

Disclosure & Agreement

As used in this Disclosure and Agreement the words “we,” “our,” and “us” mean Hiway Federal Credit Union® (Hiway) and the words “you” and “your” mean the consumer or business that applied for and/or uses any of the Mobile Remote Deposit Capture Services (the Services) described in this Disclosure and Agreement. Your application for use of the Mobile Remote Deposit Capture Services, our notification of approval of your application and Hiway’s All About Your Accounts, Service Fee Schedule or Business Account Agreement are hereby incorporated into and made a part of this Disclosure and Agreement. In the event of a discrepancy between this Disclosure and Agreement and your application, our approval, or the All About Your Accounts or Business Account Agreement, this Disclosure and Agreement will control.

USE OF THE SERVICES. Following receipt of our notification approving your use of the Services from mobiledesposit@hiway.org, you are authorized by Hiway to remotely deposit paper checks you receive to your account with Hiway (the Account) by electronically transmitting a digital image of the paper checks to us for deposit. Your use of the Services constitutes your acceptance of the terms and conditions of this Disclosure and Agreement. You agree to comply with the hardware and software requirements set forth in the System Requirements which can be found at hiway.org/mobile-deposit-reqs. Upon receipt of the digital image, we will review the image for acceptability. You understand and agree that receipt of an image does not occur until after we notify you of receipt of the image via onscreen messaging and/or e-mail notification. You understand that, in the event you receive a notification from Hiway confirming receipt of an image, such notification does not mean that the image contains no errors or that Hiway is responsible for any information you transmit to us. Hiway is not responsible for any image that we do not receive. Following receipt of the image, we may process the image by preparing a “substitute check” or clearing the item as an image. Notwithstanding anything to the contrary, we reserve the right, within our sole and absolute discretion, to accept, reject or reverse any item for remote deposit into the Account. You understand that any amount credited to the Account for items deposited using the Services is a provisional credit and you agree to indemnify Hiway against any loss we suffer because of our acceptance of the remotely deposited check.

In addition, you agree that you will not (i) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Services, (ii) copy or reproduce all or any part of the technology or Services or (iii) interfere, or attempt to interfere, with the technology or Services.

GUARANTEE SPECIFIC TO DEPOSITS RECEIVED FOR CREDIT TO A BUSINESS ACCOUNT. Your use of the Services for the purpose of depositing to a Business Account constitutes your understanding and agreement that you may be personally liable for any expenses Hiway 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 the 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 Hiway enforcing this Guarantee. This Guarantee shall benefit Hiway and our successors and assigns.

COMPLIANCE WITH LAW. You agree to use the products and Services for lawful purposes and in compliance with all applicable laws, rules and regulations, as well as all laws pertaining to the conduct of your business if applicable. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations. You promise to indemnify and hold us harmless from any damages, liabilities, costs, expenses (including attorneys’ fees) or other harm arising out of any violation thereof. This indemnity will survive termination of the Account and this Disclosure and Agreement.

CHECK REQUIREMENTS. Any image of a check that you transmit to us must accurately and legibly provide all the information on the front and back of the check at the time presented to you by the drawer. Prior to capturing the original check, you will endorse the back of the original check and include the following information: member number, date of deposit and the words “via Mobile Deposit”. The image of the check transmitted to Hiway 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.

REJECTION OF DEPOSIT. We are not liable for any service or late charges levied against you due to our rejection of any item. In all cases, you are responsible for any loss or overdraft plus any applicable fees to the Account due to an item being returned.

ITEMS RETURNED UNPAID. A written notice will be sent to you of transactions we are unable to process because of returned items. With respect to any item that you transmit to us for remote deposit that we credit to the Account, in the event such item is dishonored, you authorize us to debit the amount of such item from the Account.

E-MAIL ADDRESS. You agree to notify us immediately if you change your e-mail address, as this is the e-mail address where we will send you notification of receipt of remote deposit items.

UNAVAILABILITY OF SERVICES. You understand and agree that the Services may at times be temporarily unavailable due to Hiway’s system maintenance or technical difficulties including those of the Internet service provider, cellular service provider and Internet software. In the event that the Services are unavailable, you acknowledge that you can deposit an original check at our branches, through our ATMs or by mailing the original check to Hiway at 111 Empire Drive, St. Paul, MN 55103. It is your sole responsibility to verify that items deposited using the Services have been received and accepted for deposit by Hiway. However, Hiway will send an e-mail notification of items that are rejected.

FUNDS AVAILABILITY. We are notifying you in advance that Mobile Deposits made using our Mobile Deposit service do not fall under the standard provisions of Regulation CC – Expedited Funds Availability Act. As such, longer hold periods may apply. In general our policy is to make funds from your cash, check and electronic direct deposits available to you on the same day we receive your deposit. Funds deposited using the Mobile Deposit service may be reviewed and funds available within three to five Business Days from the day of deposit. We may make such funds available sooner 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 we, in our sole discretion, deem relevant. You acknowledge that all credits given by us for an Item are provisional, subject to verification and final settlement.

ACCOUNTHOLDER'S WARRANTIES. You make the following warranties and representations with respect to each image of an original check you transmit to us utilizing the Services:

- 1) Each image of a check transmitted to us 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) You 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 you remotely deposit through the Services, there are no other duplicate images of the original check.
- 5) You 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) You are 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) The information you provided in your Application remains true and correct and, in the event any such information changes, you will immediately notify us of the change.
- 8) You have not knowingly failed to communicate any material information to us.
- 9) You have possession of each original check deposited using the Services and no party will submit the original check for payment.
- 10) Files and images transmitted to us will contain no viruses or any other disabling features that may have an adverse impact on our network, data or related systems.

STORAGE OF ORIGINAL CHECKS. You must securely store each original check deposited using the Services for a period of 90 days after transmission to us. After such period expires, you will destroy the original check. You understand and agree that you are responsible for any loss caused by your failure to secure the original checks. If you are using the Services to deposit items into an account in the name of a Business to which you are an authorized signer or user, you understand that the original check(s) must be accessible only by authorized personnel.

SECURING IMAGES ON MOBILE DEVICES. When using Mobile Deposit, you understand that check images captured using your mobile device are stored on the device only until the associated deposit has been successfully submitted. You agree to promptly complete each deposit. In the event that you are unable to promptly complete your deposit, you agree to ensure that your mobile device remains securely in your possession until the deposit has been completed or to delete the associated images from the application.

ACCOUNTHOLDER'S INDEMNIFICATION OBLIGATION. You understand and agree that you are required to indemnify Hiway and hold us harmless against any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses arising from your use of the Services and/or breach of this Disclosure and Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

IN CASE OF ERRORS. In the event that you believe there has been an error with respect to any original check or image thereof transmitted to us for deposit or a breach of this Disclosure and Agreement, you will immediately contact Hiway regarding such error or breach as set forth below.

Call us at: 651.291.1515 or 800.899.5626
or email us at: mobiledesposit@hiway.org

LIMITATION OF LIABILITY. You understand and agree that Hiway is not responsible for any indirect, consequential, punitive or special damages or damages attributable to your breach of this Disclosure and Agreement.

CHARGES FOR USE OF THE SERVICES. Any charges associated with the Services are disclosed in Hiway's Service Fee Schedule.

DISCLAIMER OF WARRANTIES. YOU UNDERSTAND THAT HIWAY DOES NOT MAKE ANY WARRANTIES ON EQUIPMENT, HARDWARE, SOFTWARE OR INTERNET PROVIDER SERVICE, OR ANY PART OF THEM, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANT ABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HIWAY IS NOT RESPONSIBLE FOR ANY LOSS, INJURY OR DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, CAUSED BY THE INTERNET PROVIDER, ANY RELATED SOFTWARE, OR HIWAY'S USE OF ANY OF THEM OR ARISING IN ANY WAY FROM THE INSTALLATION, USE OR MAINTENANCE OF YOUR PERSONAL COMPUTER HARDWARE, SOFTWARE OR OTHER EQUIPMENT.

CHANGE IN TERMS. We may change the terms and charges for the Services indicated in this Disclosure and Agreement by notifying you of such change in writing and may amend, modify, add to or delete from this Disclosure and Agreement from time to time. Your use of the Services after receipt of notification of any change by Hiway constitutes your acceptance of the change.

TERMINATION OF THE SERVICES. You may terminate the Services provided for in this Disclosure and Agreement. Hiway reserves the right, subject to applicable law and regulation, to terminate your right to use the Mobile Deposit service. In the event of termination of the Services, you will remain liable for all transactions performed on the Account.

RELATIONSHIP TO OTHER DISCLOSURES. The information in this Disclosure 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. You 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 internal laws of the State of Minnesota, 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 courts of the State of Minnesota.

PERIODIC STATEMENT. Any remote deposits made through Mobile Deposit will be reflected on your periodic account statement. You understand and agree that you are required to notify us of any error relating to images transmitted using the Services by no later than 60 days after you receive the periodic statement that includes any transaction you allege is erroneous. You are responsible for any errors that you fail to bring to our attention within such time period.

LIMITATIONS ON FREQUENCY AND DOLLAR AMOUNT. You understand and agree that you cannot exceed the pre-determined limitations on frequency and dollar amounts of deposits that are set forth by Hiway. You will be notified of your pre-determined limit by e-mail upon approval.

UNACCEPTABLE DEPOSITS. You understand and agree that you are not permitted to deposit the following items using the Services:

- 1) Any item drawn on your Hiway account
- 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
- 5) Any item that is incomplete
- 6) Any item that is "stale dated" or "post dated"
- 7) Savings Bonds

CHANGES IN FINANCIAL CIRCUMSTANCES. You understand and agree that you must inform us immediately in the event a material change in your financial circumstances as or in any of the information provided in your Application including any supporting financial information. If you are using the Services to deposit items into an account in the name of a Business to which you are a party, this includes, but is not limited to, notification of the following: (a) changes in transaction volumes at your business; (b) any change in a representation or statement made or furnished to Hiway by you or on your behalf in your Application; (c) a material change occurs in your ownership or organizational structure (acknowledging that any change in ownership will be deemed material when ownership is closely held); (d) you liquidate or dissolve, or enter into any consolidation merger, partnership or joint venture; (e) you sell any assets except in the ordinary course of your business as now conducted, or sell, lease, assign or transfer any substantial part of your business or fixed assets or any property or other assets necessary for the continuance of your business as now conducted including, without limitation, the selling of any property or other assets accompanied by the leasing back of the same; (f) you cease doing business, become insolvent, a receiver is appointed for all or any part of your property, you make an assignment for the benefit of creditors or any proceeding is commenced either by you or against you under any bankruptcy or insolvency laws or any other law or laws relating to debtors; (g) any guaranty of your indebtedness to us, whether related or unrelated to the Account or the Services, ceases to be in full force and effect or is declared to be null and void; or the validity or enforceability thereof is contested in a judicial proceeding; or any guarantor denies that it has any further liability under such guaranty; or any guarantor defaults in any provision of any guaranty, or any financial information provided by any guarantor is false or misleading; (h) you or any guarantor dies; if you are a sole proprietorship, the owner dies; if you are a partnership, any general or managing partner dies; if you are a corporation, any principal officer or ten percent (10%) or greater shareholder dies; if you are a limited liability company, any managing member dies; if you are any other form of business entity, any person(s) directly or indirectly controlling ten percent (10%) or more of the ownership interests of such entity dies; (i) any creditor tries to take any of your property on or in which we have a lien or security interest, including a garnishment of any of your accounts with us; (j) a judgment or judgments is entered against you or any guarantor(s) in the aggregate amount of \$250 or more that is not satisfied within thirty (30) days or stayed pending appeal; (k) an involuntary lien or liens is attached to any of your assets or property and not satisfied within thirty (30) days or stayed pending appeal; (l) an adverse change occurs in your financial condition or applicable credit histories; and (m) you are in default under any agreement for borrowed money or any other material contract. You agree to provide Hiway any financial records we reasonably request to determine your 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.

Account Agreement

By signing below, you agree to the terms contained in this user agreement. Since the member is a MINOR, the joint tenant(s) of the account must also sign below and agree to the terms contained in this user agreement.

X _____

Applicant's Signature Date

(Legal adult is required as a Joint Tenant)

X _____

Joint Tenant's Signature Date

X _____

Joint Tenant's Signature Date