

## Consumer Mobile Deposit Capture Agreement

SPIRE Credit Union Mobile Deposit Capture Agreement (“Agreement”) provides the general rules that apply to SPIRE Credit Union Member’s use of Mobile Deposit Capture Product (“MDCP”) described below and provided by SPIRE Credit Union (“The Credit Union”). The terms and conditions of this Agreement supplement the SPIRE Digital Banking Agreement and Disclosure and your existing Account Agreements and Disclosures and the Funds Availability Policy Disclosure governing your accounts with SPIRE.

### Definitions

The words "account" and "accounts" mean the SPIRE account in which you are either the owner or joint owner.

The words "you," "your," and "yours" mean the person(s) using the Service.

The words "we," "our," "us," and "Credit Union" mean SPIRE Credit Union.

“Business day” means every day, excluding Saturdays, Sundays, and federal holidays.

“Digital Banking” means the comprehensive list of banking services delivered over the Internet, through a wide variety of electronic devices (desktop computers, laptop computers, tablets, cellular phones, etc.).

This agreement is governed by and subject to all applicable federal laws and the laws of the State of Minnesota, as well as regulations and rules that may be promulgated in accordance with federal and state law. When used in this agreement, the term “applicable law” includes all of the above.

Your application for use of MDCP, our notification of approval of your application, and our Membership and Account Agreement and the Funds Availability Policy Disclosure are hereby incorporated into and made a part of this Agreement. In the event of a discrepancy between this Agreement and your application, our approval, or our Membership and Account Agreement or the Funds Availability Policy Disclosure this Agreement will control.

### 1. Description of Product

MDCP includes the software, hardware and processes that allow you to electronically capture an image (or picture) of an eligible check or other item using a mobile capture device, such as a smartphone or similar device, and transmit the item to The Credit Union for deposit into your designated account from any remote location.

### 2. Acceptance of These Terms

Your use of MDCP constitutes your acceptance of this Agreement. The Credit Union reserves the right, in its sole discretion, to change, modify, add or remove portions from the MDCP as it deems necessary or desirable. The Credit Union will provide you notice at least thirty

(30) days prior to the effective date of the change and will provide a link or written Internet address to a location on The Credit Union’s website where the change is described. It is your responsibility to read the

notice of change. Your continued use of MDCP after notification shall constitute acceptance of any changes.

### 3. Term and Termination

This Agreement shall be effective as of the date the Member begins the use of MDCP and will continue until terminated in writing by Member or The Credit Union.

#### Termination of the Service

You may, by written request, terminate the Service(s) provided for in this Agreement. SPIRE may terminate your use of the Service at any time. In the event of termination of the Service, SPIRE will attempt to contact you and you will remain liable for all transactions performed on your Account. Further, you agree that, if SPIRE is notified that you have included the credit union in the filing of a petition of bankruptcy or you cause a loss to SPIRE, we may revoke or refuse to grant you service and/or SPIRE Online Banking account access to your account.

### 4. Rules

**4.1 Eligible and Ineligible Items.** The following lists describe items which may and may not be used with MDCP:

#### Eligible Items

- Checks drawn on U.S. financial institutions
- Checks payable to multiple parties if account is owned by same
- Money Orders
- Traveler's Checks
- Cashier's Checks

#### Ineligible Items

- Foreign items
- Savings bonds
- Checks payable to another person
- Items that are missing processing information, such as proper endorsement or illegible or missing account or bank routing numbers
- Items that have been previously electronically captured and endorsed
- Bond coupons
- Treasury Tax & Loan (TTL) payments
- Pay on sight items
- Remotely created checks
- Any item that is stamped with a "non-negotiable" watermark.

- Any item issued by a financial institution in a foreign country.
- Altered checks
- Returned items
- Checks that are postdated or checks dated more than 6 months prior to date of deposit

**4.2 Adverse Change.** If The Credit Union, in its sole judgment, determines that there has been an adverse change in Member's financial condition, The Credit Union may terminate this Agreement effective immediately.

**4.3 Funds Availability.** Items received through MDCP will be subject to the same availability schedule, requirements and restrictions as paper checks deposited in our offices. The Funds Availability Policy Disclosure (availability schedule) can be obtained at all offices and online at our website.

**4.4 Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through MDCP as "For remote deposit only, account #\_" or as otherwise instructed by The Credit Union. You agree to follow any and all other procedures and instructions for use of MDCP as The Credit Union may establish from time to time

## 5. The Credit Union Responsibilities

**5.1 Acceptance of Items.** The Credit Union will credit your account for all qualifying items if received by the deadline in correct and usable form. As set out in detail in Section 6.6.2 below, The Credit Union reserves the right to reject any item that is inaccurate or not eligible for processing, and is not responsible for any delays in funds availability as a result of rejected items.

**5.2 Return Items.** The Credit Union will process and return unpaid items in accordance with The Credit Union's published guidelines and schedules, as governed by applicable law, and will as necessary, convert check images into substitute checks for processing.

**5.3 Notice of 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 your account, in the event such item is dishonored, you authorize The Credit Union to debit the amount of such item from the Account.

**5.4 History.** The Credit Union will provide MDCP history in an appropriate format and media necessary to operate MDCP, including balance information and the ability to display any MDCP transaction deposited.

**5.5 Liability and Disclaimer.** The Credit Union shall not be liable to Member other than as required by applicable law when the procedures of The Credit Union are followed and such procedures are reasonable. The Credit Union is not responsible for detecting Member errors contained in any deposit created and transmitted to The

Credit Union by Member. The Credit Union is not responsible for loss resulting through error by other banks or other entities involved in the collection process.

- 5.6 Rejection of Deposit.** The Credit Union is 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 your account due to an item being returned
- 5.7 Reliance on Information Sent.** The Credit Union shall be entitled to rely on any information sent via Member's remote capture device through MDCP. The Credit Union is not responsible for any losses that may result from the unauthorized use of MDCP.
- 5.8 Email Address.** You agree to notify The Credit Union immediately if you change your email address, as this is the email address where The Credit Union will send you notification of receipt of remote deposit items. The address to send your notice to is listed on the last page of this Agreement.

## 6. Member Responsibilities

- 6.1 Documentation Requirement.** Member agrees to provide information as required by applicable law or by The Credit Union, when requested.
- 6.2 Ensuring that Data is Accurate and Usable.** The Member agrees that it is responsible for insuring that all items are correct and usable, both in content and form. Transmitted items will be rejected or may be held for further research and verification if they exceed the exposure limit, if the image quality is unacceptable, if there has been a duplication of items, if the transaction is out of balance or otherwise cannot be processed, is inaccurate, incomplete or inadequate. If rejected, it is the sole responsibility of Member to correct and resubmit the information to The Credit Union. Member is responsible for all delays in funds availability for any items rejected or held.
- 6.3 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 indorse the back of the original check. You agree to restrictively endorse any item transmitted through "For remote deposit only, account # \_\_\_\_\_" or as otherwise instructed by The Credit Union.

If, at a later date, the original paper check is presented for payment at any financial institution and you did not indorse the back of the check with "For remote deposit only account # \_\_\_\_\_" the amount of the original check will be deducted from your account and your account may go negative. Please see Regulation CC for additional information.

The image of the check transmitted to us 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.

- 6.4 Receipt of Deposit Verification.** If Member does not receive a receipt of deposit following a transmission, it is the sole responsibility of Member to determine why the transmission was not received, and The Credit Union is not responsible for determining the cause or for processing the deposit.
- 6.5 Daily Item Balancing.** Member agrees to verify MDCP items, using online banking, deposited on the previous business day and immediately notify The Credit Union of any error. The Credit Union will make every effort to assist Member in resolving transmission and posting errors, but all adjustments will be made in accordance with The Credit Union’s ACCOUNT AGREEMENT AND DISCLOSURES and applicable law.
- 6.6 Risk Management.** Member shall be responsible for protecting against unauthorized access to MDCP information and data in accordance with applicable law, which includes, but is not limited to the following:
- a) Maintaining mobile access device with recommended identification codes, settings, software and parameter updates provided by The Credit Union and/or your mobile access device vendor;
  - b) Changing passwords periodically or when requested by The Credit Union;
  - c) Using virus and malware detection software approved by your mobile access device vendor as available;
  - d) Avoiding the use of operating system or access device features that “remember” pass codes or account information;
  - e) Permanently destroying or erasing all memory components, hard drives and all electronic media used with MDCP that have become obsolete, unusable or which are defective.
  - f) Destroying or storing replaced memory cards in a secure environment before activating new access devices; and
  - g) Notifying The Credit Union immediately of any breach of access device or any unauthorized access to confidential information. Member further agrees to notify The Credit Union before making any oral or written statements that may be published by newspaper, radio, television or Internet.
- 6.7 Procedural Requirements.** Member agrees that it has access to annually updated rules and regulations for MDCP and agrees to follow the procedures defined in information provided to Member by The Credit Union.
- 6.8 Disposal of Transmitted Items.** You agree to retain any item deposited through MDCP

for at least 60 calendar days from the date of the image transmission. After 60 days you agree to destroy the item that you transmitted as an image, mark it “VOID”, or otherwise render it incapable of further transmission, deposit, or presentment. You are required to implement such procedures to ensure that the original items are not accessible by unauthorized persons during the storage, destruction and disposal process and, once destroyed, the original items are no longer readable or capable of being reconstructed. During the time the retained item is available, you agree to promptly provide it to The Credit Union upon request.

- 6.9 Securing Images on Mobile Devices.** When using MDCP, 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.
- 6.10 Periodic Statement.** Any remote deposits made through MDCP will be reflected on your monthly account statement. You understand and agree that you are required to notify The Credit Union of any error relating to images transmitted using the Services by no later than 60 days after you receive the first monthly 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.
- 6.11 Limitations on Frequency and Dollar Amount.** You understand and agree that you cannot exceed the limitations on frequency and dollar amounts of remote deposits that are set forth by The Credit Union. Limits for deposits and availability of deposits will be set based on average balances, relationship and history with SPIRE. Limits are calculated against all outstanding items, which are items that have been deposited but not yet paid.

**If a hold is not placed on the item(s) deposited by the credit union it does not mean that the funds are guaranteed or have been collected. You understand that this is a provisional credit and we have the right to hold or reclaim funds after the deposited item(s) have been accepted following Regulation CC guidelines.**

- 6.12 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 The Credit Union for deposit or a breach of this Agreement, you will immediately contact us regarding such error or breach as set forth below.

Telephone us at: 651-215-3500 or 1-888-347-7473

or e-mail us at [info@myspire.com](mailto:info@myspire.com)

## 7. Member's Warranties

Member's Warranties. You make the following warranties and representations with respect to each image of an original check you transmit to The Credit Union utilizing MDCP:

- 7.1 You accept responsibility for periodically changing your SPIRE Online Banking password and protecting the integrity of the Logon ID to protect unauthorized transactions and account access. Granting access to your account via SPIRE Online Banking to any non-owner will make you financially liable for all losses or misuse of your account(s).
- 7.2 Each image of a check transmitted to The Credit Union 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.
- 7.3 The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
- 7.4 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.
- 7.5 Other than the digital image of an original check that you remotely deposit through your Services, there are no other duplicate images of the original check.
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 You have not knowingly failed to communicate any material information to The Credit Union.
- 7.10 You have possession of each original check deposited using the Services and no party will submit the original check for payment.
- 7.11 Files and images transmitted to The Credit Union will contain no viruses or any other disabling features that may have an adverse impact on The Credit Union's network, data, or related systems.

## 8. Guarantee Specific to Deposits Received for Credit to a Business Account.

Your use of MDCP for the purpose of depositing to a Business Account constitutes your understanding and agreement that you may be personally liable for any expenses The Credit Union incurs in attempting to obtain final payment for the item in question, outside of the routine costs associated with item processing, in the event of a default by 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 SPIRE enforcing this Guarantee. This Guarantee shall benefit SPIRE and its successors and assigns.

## 9. Payment to the Credit Union

Mobile Deposit Capture is a free service. At The Credit Union's sole discretion, the fee may be adjusted in the future after you have received at least thirty (30) days' notice. If you agree to the fee change, your continued use of MDCP will constitute acceptance.

The Credit Union is not responsible for any fee that may be charged to you by your mobile device provider.

## 10. Liability and Indemnity

The Credit Union's responsibility and liability to Member for any liabilities, claims, losses, costs, expenses (including attorney's fees and costs) or damages of any kind, including without limitation direct or indirect, special, incidental, consequential and punitive damages, arising in connection with any aspect of this MDCP, including but not limited to the use or the inability to use any MDCP feature, or any failure, error, omission, interruption, defect, delay in operation or transmission, computer viruses or malware, or any line or system failure related to MDCP, are strictly limited to those expressly provided by applicable law. MEMBER AGREES TO HOLD HARMLESS, DEFEND AND INDEMNIFY THE CREDIT UNION, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, AND ALL PERSONS IN PRIVITY WITH IT FROM AND AGAINST ANY LIABILITIES, CLAIMS, LOSSES, COSTS, EXPENSES (INCLUDING ATTORNEY'S FEES AND COSTS) OR DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL AND PUNITIVE DAMAGES, ARISING IN CONNECTION WITH ANY ASPECT OF MDCP, EVEN IF THE LOSSES RESULTED FROM THE NEGLIGENCE OF THE PARTIES INDEMNIFIED HEREIN. THE CREDIT UNION'S LIMITED RESPONSIBILITY AND LIABILITY AS SET FORTH HEREIN CONSTITUTES MEMBER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS AGREEMENT IN LIEU OF ALL OTHER REMEDIES, WHETHER EXPRESSED OR IMPLIED AND WHETHER AT LAW OR IN EQUITY, AND THE CREDIT UNION HEREBY DISCLAIMS, AND MEMBER WAIVES AND RELINQUISHES ITS RIGHT TO ANY OTHER REMEDY AND CLAIMS.

## 11. LIMITATION OF LIABILITY.

Limitation of Liability. THE CREDIT UNION AND EACH THIRD PARTY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE HEREUNDER, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. THE SERVICES AND ANY SOFTWARE PROVIDED BY OR ON BEHALF OF A THIRD PARTY UNDER THIS AGREEMENT ARE PROVIDED "AS IS." WITHOUT LIMITING THE FOREGOING, EACH THIRD PARTY DOES NOT REPRESENT OR WARRANT, AND EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, THAT THE OPERATION OF THE SERVICES OR THIRD PARTY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT THE



FUNCTIONS OR FEATURES OF THE SERVICES OR SOFTWARE WILL MEET MEMBER'S REQUIREMENTS OR THAT THE SERVICES OR SOFTWARE WILL OPERATE COMPATIBLY WITH PRODUCTS, SERVICES, HARDWARE OR SOFTWARE USED OR OFFERED BY ANY OTHER PARTY.

IN NO EVENT WILL ANY THIRD PARTY BE LIABLE HEREUNDER FOR AN AMOUNT EXCEEDING THE LESSER OF THE ACTUAL DAMAGES INCURRED BY MEMBER OR THE FEES PAID BY MEMBER FOR USE OF THE RESPECTIVE THIRD PARTY SOFTWARE IN THE TWELVE (12) MONTHS PRIOR TO WHEN THE EVENT GIVING RISE TO THE LIABILITY TOOK PLACE, WHETHER IN CONTRACT, TORT, OR OTHERWISE.

IN NO EVENT WILL A THIRD PARTY BE LIABLE FOR ANY LOSS OF PROFITS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR OTHER CONSEQUENTIAL DAMAGES (INCLUDING ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, OR LOSS OF BUSINESS) IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Indemnification. You shall indemnify, defend and hold harmless each Third Party and its respective affiliates, officers, employees and agents from and against any third party claims, suits, proceedings, actions or demands, including claims of another financial institution, business entity or governmental authority, and all losses, liabilities, damages, fines, penalties, costs and expenses, including court costs and reasonable attorney fees and expenses, arising from such claims, to the extent such claim is related to your use of the Third Party Software, unless such claim directly results from an action or omission made by such Third Party in bad faith.

## 12. Warranties

YOU UNDERSTAND THAT THE CREDIT UNION 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 MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE CREDIT UNION IS NOT RESPONSIBLE FOR ANY LOSS, INJURY OR DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, CAUSED BY THE INTERNET PROVIDER, ANY RELATED SOFTWARE, OR THE CREDIT UNION'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.

## 13. Confidentiality

- i. "Third Party Confidential Information" means trade secrets, know-how, data, methods, documents, devices, software code, technology, technical information, as well as, business, financial or customer information of a Third Party. Confidential Information will not include any information that you can prove: (i) was publicly known in the trade or business prior to its receipt of the Third Party Software; or (ii) was entirely and independently developed by the Customer without any use or reference to Confidential Information of the other Party.
- ii. You acknowledge that Third Parties own all rights, titles and interests, including all IP Rights in Third Party Confidential Information. You may use Third Party Confidential Information only in connection with its utilization of the Third Party Software and The Credit Union's services, and not for any other purpose. You

will protect Third Party Confidential Information from unauthorized use or access.

- iii. You acknowledge that Third Party Confidential Information may still be under development or may be incomplete or may relate to products that are under development or planned for development. NO THIRD PARTY MAKES ANY WARRANTIES REGARDING THE ACCURACY OF ITS CONFIDENTIAL INFORMATION OR IT'S USE FOR A PARTICULAR PURPOSE. Neither The Credit Union nor any Third Party grants any license or right to Third Party Confidential Information except for the limited use of such information in connection with this agreement.

#### **14. Authorized Equipment and Software**

Member agrees to purchase and use equipment and software that are compatible with MDCP and approved by The Credit Union. The Credit Union shall have no liability or responsibility for any damages, losses or claims by Member as a result of any software or equipment used in conjunction with MDCP and transactions contemplated by this Agreement, and Member's sole recourse with respect to any such damages, losses or claims shall be against the manufacturer or provider of such software and equipment.

#### **15. Unavailability of Services.**

You understand and agree that MDCP may at times be temporarily unavailable due to The Credit Union's system maintenance or technical difficulties including those of the Internet service provider, cellular service provider and Internet software.

In the event MDCP is unavailable, you acknowledge that you can deposit an original check at The Credit Union's branches or through our ATMs or by mailing the original check to The Credit Union at SPIRE Credit Union PO Box 130670 Roseville, MN 55113. It is your sole responsibility to verify that items deposited using MDCP have been received and accepted for deposit by The Credit Union. However, The Credit Union will email notification of items that are rejected by the next business day following rejection.

#### **16. Miscellaneous**

- 16.1 Benefits and Assignment of Agreement.** The terms and provisions of this Agreement shall insure to the benefit of and be binding upon Member, The Credit Union and its respective successors and assigns. Member may not assign its rights under this Agreement. The Credit Union may assign or delegate certain of its rights and responsibilities under this Agreement as it deems necessary.
- 16.2 Compliance with Law.** You represent, warrant, and covenant that you will comply with all applicable laws, rules, regulations and prevalent industry standards in your use of Third Party Software, including compliance with applicable requirements under state and federal laws and regulations related to data security and nonpublic personal information, as defined or used in such applicable law or regulation
- 16.3 Entire Agreement.** This Agreement along with application to use SPIRE's Mobile Deposit Capture service constitutes the entire understanding

between the parties as to the MDCP, and supersedes any and all previous agreements with respect thereto.

- 16.4 Relationship to Other Disclosures.** The information in this Agreement applies only to the MDCP described herein. Provisions in other disclosure documents, as may be revised from time to time, remain effective for all other aspects of the Account.
- 16.5 No Oral Agreements.** No officer or employee of The Credit Union has authority to orally modify any provision of this Agreement. Member acknowledges that there are no oral conditions, representations, agreements or commitments affecting the Agreement and that it has not entered into this Agreement in reliance upon any representation made by The Credit Union.
- 16.6 Ownership of System.** The software provided by The Credit Union to you contains software provided by one or more third parties (“Third Party Software”) under contract with The Credit Union (each a “Third Party”).

Restrictions. You agree that you will not yourself, and will not permit any parent, subsidiary, affiliate, agent or other third party to: (i) sell, provide, distribute, lease, rent, lend, relicense, sublicense, or display Third Party Software or related documentation except as necessary to utilize the Software for mobile check deposits; (ii) decompile, disassemble, reverse engineer or attempt to reconstruct the Third Party Software, identify or discover any source code, trade secret, know-how, or ideas underlying user interface techniques or algorithms of Third Party Software by any means whatsoever, or disclose any of the foregoing; (iii) create any derivative works or any other software program based upon Third Party Software or related documentation or modify Third Party Software in any way; or (iv) use Third Party Software or documentation to develop or enhance any product that competes with Third Party Software.

Intellectual Property. The Credit Union or the Third Parties, as the case may be, retain all rights, title and interests, including intellectual property rights, in and to the Third Party Software and services, any improvements, translations, modifications or derivatives thereof, and any related documentation provided or made available to you, including all intellectual property rights therein. You acknowledge that the Third Party Software and related documentation contain copyrighted material, trade secrets, and other material that is proprietary to one or more Third Parties. Except as expressly stated herein, this Agreement does not grant you any intellectual property rights in the Third Party Software, services, or any related documentation or materials and all rights not expressly granted herein are reserved by The Credit Union and the Third Parties. Customer agrees to assign, and hereby does assign, to the Third Party all rights, title and interest, including all intellectual property rights, in any ideas, modifications, enhancements, improvements, inventions, works of authorship or any other suggestions that you or any of its employees or agents propose, create, author or develop relating to that Third Party’s Software or services, and will take all necessary action, including execution of relevant documents, to perfect such party’s ownership thereof.

- 16.7 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.

- 16.8 Severability.** If any of the provisions of this Agreement are deemed invalid under any applicable law, all remaining provisions shall remain in full force and effect.
- 16.9 Notice.** Notices from The Credit Union to Member may be made by any method selected by The Credit Union, including United States Postal Service, email, facsimile or text message. Notices from Member to The Credit Union shall be made through United States Postal Service or email. Member may advise The Credit Union by telephone of any issue needing immediate attention, but such notice must be followed up in writing. All such notices will be made to the address listed and shall be effective upon receipt.
- 16.10 Evidence.** If we go to court for any reason, we can use a copy, microfilm, microfiche, or photograph of any document or person to prove what you owe or that a transaction has taken place and the copy, microfilm, microfiche, or photograph will have the same validity as the original.
- 16.11 Headings.** Headings to sections of this Agreement are included for ease of reference and shall not be deemed to create rights, remedies, claims or defenses arising under this Agreement.
- 16.12 Relationship.** This 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.
- 16.13 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

## Contact Information:

SPIRE Credit Union  
PO Box 130670  
Roseville, MN 55113

Phone: 651-215-3500  
Toll Free: 888-347-7473