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### A. General Terms and Conditions

Merchant Capture (MC), the “Service”, allows you to deposit checks to your LGE Business Account from remote locations by electronically transmitting a digital image of your paper check(s) in accordance with this Agreement. This agreement establishes rules that govern the processing of deposited checks through Business Member’s account(s), the “Merchant”, using LGE’s MC through the Electronic Check Deposit (ECD), the “Service”. The acceptance of this Agreement or use of the Service means you agree to all terms and conditions in this Agreement. Read this Agreement carefully and keep a copy for your records.

LGE may amend, modify, add to, or delete from this Agreement from time to time. Such changes shall become effective as stated in any notice sent to you, the account holder. Examples of such notices may include, but are not limited to, newsletters, disclosures, electronic notices, etc. The continued use of the Service will indicate your acceptance of such changes. The Business Account Agreement continues to apply notwithstanding anything to the contrary in this Agreement.

### B. Business Member Eligibility

You understand that you must be a LGE Community Credit Union Business member, in good standing, to be eligible for these services. The Credit Union will determine whether you are eligible for Merchant Capture Services.

### C. What is Electronic Check Deposit?

These terms govern your use of the Credit Union’s Electronic Check Deposit Service and are incorporated by reference in and made a part of your Agreement.

Electronic Check Deposit allows you to make deposits to your Credit Union deposit account remotely by scanning checks and transmitting images of such checks to us in compliance with our requirements. If we accept the image for collection, Credit Union will then attempt to collect the item by presenting the image or converting the image to a substitute check. Unlike traditional check deposits, you retain the original paper check when you use this Service. The manner in which these substitute checks or images cleared, presented for payment, and collected, are determined by the Credit Union. The Credit Union may change, modify, add or remove all or portions from Electronic Check Deposit at any time, with or without notice to Business member.

You must fully comply with these Electronic Check Deposit Terms, the Agreement and all applicable law when you use Electronic Check Deposit. If you breach these Electronic Check Deposit Terms, Credit Union may immediately terminate your authority to use this Service.

#### **D. Access and Technical Requirements**

In order to access and use MC, you must have, at your expense, compatible hardware, and software as specified by the Credit Union. Specifications can be found in the Merchant Capture Training & Set Up Acknowledgement Form and the Credit Union's Electronic Statement Disclosure (Refer to Hardware/Software Requirements section). The Credit Union is not responsible for problems arising out of your personal equipment or internet connections when accessing these services.

#### **E. Training & Set-Up**

An employee of LGE Community Credit Union will install the software and deposit scanner and provide training to ensure the Merchant fully understands how to implement and use the Services. Merchant is responsible for installing drivers and maintaining updates, maintenance and repair to the scanner. For assistance during normal business hours, the Merchant may contact a Member Business Service representative at 770-424-0060.

LGE reserves the right to perform on site visits and audits to ensure the Merchant is abiding by the standards set forth in this agreement. This includes document destruction, patch updates and virus scan/updates.

#### **F. Authorized Users**

The Credit Union shall be entitled to rely on the apparent authority of any person who accesses the Services using valid Business member and user login IDs and passwords, including such persons who may not be signers on the account. Except as otherwise provided by law, you will indemnify LGE Community Credit Union and hold it harmless for any loss or expense caused by any person with the apparent authority to access the Service. You agree to provide each authorized user a copy of these terms in connection with their use of the Service. The Credit Union may elect to verify the authenticity or content of any transmission by placing a call to any authorized signer on your account at our discretion. Credit Union may deny your access to the Service without prior notice if we are unable to confirm any person's authority to access the Service or if we believe such action is necessary for security reasons.

#### **G. Security Requirements**

You understand the prevention of unauthorized usage of your accounts associated with the MC Service, and you agree to ensure the security of any personal mobile device

used to access the Service. You acknowledge that the internet is inherently insecure, and that all data occurring on the internet can be potentially monitored and read by others without the proper installation of, but not limited to, antivirus software, firewall and spyware detection, and keeping the physical device from theft or unauthorized use, at your expense. You agree to notify us immediately upon knowledge of unauthorized access to device and/or service and if you believe your passwords have been lost, stolen, and used without your permission.

## **H. Service Fee**

You are responsible for the monthly fee charge for use of the service along with other fees, such as for returned items and overdrafts, may apply as set forth in the “Business Account” Schedule of Fees. The Credit Union may change the fees for use of the service at any time pursuant to the Schedule of Fees.

## **I. Deposit Limits**

Credit Union may establish limits on the dollar amount and/or number of Items deposited through use of the Service from time to time. If you attempt to initiate a deposit in excess of these limits, Credit Union may reject your deposit. If we permit you to make a deposit in excess of the established limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times.

## **J. Prohibited Checks**

You agree that you will not scan and attempt to deposit any of the following:

1. Checks payable to any person or entity other than you;
2. Checks containing alterations to any of the fields on the front of the check;
3. Fraudulent checks, or checks that you should have known were fraudulent;
4. Checks that have been previously deposited at another institution via physical item, image or electronic funds transfer;
5. Checks from financial institutions located outside of the U.S.;
6. Checks that are not payable in U.S. dollars;
7. Checks that are more than six (6) months old;
8. Substitute checks as defined by Reg CC;
9. Remotely created checks, as defined in Reg CC (checks that, among other things, do not bear the signature of the person on whose account the check is drawn);
10. Travelers checks, U.S. Savings Bonds, money orders or U.S. Postal money orders;
11. Non-negotiable instruments, such as promissory notes; or
12. Checks drawn on any of your Credit Union account(s).

## **K. Representations and Warranties**

You make the following representations and warranties to us:

1. You and any user you authorize will use the Service only for lawful purposes and in compliance with all applicable rules and regulations and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.
2. You will transmit only Images of Items acceptable for deposit through the Service and will handle Items as agreed herein.
3. Items submitted for deposit through use of the Service are valid Items and you will reimburse and indemnify the Credit Union for all loss, damage, and expenses, including reasonable attorney's fees, incurred in defending any allegation that such Items are invalid or fraudulent.
4. Items have not been altered and each check image satisfies our image quality standards, as specified by us from time to time.
5. Each Item bears all required and authorized endorsements.
6. All images accurately and legibly represent all of the information on the front and back of the Item.
7. The image is NOT of any of the prohibited items listed in Section J
8. All information you provide to us is accurate and true.
9. You are fully authorized to execute this Agreement.
10. You are not engaged in any business that would result in your being a "money service business" as defined in the Federal Bank Secrecy Act and its implementing regulations.
11. You will use the Service in the manner required by this Agreement.
12. You have not knowingly accepted restricted transactions in connection with another person in unlawful internet gambling as defined in the Unlawful Internet Gambling Enforcement Act and Regulation GG (Prohibition on Funding of Unlawful Internet Gambling).
13. No subsequent transferees of your check image, or any substitute check created from your check image, including but not limited to Credit Union, a collecting or returning bank, drawer, drawee, payee or endorser, shall sustain a loss as the result of the fact that the check image or substitute check was presented for payment or returned instead of the original paper check.

14. All information you have provided to us is complete, accurate and true. Each time you scan and submit check images for deposit through Electronic Check Deposit, you also make all the warranties specifically set forth in and subject to the terms of the laws of the governing State's Revised Code Uniform Commercial Code (UCC) for the image as if it were an item subject to the terms of the UCC, including:

- (a) you are entitled to enforce the image;
- (b) all signatures on the image are authentic and authorized;
- (c) the image has not been altered;
- (d) the image is not subject to a defense or claim in recoupment of any party which can be asserted against you;
- (e) you have no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted image, the drawer; and
- (f) if the image is a demand draft, creation of the image according to the terms on its face was authorized by the person identified as drawer.

In addition to these warranties, you covenant that you will comply with Electronic Check Deposit Terms, this Agreement and applicable law.

#### **L. No Warranty**

YOUR USE OF ELECTRONIC CHECK DEPOSIT IS AT YOUR SOLE RISK. ELECTRONIC CHECK DEPOSIT IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. LGE COMMUNITY CREDIT UNION EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND AS TO ELECTRONIC CHECK DEPOSIT, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

#### **M. Endorsement of Checks**

You agree to endorse each check prior to submitting check Item through the Service. You must endorse each check Item as "[signature], For Credit Union Electronic Check Deposit only, [account #]" or as otherwise instructed by Credit Union before you scan the check. Checks received that are not endorsed in accordance with this provision may be rejected/returned.

#### **N. Deposited Checks and Image Quality**

You are responsible for inspecting and verifying the image quality of any image that you transmit, thus ensuring that the digitized images of the front and back of original check are legible for all posting and clearing purposes by the Credit Union. If an Image that we receive from the deposit to your Account is not of sufficient quality to satisfy our image

quality standards as we may establish them from time to time, we may reject the Image without prior notice to you.

A check image will be deemed received by us only when we provide an online confirmation receipt to you that we have received your check image. When we confirm receipt of your check image, the image will still be subject to review before we submit it for collection and may still be rejected/returned for any reason in our sole discretion. A confirmation is not a representation, warranty or other indication that the check image will be presented for collection or will be honored by any collecting or paying bank. Each Image must include the front and back of the Item and the following information must be clearly readable: amount, payee name, drawer signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and any endorsement or other information written on the check. Our processing agent will ensure that the image quality of your Images meets our minimum standards for substitute checks to comply with the Check Clearing for the 21st Century Act and Regulation CC. You agree that you will only seek to deposit "checks," as that term is defined in the 12 C.F.R. Section 229 et al, ("Reg CC" or any rules issued to replace this law), that are collectible (i.e., properly payable) through Electronic Check Deposit.

You understand that we have no obligation to review any deposited Item for accuracy, legibility, or for any other purpose. However, we may adjust information associated with the Item to facilitate processing.

#### **O. Funds Availability**

If an image you transmit through the Service is received and accepted before 3:00 p.m. Eastern Time on a business day that we are open, we consider that day to be the day of your deposit. Otherwise, we will consider that the deposit made on the next business day we are open. You agree, however, that Items transmitted through the Service are subject to the funds availability requirements set forth in the "Funds Availability Disclosure" section of the Credit Union's Business Account Agreement and Disclosures or Regulation CC of the Federal Reserve Board. We will make the first \$500 of a day's total deposits available by the first (1st) business day after 4:00 p.m. Eastern Time, after the day of your deposit and the remainder available by the second (2nd) business day after 4:00 p.m. Eastern Time, after the day of your deposit once credit is received.

#### **P. Proper Retention and Destruction of Original Check**

You agree not to allow an Item to be deposited or presented for payment more than once to the extent that it could result in the payment of the Item more than once. For any Image that you have transmitted, you shall be responsible for preventing the transmission of another Image of the Item or presentment of the Item by any other means. If any Item is presented or deposited more than once, whether by Image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.

Once your check image has been credited to your account, you must mark the original check as "Scanned" and you agree to retain the Item for sixty (60) calendar days and, during such 60-day period, securely store the Item and deliver any original Item to us upon our demand. You may not present the original check or any image or substitute check created from the original check for payment at any other financial institution. During this 60-day period, you must store the original paper check securely using precautions at least as secure as those you would use to protect a blank check and you must make the original paper check available to us for review at any time and as necessary for us to facilitate the clearing and collection process, to address third party claims, or for our own audit purposes. Should you fail to produce the original paper check, you authorize us to deduct the amount of the check in question from your account, regardless of whether such action may cause your account to not have sufficient funds, and to pay any associated fees. Immediately after this 60-day period, you must destroy the original paper check.

You will be fully responsible for the destruction of the checks. You agree to use commercially reasonable method(s) to destroy original the required retention period has expired. You agree to destroy and dispose of the original checks with a high degree of care, including selecting and implementing appropriate destruction and disposal procedures. You are required to implement such procedures to ensure that unauthorized persons do not access the original checks during the storage, destruction, and disposal process and, once destroyed, the original checks are no longer readable or capable of being reconstructed. The risk of loss associated with the accidental inclusion of a physical check in the check collection process or with a lost, destroyed, stolen, or misplaced check shall be exclusively on the Business member.

#### **Q. Returned Items**

You are solely responsible for any Item for which you have been given provisional credit. If a check deposited through this Service is dishonored, rejected, or otherwise returned as unpaid by the drawee bank, or the item is rejected, or returned by a clearing agent or collecting bank, for any reason, including, but not limited to, issues relating to the quality of the image, you agree that an original check will not be returned to you, but that we any charge back the amount of the original check or a substitute check. Without our approval, you shall not attempt to deposit or otherwise negotiate an original check if it has been charged back to you. You will reimburse us for all loss, cost, damage or expense caused by or relating to the processing of the returned item. You understand that we may convert items you deposit through Electronic Check Deposit into substitute checks, images, or ACH entries. As a result, in the event that your item is returned unpaid, you will only receive a copy of the substitute check or image, or in the case of ACH entries, the Automated Clearinghouse information.

#### **R. Termination**



The Credit Union is permitted to suspend or terminate any or all of the services at any time without prior notice to you should you breach any part of this Agreement. The Credit Union is permitted to terminate any or all services if we are unable to continue to provide such services. You may terminate your use of this Service at any time by providing the Credit Union with 30 calendar day's written notification. Notwithstanding termination, any image transmitted through the Service shall be subject to this Agreement.

With the onset of termination by either party, the return of LGE property (Scanner) and the un-installation process will be performed within 30 calendar days; (1) an LGE Employee will retrieve the scanner or the Business Member "Merchant" may return this property to any LGE Branch; (2) An LGE Employee conducts the un-installation process. The Service will continue until scanner is in LGE's possession to prevent further monthly fees addressed in the Business Schedule of Fees.

Adherence to Section P, **Proper Retention and Destruction of Original Check**, will survive the termination of this Agreement.

## **S. Indemnification and Liability**

In addition to the indemnifications provisions contained in the Business Account Agreement and Disclosures, you agree to indemnify, defend, and hold harmless the Credit Union and each of its directors, officers, employees, agents, successors, from and against any and all claims, demands, damages, liabilities, expenses (including reasonable attorneys' fees) or, other loss that arises from or relates to use of (a) the Service, (b) any image, or (c) attempt to duplicate the presentation of a check image via presentation of the original check or an image or substitute check derived from the original check and any liability that we may incur for processing an image or substitute check rather than the original paper check (d) your breach of the representations, warranties or covenants set forth in these Electronic Check Deposit Terms, or (e) any failure by you to comply with applicable laws and regulations, or (f) any acts or omissions of you or any third party. LGE COMMUNITY CREDIT UNION WILL NOT BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS OR REVENUES RESULTING FROM YOUR USE OR INABILITY TO USE ELECTRONIC CHECK DEPOSIT, EVEN IF WE ARE ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

## **T. No Waiver**

No waiver of any of the foregoing terms and conditions shall be effective unless it is in writing and signed by an authorized officer of LGE Community Credit Union, and no waiver shall be deemed to imply or constitute a continuing waiver or a waiver of any other term or condition.



**U. Jurisdiction and Governing Law**

This Agreement shall be construed in accordance with Georgia law and the laws of the United States of America. We and you have agreed to the exclusive jurisdiction of the State and Federal courts of the State of Georgia, for resolution of any dispute you have relating to the goods or services offered or promoted herein, or to this agreement.

**V. Severability**

If any portion of this agreement is deemed invalid or otherwise unenforceable, it shall be deemed amended in order to achieve as closely as possible the same effect as originally drafted. Any invalid or unenforceable portion shall be construed as narrowly as possible in order to give effect to as much of the agreement as possible. If performance of the Service would result in violation of any law, regulation, or governmental policy, this Agreement shall be deemed amended to the extent necessary to comply therewith.

Unauthorized use of this service is strictly prohibited.

**Electronic Signature:** Your enrollment to use the Service or your use of the Service constitutes your signature, acceptance and agreement to the terms and conditions of this Agreement as if actually signed by you in writing. Further, you agree that no certification authority or other third party verification is necessary to the validity of your electronic signature. You agree that the lack of such certification or third party verification will not in any way affect the enforceability of your signature or any resulting contract between you and the Credit Union.

**LGE Community Credit Union**

**Company:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_  
(President or other duly authorized officer)

Date: \_\_\_\_\_

Date: \_\_\_\_\_