

Financial Plus Standard terms of use

REMOTE DEPOSIT CAPTURE (RDC) AGREEMENT

This Remote Deposit Capture Agreement (“Agreement”) is the contract which covers both your rights and the rights and responsibilities concerning the Remote Deposit Capture (“RDC”) service offered to you by Financial Plus Credit Union (“FPCU”, “Credit Union”). The words “we”, “us”, and “our” mean Financial Plus Credit Union. The words “you”, “your”, and “yours” refer to the Consumer (any natural person, business, organization, or other legal entity). The word “service” means the remote deposit check capture service offered by Financial Plus Credit Union through Digital Banking Services. By using Remote Deposit Capture, the Consumer and any joint owners or authorized users, jointly and severally, agree to the terms and conditions of this Agreement and any amendments.

The terms and conditions in this Agreement do not replace, but are in addition to, any account agreements you have with the Credit Union, including the Membership and Account Agreement, Signature Card, Truth in Savings Disclosure, Fee Schedule or any accompanying schedules, FPCU’s Electronic Funds Transfer Agreement, Funds Availability Disclosure, any overdraft protection agreement, and any change of terms notice.

REMOTE DEPOSIT CAPTURE SERVICE

Description of Service. The Service is offered for the purpose of converting original checks to electronic images, as such term is defined in the Check Clearing for the 21st Century Act (“Check 21”) and Federal Reserve Board Regulation CC (“Reg CC”). The service is designed to allow you to make deposits to your Credit Union share savings, checking, and money market accounts by scanning (taking a photograph using a mobile device) checks, creating an electronic image of the item, and delivering images and associated deposit information via the internet to the Credit Union or its designated processor.

Funds Availability. Funds from deposited items will be available according to our Funds Availability Policy, as amended from time to time. For purposes of determining the availability of funds, checks deposited via the Service are considered received by us when the check capture system expressly indicates the checks were received by or delivered to us. You agree the scanning and transmitting of checks does not constitute receipt by us.

Checks scanned and transmitted will be considered received by us on the day of receipt. For the purpose of establishing funds availability, your deposits via the Service are deemed to be received by us at the time the system indicates a successful transaction is completed and sends an email receipt to you. Acknowledgment of receipt or delivery does not constitute an acknowledgment by us the transmission of a check or items does not contain errors.

It is the policy of the Credit Union to allow availability of funds deposited via the Service in “two business days” after we receive your deposit. All deposits made through the Service after 11:59pm Eastern Standard Time (EST) on weekdays and any time on Saturdays, Sundays, or holidays observed by us will be considered received the next “business day” we are open. However, all deposits are subject to the same conditions and exceptions referred to in the “Longer Delays May Apply” and “Special Rules for New Accounts” section of the Funds Availability Policy.

Deposit Acceptance. You agree that we may at any time, at our sole discretion, refuse to accept deposits of checks via the Service and that, in the event it is not available, for any reason, including, but not limited to, communications, equipment or software outages, interruptions or failures, you may at your option, deposit originals of all checks in person, at one of our branch locations, via night drop, mail or other contractually acceptable method (See Membership and Account Agreement). You shall continue to make deposits only in this manner until such time that that outage, interruption or failure is identified and resolved. The deposit of original checks at a branch shall be governed by the terms and conditions of the Membership and Account Agreement but not by the terms of this Agreement. You agree that we may, at our option, decline to accept the deposit of an item through the Service and require you to present the original item for deposit and processing.

CONSUMER ACCOUNT

Consumer Account. You may use the Service to deposit checks into any of your FPCU accounts, with the exception of share certificate and IRA accounts. We shall provide you with details of the specific transactions, reported similarly as other transactions requested may be done, which were a result of access to the Service. You will be notified within the Service app when your deposit has been successfully submitted. You will receive an acknowledgement via email containing a reference number for the deposit at the time your deposit is approved.

Responsibility for Scanning. You are solely responsible for scanning deposit items, accessing the service, and maintaining your mobile device used for scanning items. You are responsible for the payment of all telecommunications expenses associated with the services. We shall not be responsible for providing or servicing any mobile equipment for your use of the Service.

Hardware and Software Requirements (as of 6/16/20). The Service has specific hardware and software requirements. In order to use the service, you will need Internet access and an appropriately enabled mobile device, and must be registered for the Credit Union's Digital Banking Service. In connection with its use of the Service, you shall only use the hardware described as follows or such other hardware and software as is approved in advance by FPCU:

- An Apple iOS device, version 11 or greater, running compatible software; or
- An Android device, version 5.0 or greater, running compatible software.

You understand that you must, and hereby agree to, at your sole cost and expense, use hardware and software that meets all technical requirements for the proper delivery of the Service as well as fulfills your obligation to obtain, maintain, and secure access to the Internet. You understand and agree you may also incur, and shall pay, any and all expenses related to the use of the Service, including, but not limited to, telephone service or Internet service charges. You are solely responsible for the payment of any and all costs and expenses associated with meeting and maintaining all technical requirements and additional items necessary for the proper use of the Service. You understand and agree that you are solely responsible for the operation, maintenance, repairs, upgrades and replacements, of your personal computing equipment. The Credit Union is not responsible for, and you hereby release FPCU from any and all claims or damages resulting from, or related to, any virus or related problems that may be associated with using electronic mail or the Internet. The Credit Union is not responsible for, and you hereby release FPCU from any and all claims or damages resulting from, or related to, defects in or malfunctions of your hardware or software, or failures of or interruptions in any electrical, telephone or Internet services. The Credit Union hereby advises you, and you hereby agree, to scan your hardware and software on a regular basis using a reliable virus detection product in order to detect and remove computer viruses.

Data Protection. You agree to keep confidential and secure any security procedures that we establish, to ensure your Digital Banking ID, password, and authentication methods are protected. You understand that whomever you have authorized to access Digital Banking will also have access to the Service. Your access to the Service through Digital Banking will be blocked in the event that your user ID and/or password is entered incorrectly on five (5) consecutive attempts. Notify us immediately if you have reason to believe that confidentiality or security pertaining to the Service or any check transmitted through the Service has been or may be breached. You agree that if you do not access Digital Banking for a period of fifteen (15) months or longer, you will not be able to access any Digital banking Services, including the Remote Deposit Capture Service, until you contact us to enable access. You agree that you have an obligation to notify us if you have reason to believe that the security features for Digital Banking have been compromised and immediately change the user ID and password. If your access to Digital Banking is blocked or you suspect a compromise of your user ID and password, you may call our Contact Center at (800)748-0451 or via chat conversation within the Digital Banking app. These services are available Monday through Friday, 8:30 a.m. to 5:30 p.m. and Saturday 9 a.m. to 1:00 p.m.

Deposit Requirements. You agree that each check you submit for deposit via the Service must meet our image quality standards, contain images of the front and the back of each check, and meet minimum image quality standards. Each image of each check shall be of such quality that the following information can clearly be read and understood by sight review of such image:

- The amount of the check;
- The payee of the check;
- The payee endorsement;
- The signature of the drawer of the check;
- The date of the check;
- The check number;
- The information identifying the maker and the paying financial institution that is printed on the check, including the Magnetic Ink Character Recognition (MICR) code line on the bottom of every check; and

- All other information placed on the check prior to the time and 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.

Each image shall also meet all standards for image quality established by the American National Standards Institute (ANSI), and the Board of Governors of the Federal Reserve Bank or any other regulatory agency, clearing house or association. You shall also capture and transmit to FPCU the full-field MICR encoding on each check. In accordance with the procedures, you shall ensure that the following information is captured from the MICR line of each check:

- The American Bankers Association (ABA) routing transit number (RTN);
- The number of the account on which the check is drawn;
- When encoded, the amount of the check; and
- When encoded, the serial number and the process control field of the check.

Endorsements and other Procedures. You agree to restrictively endorse each item transmitted through the Service with “For Mobile Deposit Only” below your signature and to follow such other procedures as we may establish from time to time and disclose to you, including, without limitation, security procedures.

Presentment Prohibitions. You 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 which has already been presented for deposit via the Service or (ii) any original check, the substitute check of which has already been presented for deposit via the Service.

You agree to scan and deposit only “check(s)” as that term is defined in Subpart D of Reg CC, and to the extent applicable, Subpart A. You also agree that the image of the check that is transmitted to the Credit Union shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code as enacted by the State of Michigan.

You agree you will not use the Service to deposit and otherwise process:

- Non-cash items;

- Checks payable to any person or entity other than you, (except for government checks payable to you and your spouse/domestic partner where you have provided the dual-endorsement required) or that include a third-party endorsement;
- Checks that are drawn on a deposit account of yours with us or at any other financial institution to manufacture funds or check kiting;
- Checks dated more than six (6) months prior to the date of deposit;
- Checks that contain obvious alterations on the front of the check or item, or which you know or suspect, is fraudulent or otherwise not authorized by the owner of the account on which the check is drawn, including checks received via Internet solicitations;
- Checks previously converted to a substitute check, as defined in Reg CC;
- Checks that are drawn on financial institutions that are located outside of the United States or that are not payable in US dollars;
- Checks that are a Remotely Created Check, as that term is defined in Reg CC;
- Checks that are not acceptable to FPCU for remote deposit, including Savings Bonds or mutilated checks;
- Checks that are from a foreign lottery, whether you entered the foreign lottery or not;
- Checks that are from a “work from home” or similar program that you find or finds you on the internet; or
- Checks that are prohibited by our then-current procedures pertaining to Service, or are otherwise not acceptable under the terms of your FPCU account, or are in violation of any law, rule or regulation. Current Membership and Account Agreement may be found within the Settings Menu of the Digital Services app.

Checks described above are each a “Prohibited Check” and, collectively, “Prohibited Checks”. In the event you, or any third party, presents, or attempts to present, a deposit in violation of this Subsection, you agree to defend, indemnify, and hold us and our 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. You agree the aggregate amount of any items which are deposited more than once will be debited from your account, and to the extent funds in your account are insufficient to cover such amount, any balance shall be debited by us from any other deposit accounts with us at our sole discretion. You further acknowledge that you, and not us, are

responsible for the processing and handling of any original items which are imaged and deposited utilizing the Service and you assume all liability to the drawer of any item imaged using the Service or liability arising from the printing of any substitute check from those images.

Check Retention & Destruction. You agree that all items belong to you and not to the Credit Union and those items shall be handled in accordance with this Agreement. After we receive any transmission from you of imaged items for deposit to your account, we will acknowledge the receipt of such transmission. Your electronic transmission is subject to proof and verification. You shall retain the original copy of all imaged items that have been deposited via the Service for at least sixty (60) calendar days in order to verify settlement and credit or to balance your periodic statement, but in no case beyond sixty (60) calendar days from the date processed. You shall properly destroy and dispose of such original checks after such time. During the period you maintain the original checks, you understand and agree that you 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 for the purposes of presentment for deposit of these original checks (i.e., after the original checks have already been presented for deposit via the Service) and (ii) unauthorized use of information derived from the original checks. When you destroy, and dispose of the original checks pursuant to the requirements of this Agreement, you understand and agree that you must use a high degree of care when selecting and implementing destruction and disposal procedures. You must ensure that the original check(s) 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 (i.e., through the use of shredding equipment).

User Warranties and Indemnity. You warrant to the Credit Union that:

- You will comply with all federal and state laws, and rules and regulations applicable to Digital Banking transactions, including those of the National Automated Clearing House for ACH transactions;
- The original item was a paper check that you scanned;
- Each image of a check transmitted to us is a true and accurate image of the front and back of the original check, without any alteration;
- All signatures on each check are authentic and authorized;

- The maker of the check has no defense against payment of the check;
- You are authorized to endorse each item transmitted or are authorized to obtain payment of each item on behalf of a person entitled to enforce such transmitted item;
- Images will meet image quality standards;
- You will not transmit duplicate items;
- You will not deposit or re-present the original item or 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 the person has already paid;
- All information you provide to FPCU is accurate and true;
- You will only transmit acceptable items for deposit and that you will have handled the original items in accordance with applicable laws and regulations; and
- Each check is made payable to you and is properly endorsed (no restrictive endorsements, multiple party endorsements, or second party endorsements will be accepted, except as previously described in this document) other than the required "For Mobile Deposit Only".

In the event you breach any of these representations or warranties, you agree to defend, indemnify and hold us and our agents harmless from and against all liability, damages and loss arising out of any claims, suits or demands brought on by third parties with respect to any such breach, including reasonable attorney's fees.

You further authorize us to charge your account for the amount of any such demand, claim or suit which constitutes a breach of warranty claim under the provisions of the Uniform Commercial Code. In addition, your account will be charged for any deposited check which is later returned to us owing to an actual or alleged breach of any such representation or warranty (Refer to our Fee Schedule).

Financial Responsibility. You are, and shall remain, solely and exclusively responsible for any and all financial risks, including, without limitation, insufficient funds, associated with accessing the Service. We shall not be liable in any manner for such risk unless we fail to

follow the procedures described in materials for use of the Service. You assume exclusive responsibility for the consequences of any instructions you may give to us for your failure to access the Service properly in a manner prescribed by us and for your failure to supply accurate input information, including, without limitation, any information contained in an application.

Account Reconciliation. FPCU has no obligation to detect errors by you or others, even if we take certain actions from time to time to do so. To ensure accuracy, you agree to accurately enter the dollar amount of each deposit according to the legal amount rather than the courtesy amount if they differ. The legal amount is the written amount and the courtesy amount is the digital amount on a check.

You will verify and reconcile any out-of-balance condition, and promptly notify us of any errors within sixty (60) calendar days from receipt of your periodic account statement. If notified within such period, we shall correct and resubmit all erroneous files, reports, and other data at our standard charges, or at no charge, if the erroneous report or other data directly resulted from our error. If you fail to notify us within the sixty (60) days, such statement regarding deposits made through the service will be deemed correct, and you are prohibited from bringing a claim against us for an alleged error.

Upon request, you agree to provide copies of imaged documents (or original documents, if available) related to poor quality transmission, to resolve disputes, or to facilitate investigations related to unusual transactions.

To notify us of errors, please call our Contact Center at (800)748-0451 or initiate a chat conversation with a Contact Center agent via the Digital Banking app.

Cooperation with Investigations. You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolutions, and resolution of claims, including by providing, upon request and without further cost, any originals or copies of items deposited through the Service in your possession and your records relating to such items and transmissions. If we request the original check or copy of items

deposited through the Service, you agree to provide the retained check or copy to us within two (2) business days.

FINANCIAL PLUS CREDIT UNION'S OBLIGATIONS

Financial Data. We agree to transmit all the financial data under our control required to utilize the Service and to act on appropriate instructions received from you in connection with the use of the Service. We shall exercise due care in seeking both to preserve the confidentiality of the user number, password or other code or identifier and to prevent the use of the Service by unauthorized persons, but shall not otherwise be under any liability or have any responsibility of any kind for any loss incurred or damage suffered by you by reason or in consequence of any unauthorized person gaining access to or otherwise making use of the Service. You assume 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 yours by any third party.

Service Availability. You understand that the availability of the Service is at all times conditioned upon the availability of those computer services and systems used in communicating your instructions and requests to us and our response. We shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by you 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 our control.

Exception Items. When we review and process your electronic file, we may reject any electronic image which we, at our sole discretion, determine 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 which 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. We will notify you in writing of any Exception Items. You agree that if you wish to attempt to deposit any Exception Item to any account with us, you shall only do so by depositing the original item on which the Exception Item is based. You acknowledge and agree that even if we do not initially identify an electronic image as an Exception Item, the substitute check created may nevertheless be returned to us because, among other reasons, the electronic image is

deemed illegible by a paying bank. Our failure to identify an Exception Item shall not preclude or limit your obligation to us.

Transaction History. We shall provide you with transaction history, including deposits made via the Service, using the standard monthly statements detailing items processed, returned items, and deposit adjustments.

WARRANTIES; DISCLAIMER OF WARRANTIES

Service Warranty. You perform the function of converting an original check to a substitute check. Therefore, you understand and agree you are responsible, to the extent permitted by law, for all warranties and indemnifications set forth in Check 21 applying to any Reconverting financial institution and the Truncating financial Institution, as such terms are defined by Check 21, including, without limitation, the obligation to only convert an original check which allows for the creation of a substitute check which clearly and accurately represents the information on the front and back of the original check. We and our agents may, but shall have no obligation to, screen items or substitute checks for legal compliance. You agree to defend, indemnify, and hold us and our 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.

Disclaimer of Liability. YOU ACKNOWLEDGE THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE ARE NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM YOUR USE OF THE SERVICE. WE MAKE NO WARRANTIES AND DISCLAIM 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, WE DISCLAIM 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). YOU FURTHER ACKNOWLEDGE 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. YOU HEREBY ASSUME ALL RISKS RELATING TO THE FOREGOING.

FINANCIAL PLUS CREDIT UNION'S LIABILITIES

Direct Damages. OUR LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY YOU AND ONLY TO THE EXTENT SUCH DAMAGES ARE A DIRECT RESULT OF OUR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. IN NO EVENT SHALL WE BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND INCLUDING LOST PROFITS WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. OUR LICENSORS OR SUPPLIERS WILL NOT BE SUBJECT TO ANY LIABILITY TO YOU IN CONNECTION WITH ANY MATTER.

Your Duty to Report Errors. You shall notify us of any errors, omissions, or interruptions in, or delay or unavailability of, the Services as promptly as practicable, and in any event sixty (60) days 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 sixty (60) days of the date of the earliest notice to you which reflects the error. Your failure to notify us of any error, omission, or other discrepancy within sixty (60) days from the date of a loss shall relieve us of any liability for such error, omission, or discrepancy.

Financial Plus Credit Union's Performance. You acknowledge and agree we shall not be liable for any damages or loss of any kind resulting from any unintentional error or omission by us in performing the services, in accordance with or unintentional deviation from the terms and conditions of this agreement, including exhibits or addenda. You acknowledge our systems and procedures established for providing the Service are commercially reasonable. You shall defend, indemnify, and hold us 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 Service.

Limitation. We shall have no liability to you, or any other person or entity for any loss, damage, cost, or expense arising out of this Agreement or the Service 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 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:

- We receive actual notice or have reason to believe you have 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;
- We suspect a breach of the Security procedures;
- We suspect the account has been used for illegal or fraudulent purposes; or
- We reasonably believe an Entry is prohibited by federal law or regulation, or otherwise so provided in the Agreement.

We will not be liable if you fail to report timely any error or discrepancy reflected in a statement prepared by us, or if you fail to report a breach of a security procedure. If we fail to perform under this Agreement in accordance with the standards set herein, our liability for damages, losses, and other compensation owing to you shall be limited to the total fees paid by you to us for our failure to perform resulting in such liability in the sixty (60) day period preceding the date the claim accrued. We 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 we be liable for any indirect, consequential, punitive, or special damages. We 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. We 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 our reasonable control.

TERMINATION. We reserve the right to terminate this Agreement or limit your use of the Remote Deposit Capture service at any time and for any reason at our discretion, and without prior notice. Examples of when we may cancel this Agreement and the use of the Remote Deposit Capture Service without prior notice include, but are not limited to:

- If you breach this or any other agreement we may have with you;

- If we have reason to believe there has been or may be an unauthorized use of your Digital Banking user ID, password, authentication method, or accounts;
- If there are conflicting claims as to the funds in any of your accounts;
- If you request us to do so;
- If you do not access Digital Banking for a period of 15 months or longer;
- Any time for any reason at our sole discretion.

You may cancel the Remote Deposit Capture service at any time by calling our Contact Center at (800) 748-0451 or visiting a branch location during normal business hours. Your access to the Service will be suspended within one (1) business day of our receipt of your instructions to cancel. Termination will not affect your liability or obligations under this Agreement for transactions which have been processed on your behalf. You will remain responsible for all outstanding fees and charges incurred prior to the date of termination. Termination will apply only to the Remote Deposit Capture service and does not terminate your other relationships with us. Any termination will not affect obligations arising prior to termination, such as the obligation to process any checks and electronic items (including returned electronic items) which were in the process of being transmitted or collected prior to the termination date. If any such liabilities exceed the amount in the applicable account, we may charge such excess against any of your other accounts with us, and you will pay immediately upon demand to us any amount remaining unpaid. You will also continue to retain checks and forward checks to us.

INDEMNIFICATION. You agree to indemnify, defend and hold harmless Financial Plus 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) Your failure to abide by or perform any obligation imposed upon You under this Agreement, (b) the willful misconduct, fraud, criminal activity, intentional tort or negligence of you or any of your representatives involving use of the service; (c) the actions, omissions or commissions of you, your employees, consultants and/or agents relating to the service; and (d) any transmission or instruction, whether or not authorized, acted upon by us in good faith. You shall be provided with prompt notice of any claims and given full authority and assistance (at your expense) for the defense of any such claims; provided we may

participate in such defense and settlement with counsel of our own choosing at our own expense; provided, further, however, you 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. We reserve the right to modify the Service from time to time without making prior notice to you, provided, however, we will give you at least 30 calendar days' notice prior to making any modifications to the Service which would materially alter functionality. Further, you agree the continued use of the Service constitutes agreement to the modification. If you wish to decline to be bound by the modification, you must terminate use of the Service. Otherwise, you will be deemed to have accepted and agreed to the modification.

ENFORCEMENT. You agree to be liable to us for any liability, loss, or expense as provided in this Agreement which we incur as a result of any dispute involving your accounts or services. You authorize us 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 Michigan as applied to contracts entered into solely between residents of, and to be performed entirely in, such state. 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 laws enacted by the State of Michigan, 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.

FINANCIAL INFORMATION. We may from time to time request information from you in order to evaluate a continuation of service to be provided by us under this agreement. You agree to provide the requested financial information immediately upon request by us, in the form required by us. You authorize us to investigate or reinvestigate at any time any information provided by you in connection with this agreement or service and to request reports from credit bureaus and reporting agencies for such purpose. Upon request by us, you hereby agree to comply with a request by us for information for the purpose of ensuring

you are in compliance with this agreement. If you refuse to provide the requested information, or if we conclude, at our sole discretion, the risk posed by you is unacceptable, we may terminate service according to the provisions hereof.