by written request, terminate the Services provided for in this Disclosure and Agreement. At your sole discretion, you may revoke my privilege of using the Services at any time. In the event of termination of the Services, I will remain liable for all transactions performed on my Account.

**Relationship to Other Disclosures.** The information in these Disclosures applies only to the Services described herein. Provisions in other disclosure documents, as may be revised from time to time, remain effective for all other aspects of the Account.

**Governing Law.** I understand and agree that this Disclosure and Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by and construed in accordance with the laws of the State of Illinois, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. I also agree to submit to the personal jurisdiction of the courts of the State of Illinois.

**Arbitration and Waiver of Jury Trial.** I and Credit Union agree that the transactions contemplated in this Agreement involve "commerce" under the Federal Arbitration Act ("FAA"). **EVERY CONTROVERSY OR CLAIM BETWEEN ME AND ANY INDEMNIFIED PARTY ARISING OUT OF, OR IS IN ANY WAY RELATED TO OR RESULTING FROM, THIS AGREEMENT, SERVICE OR ANY OTHER SERVICES PROVIDED BY CREDIT UNION, WHETHER BASED IN CONTRACT, TORT OR ANY OTHER LEGAL THEORY, INCLUDING CLAIMS OF FRAUD, SUPPRESSION, MISREPRESENTATION AND FRAUD IN THE INDUCEMENT, WILL BE RESOLVED BY BINDING ARBITRATION UNDER THE FAA.** The arbitration will be administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules (the "Arbitration Rules").

**IF A CLAIM IS SUBMITTED TO ARBITRATION, (A) I WILL NOT HAVE THE RIGHT TO GO TO COURT OR TO HAVE A JURY TRIAL; (B) I WILL NOT HAVE THE RIGHT TO ENGAGE IN PRE-ARBITRATION DISCOVERY EXCEPT AS PROVIDED IN THE ARBITRATION RULES; (C) I WILL NOT HAVE THE RIGHT TO HAVE ANY CLAIM ARBITRATED AS A CLASS ACTION UNDER THE ARBITRATION RULES OR UNDER ANY OTHER RULES, WHETHER OF CIVIL PROCEDURE OR OTHERWISE; AND (D) THE ARBITRATOR'S DECISION WILL BE FINAL AND BINDING WITH LIMITED RIGHTS TO APPEAL.**

**THIS ARBITRATION PROVISION IS SUPPLEMENTAL TO, AND NOT IN LIEU OF, ANY OTHER ALTERNATIVE DISPUTE RESOLUTION PROVISION, AND, IN THE EVENT OF A CONFLICT BETWEEN THIS PROVISION AND ANY OTHER SUCH ALTERNATIVE DISPUTE RESOLUTION PROVISION, THE TERMS OF THIS PROVISION SHALL CONTROL.** This agreement to arbitrate disputes will survive the closing of my Accounts and the termination this Agreement.

**Attorneys' Fees.** In the event of any arbitration or other adversarial proceeding between the parties concerning this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs in addition to any other relief to which it may be entitled.

**Periodic Statement.** Any mobile deposits made through the Services will be reflected on my monthly account statement. I understand and agree that I am required to notify you of any error relating to images transmitted using the Services within 60 days for consumer accounts and within 10 days for business accounts after I receive the monthly periodic statement that includes any transaction I allege is erroneous. I am responsible for any errors that I fail to bring to your attention within such time period.

**Changes in Financial Circumstances.** I understand and agree that I must inform you immediately in the event a material change in my financial circumstances as or in any of the information provided in my Application including any supporting financial information. This includes, but is not limited to, the bankruptcy, insolvency, sale, transfer or assignment of a business associated with the Service and my account, or if I am in default under any agreement for borrowed money or any other material contract. I agree to provide you any financial records you reasonably request to determine my financial status during the term of this Disclosure and Agreement.

**Waiver.** The failure of either party to seek a redress for violation, or to insist upon the strict performance, of any covenant, agreement, provision, or condition hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision, or condition, and each party shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

**Relationship.** This Disclosure and Agreement does not create, and shall not be construed to create, any joint venture or partnership between the parties. No officer, employee, agent, servant, or independent contractor of either party shall at any time be deemed to be an employee, servant, agent, or contractor of the other party for any purpose whatsoever.