



IMPORTANT NOTICE

YOU ARE REQUIRED TO ASSUME IMPORTANT DUTIES AND LIABILITIES IN ORDER TO USE THE REMOTE DEPOSIT SERVICE. IF YOU DO NOT FULLY UNDERSTAND YOUR OBLIGATIONS AS SET FORTH IN THIS AGREEMENT OR YOU ARE NOT WILLING TO ASSUME THEM, YOU MAY NOT ENTER INTO THIS AGREEMENT AND YOU MUST CONTINUE TO DEPOSIT CHECKS IN THEIR ORIGINAL PAPER FORM.

**THIS AGREEMENT IS SUBJECT TO A DISPUTE RESOLUTION PROVISION AS SET FORTH BELOW.**

**ALCON EMPLOYEES FEDERAL CREDIT UNION MOBILE DEPOSIT AGREEMENT**

Welcome to the Alcon Employees Federal Credit Union Mobile Deposit Service. In this Agreement, the words “you” and “your” mean any owners of any account to which a remote deposit is directed or any person authorized by an account owner to make a remote deposit. “We,” “our,” “us,” and “Credit Union” mean Alcon Employees Federal Credit Union. You must apply and receive approval to use this Service. You authorize us to review your credit report in connection with your application for the Service and from time to time in the future for as long as you remain a user of the Service. If your application is approved, this Service allows you to use your own computer imaging equipment to scan certain paper checks and electronically transmit the images over the Internet to us for deposit into a designated credit union account (a “remote deposit”). We will use the images to create Substitute Checks for presentment to the paying financial institutions or we may in our sole discretion choose to transmit the images to the payor institution through other banking channels. Please read this Agreement carefully. By using this Service, you authorize us to take all actions necessary to provide the Service and you agree to the following terms and conditions. You additionally agree to be bound by applicable clearinghouse rules, operating circulars, and other check processing rules to which we are bound, including Federal Reserve Bank Operating Circular 3. The terms of the credit union’s Account Agreement are incorporated into this Agreement. If any of the provisions of the Account Agreement should conflict with the terms of this Agreement, the terms of this Agreement will control. Capitalized terms and pronouns used in this Agreement have the meanings as defined herein or in the Account Agreement.

**ACCESS AND AGREEMENT**

By accessing and/or using this service, or by authorizing others to use them, you agree to the following terms and conditions of the service. However, you continue to remain subject to any terms and conditions of any existing agreements with any unaffiliated service providers such as AT&T,

Verizon, T-Mobile, etc. This agreement is not intended to supersede any of those agreements. Neither Alcon Employees Federal Credit Union nor any of our service providers assume responsibility for the operation, security, functionality or availability of any related network, wireless device or mobile network, which you may utilize to access mobile banking.

## **LIABILITY**

Availability, timeliness and the proper functioning of our mobile banking service will be dependent upon many factors such as, your wireless device location, network availability, signal strength, hardware, software and your particular wireless device in general. Neither we nor our service providers shall be liable for any loss or damage caused by these factors or for any actions taken in reliance thereon, including service interruptions, inaccuracies, delays or loss of personalized settings.

Alcon Employees Federal Credit Union reserves the right to modify the mobile banking services at any time. You, the user, will be responsible for determining how to use the modified application. We will not be liable for any such loss incurred by improper use of the service.

This mobile banking application is being provided “As is” with no warranty of any kind. You agree to exercise caution when utilizing the service on your wireless device and to use discretion when obtaining or transmitting information.

Failure of the service due to natural disaster such as, fire, earthquake or flood, as well as any failure or delay of transportation, power, communications system or similar circumstance beyond our control will not be the liability of Alcon Employees Federal Credit Union or our service providers.

## **YOUR RESPONSIBILITY**

Under this agreement, you attest that you are the legal owner of the financial information accessible to you via mobile banking. You also agree that all information that you have provided to be used in connection with mobile banking is accurate, current and complete and that you have the right to provide such information to us for using this service. You agree not to misrepresent your identity and to keep your personal information current and accurate.

You assume responsibility for any transactions authorized by persons whom you have permitted to use your wireless device and password to access mobile banking. If at any time you have reason to believe that your password or wireless device has been lost or stolen, you must notify us immediately at (800) 235-6913 in order to delete the device from the mobile app access. If you later find your device, you may re-enroll the same mobile number.

## **THIRD PARTY LINKS**

Alcon Employees Federal Credit Union may establish links between our service and other services operated by third parties. We are not responsible for contents therein and assume no control over other such services.

These terms and conditions may be modified, changed or altered at any time without prior notice. It is the responsibility of you, the user, to regularly review this agreement. Your continued use of this service following any such changes, modifications or alterations shall constitute your acceptance of such.

## **CONTACT BY ALCON EMPLOYEES FEDERAL CREDIT UNION OR AFFILIATED PARTIES**

No Alcon Employees Federal Credit Union employee, or any company affiliated with this mobile service will contact you via email or phone requesting your mobile ID or mobile passcode. If you are contacted by anyone requesting this information, please contact us immediately.

## **CANCELLATION**

You may cancel your mobile banking service at any time by notifying us of your intent to cancel in writing or by calling us at (817) 551-8495 or (800) 235-6913. We may terminate your participation in mobile banking service for any reason at any time. We are not obligated to notify you in advance.

## **DEPOSIT ITEMS**

1. Definitions. The following terms are defined in this Agreement:
  - a. Substitute Check – A paper reproduction of a check that contains an image of the front and back of the check and meets the other technical requirements for a substitute check under Check 21.
  - b. Item – An instrument containing an order to pay money handled by a financial institution for collection or payment, as defined by the Texas Uniform Commercial Code. The image files of the front and back of Checks you transmit to us qualify as Items under this Agreement.
  - c. Service – The Mobile Deposit Service offered by Alcon Employees Federal Credit Union.
  - d. Check – An original paper check, other than a documentary draft, payable on demand, negotiable, and drawn on or payable through a financial institution located in the United States of America.
  - e. Remotely Created Check – 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.
  - f. Foreign Item - A check not drawn on or payable through a financial institution located in the United States of America.
  - g. Check 21 – The Check Clearing for the 21<sup>st</sup> Century Act, the implementing Check 21 regulations located in Subpart D to Federal Reserve Board Regulation CC, and other applicable provisions of Regulation CC.

2. Items Eligible for Deposit. Each Item may be transmitted to us only once. Only Checks drawn by other parties on financial institutions and payable to you are eligible for deposit. We will not accept Substitute Checks, third-party Checks, or Checks drawn by you on an account of yours at Alcon Employees Federal Credit Union or another financial institution. We will not accept Remotely Created Checks or Foreign Items. Each Check deposited through the Service will qualify as an Item as defined herein and must be endorsed by all payees with the restrictive endorsement "For Mobile Deposit Only to Alcon Employees Federal Credit Union" and the Account number above all signatures. While we normally will provide notice, you acknowledge and agree that we may reject any Item presented for deposit in our sole discretion without notice to you, and we will not be liable for any such rejection. You may consult the online banking program or call us at (817) 551-8495 or (800) 235-6913 to confirm that we have received and accepted an Item for deposit.

3. Image Quality. Both the front and back of each Check must be sent to us in as directed in the Remote Deposit area of the Mobile Deposit program. You are responsible for ensuring that the images of the front and back of each Check are correctly matched. Each item must be submitted individually and may not be combined with any other items in the same file. We will not accept items containing incomplete Check images or images with torn or folded edges, cut corners, or other physical discrepancies. YOU REPRESENT AND WARRANT THAT EACH ITEM SUBMITTED FOR REMOTE DEPOSIT (A) WILL ACCURATELY AND LEGIBLY REPRESENT ALL THE INFORMATION ON THE FRONT AND BACK OF THE CHECK AT THE TIME OF IMAGING, INCLUDING WITHOUT LIMITATION, THE AMOUNT OF THE CHECK, THE PAYEE, THE DRAWER'S SIGNATURE, THE PREPRINTED INFORMATION THAT IDENTIFIES THE DRAWER AND THE PAYING BANK, THE MAGNETIC INK CHARACTER RECOGNITION (MICR) LINE, AND OTHER INFORMATION PLACED ON THE CHECK BEFORE IMAGING, SUCH AS ENDORSEMENTS APPLIED TO THE BACK OF THE CHECK, AND (B) WILL CONFORM TO OUR SPECIFICATIONS AS PROVIDED TO YOU FROM TIME TO TIME AS WELL AS APPLICABLE INDUSTRY AND REGULATORY STANDARDS.

4. Standard of Care; Deposit Limits and Cutoff Times. We will use ordinary care as defined by the Texas Uniform Commercial Code in the handling of Items. Daily deposit limits, per Item limits, frequency limits, and deposit cutoff times are as specified in Schedule "A" attached and incorporated into this Agreement. We reserve the right to suspend the availability of the Service from time to time for necessary maintenance. You agree to deposit the original Items or make other deposit arrangements if the Service is unavailable for any reason. Items received before our 3:00 pm central time cutoff time on business days we are open will be processed on the same business day unless equipment failures, maintenance, or other conditions beyond our reasonable control prevent processing. In such case, the Items will be processed on our next business day, as will Items received after the cutoff time on the previous business day. All accepted Items will be considered deposited at our headquarters in Fort Worth, Texas, and will be subject to our Funds Availability Policy and the funds availability requirements of Federal Reserve Board Regulation CC. We may choose to make funds available sooner in certain cases at our sole discretion.

5. Electronic Notices; Member Updates. We may choose to provide certain notices related to this Service electronically by way of the online banking program. This may include change-in-terms notices related to the Service. You consent to accept these notices in electronic form. You agree to

use the messaging feature within the online banking program to update us with your email address or information necessary to contact you electronically.

6. Receipt of Items; Lost Items and Transmissions. Items are not considered received by us until we have confirmed receipt of them by posting a notation of the deposit in the remote deposit area of the online banking program. Receipt of an Item does not constitute an acknowledgement by us that the Item is error-free or that we will be liable for the Item. Although we have implemented important measures to safeguard and secure your data, we are not responsible for Items not received by us or for any intrusion into or theft of any data transmitted by you unless the loss is substantially caused by our gross negligence or willful misconduct. Credit given for an Item received for deposit is provisional and is subject to verification and final settlement. While we have implemented important measures to ensure the safe and secure transmission of your data, you acknowledge that we cannot and do not guarantee the security of information transmitted over the Internet and you expressly agree to assume this risk. We are not responsible for alterations made to Items in the course of transmission to us. You are responsible for ensuring that Items transmitted to us have been received by us and credited to the designated account in the correct amount.

7. Retention of Items. You agree to retain Checks in their original form and the associated image files for 60 days after transmission to us. After that time, you will destroy the Checks and image files by a secure shredding or other permanent deletion method to ensure that the Checks and image files will not be redeposited or resubmitted. You agree to be responsible for any direct, indirect, or consequential damages that result from your failure to maintain adequate security over your Checks and computer files.

8. Additional Duties and Obligations. In addition to your other duties as provided in this Agreement, you agree to implement and maintain reasonable security measures for the safekeeping of all Checks and image files. We may specify certain security measures from time to time, and you agree to implement such measures. You agree to promptly review your Items in the online banking program after you have transmitted them to us and promptly notify us of any input or other errors. You agree to examine your account statement in a timely manner and promptly report errors or discrepancies to us within 33 days (40 days for claims relating to Substitute Checks). You agree to provide us with the original Check(s) and any other documents or computer files related to the service if we request. You agree to notify us promptly if you experience or suspect any problems or issues relating to the Service or the security of your facilities, equipment, or Items. You agree that we may make adjustments to your account arising out of or related to your use of the Service at any time without notice to you. We may chargeback Items that do not satisfy the warranties you are making with respect to the Items or do not otherwise meet the requirements of this Agreement. You are solely liable for an error or discrepancy related to an Item unless the error or discrepancy results from a breach of our duty of care. You agree to deposit the original Checks should we be unable to process them using the Service, provided that we have notified you in writing that you may deposit the original Checks. You will keep your contact information on file with us updated and current at all times. You agree to be responsible for all charges and fees charged by us or by third parties in connection with handling your Items, including applicable fees as set forth in our Fee Schedule. Such charges and fees are due and payable immediately, and we may charge any eligible account on which you are an owner for charges and fees without notice to you.

9. Return of Items. If an Item is dishonored, you will receive a Substitute Check as the charged-back item. You may not use the Service to deposit a Substitute Check and you may not deposit the original Check, whether by physical deposit or by way of the Service, if you receive a dishonored Item. You agree to abide by any additional instructions we may provide to you in connection with returned checks.

10. Warranties and Indemnity. YOU REPRESENT AND WARRANT THAT:

(A) YOU WILL USE THE SERVICE AND RELATED TECHNOLOGY ONLY FOR LEGAL PURPOSES AND ONLY AS PROVIDED IN THIS AGREEMENT;

(B) YOUR USE THE SERVICE WILL BE IN COMPLIANCE WITH APPLICABLE LAW, INDUSTRY STANDARDS, AND OUR POLICIES, PROCEDURES, AND SPECIFICATIONS AS AMENDED FROM TIME TO TIME;

(C) YOU ARE A PAYEE AUTHORIZED TO ENFORCE EACH CHECK YOU TRANSMIT;

(D) ALL CHECKS TRANSMITTED TO US AND RELATED INFORMATION ARE ACCURATE AND COMPLETE AND ONLY ELIGIBLE ITEMS AS PROVIDED IN THIS AGREEMENT WILL BE DEPOSITED;

(E) YOU WILL COOPERATE WITH US WHEN NECESSARY IN CONNECTION WITH OUR PROVISION OF THE SERVICE;

(F) THE QUALITY OF CHECKS AND THE IMAGES YOU TRANSMIT WILL BE SUCH THAT A LEGALLY EQUIVALENT SUBSTITUTE CHECK CAN BE CREATED;

(G) YOU WILL NOT TRANSMIT ANY ITEM TO US THAT CONTAINS A VIRUS OR OTHER HARMFUL COMPUTER CODE;

(H) YOU WILL NOT DEPOSIT AN ORIGINAL CHECK THAT WAS ORIGINALLY DEPOSITED USING THIS SERVICE UNLESS THE ITEM CANNOT BE ACCEPTED OR PROCESSED AND WE EXPRESSLY INSTRUCT YOU IN WRITING THAT YOU MAY DO SO;

(I) THE ITEMS YOU SUBMIT WILL CONFORM TO OUR STANDARDS AND YOU WILL NOT BREACH THE TERMS OF THIS AGREEMENT AT ANY TIME;

(J) CHECKS YOU SUBMIT ARE NOT COUNTERFEIT OR ALTERED AND THAT ALL SIGNATURES ON CHECKS ARE AUTHORIZED AND AUTHENTIC;

(K) YOU EXPRESSLY ASSUME ALL OF THE WARRANTIES FOR THE COLLECTION AND PRESENTMENT OF CHECKS AS PROVIDED IN THE TEXAS UNIFORM COMMERCIAL CODE, INCLUDING WITHOUT LIMITATION, THE WARRANTIES SET FORTH IN TEXAS BUSINESS & COMMERCE CODE §4.208;

(L) YOU EXPRESSLY ASSUME ALL OF THE WARRANTIES AND INDEMNIFICATIONS OF CHECK 21, INCLUDING WITHOUT LIMITATION, THE WARRANTY THAT NO DEPOSITORY INSTITUTION, DRAWEE, DRAWER, OR INDORSER WILL RECEIVE PRESENTMENT OR RETURN OF, OR OTHERWISE BE CHARGED FOR, THE SUBSTITUTE CHECK, THE ORIGINAL CHECK, OR A PAPER OR ELECTRONIC REPRESENTATION OF THE SUBSTITUTE CHECK OR ORIGINAL CHECK SUCH THAT THAT PERSON WILL BE ASKED TO MAKE A PAYMENT BASED ON A CHECK THAT IT ALREADY HAS PAID;

(M) WE WILL SUFFER NO LOSS AS A RESULT OF OUR ACCEPTANCE OF YOUR ITEMS OR YOUR USE OF THE SERVICE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD US HARMLESS FOR ALL COSTS, EXPENSES, LOSSES, AND LIABILITIES WE INCUR, INCLUDING WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS, AND INTEREST, THAT ARISE OUT OF, RESULT FROM, OR RELATE TO YOUR BREACH OF ANY OF THE REPRESENTATIONS OR WARRANTIES IN THIS AGREEMENT.

11. Warranty Disclaimers; Limitation of Liability. THIS SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. WE DISCLAIM ANY WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT REPRESENT OR WARRANT THAT THE SERVICE WILL BE AVAILABLE AT ALL TIMES. OUR SOLE LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE CORRECTION OF ANY DEPOSIT ERROR THAT RESULTS FROM OUR FAILURE TO MEET THE STANDARD OF CARE AS PROVIDED IN THIS AGREEMENT. EXCEPT FOR THE FOREGOING, WE WILL NOT BE LIABLE FOR ANY DAMAGES, LOSSES, OR PROPERTY DAMAGES INCURRED AS A RESULT OF OUR PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT OR YOUR USE OF THE SERVICE. IN NO EVENT WILL WE WILL BE LIABLE FOR SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Confidentiality. The Service and related technology may contain valuable trade secrets ("Confidential Information") that are the property of the Credit Union or its vendors. You agree to (i) take reasonable precautions to protect the Confidential Information, (ii) hold the Confidential Information in strict confidence, and (iii) use it only for the purpose of this Agreement. Any unauthorized use of Confidential Information constitutes a material breach of this Agreement and may cause the owner irreparable injury for which there is no adequate remedy at law. In the event of an actual or threat of breach of Confidential Information, in addition to any other remedies available to us at law, you agree that we may seek equitable relief to prevent or remedy the breach or threat of breach without posting bond or any other security.

13. Force Majeure. We will not be deemed in default or otherwise liable under this Agreement due to our inability to perform our obligations by reason of fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any failure or delay of any transportation, power, computer or communications system, or any other similar cause beyond our reasonable control.

14. Assignment. You may not assign this Agreement or any right or obligation under this Agreement without our prior written consent.

15. No Waiver. No provision of this Agreement will be deemed waived, and no breach will be deemed excused, unless such waiver or excuse is in writing and signed by an authorized representative of Alcon Employees Federal Credit Union.

16. Severability. In the event that any provision of this Agreement is determined to be invalid, unenforceable, or otherwise illegal, such provision will be deemed restated, in accordance with applicable law, to reflect, as nearly as possible the original intentions of the parties, and the remainder of the Agreement will remain in full force and effect.

17. Amendment. We may add to, change, or delete the terms of this Agreement by providing notice to you. We may also add to, change, or delete some functionalities or features of the Service at any time without notice to you. If you do not consent to a modification to this Agreement or the Service, you must terminate the Service by notifying us in writing. This Agreement may not be amended unless we expressly agree to the amendment in writing.

18. Termination. We reserve the right to terminate, suspend, or modify the Service at any time without notice to you.

19. Governing Law. This Agreement is entered into in Fort Worth, Texas, and is governed by Texas law and applicable federal law.

20. Dispute Resolution. In the event of any dispute or controversy arising out of this Agreement or its interpretation, the parties shall first attempt in good faith to resolve their dispute informally, or by means of commercial mediation, without the necessity of a formal proceeding. Any controversy or dispute not resolved informally shall be submitted to and resolved exclusively by arbitration under the rules of the American Arbitration Association, upon written notice of demand for arbitration by the party seeking arbitration, setting forth the specifics of the matter in controversy or the claim being made. The arbitration shall be heard before an arbitrator mutually agreeable to the parties; provided that, if the parties cannot agree on the choice of an arbitrator within 10 days after the first party to seek arbitration has given written notice, then the arbitration shall be heard by three arbitrators, one to be chosen by each party, and the third to be chosen by those two arbitrators. A hearing on the merits of the claims for which arbitration is sought by any party shall be commenced not later than 60 days from the date of the first demand for arbitration. The arbitrators must render a decision within 10 days after the conclusion of such hearing. Any award in such arbitration shall be final and binding upon the parties and a judgment based upon such a decision may be entered in any court of competent jurisdiction. Notwithstanding the foregoing, any party to this Agreement may seek temporary or preliminary equitable relief to preserve the status quo ante or prevent material and irreparable injury.

21. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior agreements or understandings, whether written or oral, with respect to the subject matter hereof.



## **Schedule "A"**

This Schedule "A" incorporates additional terms and conditions into the Alcon Employees Federal Credit Union Remote Deposit Agreement.

### **Service Limits and Cutoff Times**

Cutoff time:  
3:00 p.m. CST

Service Limits are determined on an individual basis.