



## Deposit Management Program Terms and Conditions

### 1. Program Introduction

The Deposit Management Program (the “Program”) is offered by Achieva Credit Union (the “Credit Union”) as an option to place an amount of your cash balances, held beneficially in your name, at other depository institutions (“Program Institutions”) which are insured by the National Credit Union Administration (“NCUA”) or the Federal Deposit Insurance Corporation (“FDIC”) and are participants in such Program. Your funds will be deposited in demand deposit accounts (“DDAs”) or money market deposit accounts (“MMDAs”) at Program Institutions, and your funds in these Program Institutions are hereinafter referred to as “Program Deposits”, subject to the limitations described herein. By choosing to partake in the Program, you appoint the Credit Union as your authorized agent pursuant to the terms and conditions set forth herein (the “Terms and Conditions”). ModernFi CUSO LLC through its affiliate, ModernFi Deposit Services LLC, operates the Program as the administrator (the “Administrator”). These Terms and Conditions do not replace, but supplement, any and all other agreements (whether now or in the future) that govern any account maintained by you at Credit Union (whether now or in the future) or any other Credit Union services utilized by you (whether now or in the future), including the Universal Account Agreement and its arbitration provisions all of which are incorporated by reference as if set forth in full herein.

**YOU ACKNOWLEDGE THAT YOU HAVE RECEIVED AND CAREFULLY READ THESE TERMS AND CONDITIONS IN CONNECTION WITH CHOOSING TO ENROLL IN THE PROGRAM.**

### 2. Summary of Terms & Conditions

This Section 2 is a summary of certain features of the Program. It is prepared for your convenience and must be read in conjunction with the more detailed disclosures below.

**Deposit Management Program:** From time-to-time, the Credit Union may provide you services whereby the Credit Union will deposit your funds into other insured depository institutions through a deposit management program administered by a third-party service provider and held in custody by a third-party custodian (the “Custodian”). At any given time, all, none, or a portion of the funds deposited into your deposit account associated with the Program (“Account”) may be placed into the Program for the purpose of being eligible for federal insurance coverage and held beneficially in your name at Program Institutions. The Program is operated by the Administrator. As a part of the Program, the Administrator has developed a network of federally insured depository institutions located throughout the United States, as previously defined as Program Institutions. See further disclosure for the Program in Section 3.



By agreeing to these Terms and Conditions and by executing Exhibit A, you authorize the Credit Union to utilize the Program with respect to funds deposited into and withdrawn from your Account. In addition, you acknowledge and authorize the Credit Union to utilize the Administrator as agent to provide and operate the Program. The Custodian is authorized for all purposes to rely on instructions from the Administrator with respect to the selection of Program Institutions in which your funds are deposited. The Administrator may use the services of one or more qualified Custodians as it deems suitable for the purpose of fulfilling the role of custodian for the Program. In addition, you authorize the Custodian to deposit your beneficial funds in any Program Institution and acknowledge that you may opt out of any particular Program Institution by contacting either the Credit Union or the Administrator. *You understand that your funds at such Program Institution may not be fully insured by the NCUA or FDIC in the event the aggregate balance of all accounts beneficially owned by you at such Program Institution exceeds the then current Standard Maximum Share Insurance Amount ("SMSIA") or Standard Maximum Deposit Insurance Amount ("SMDIA"), respectively, and thus, you may be subject to loss in the event of a failure of a Program Institution.*

**Access to Funds:** You can only access your Program Deposits through your relationship with the Credit Union, which then works with the Administrator and the Custodian to deposit funds to, and withdraw funds from, the Program.

**Interest and Fees:** You acknowledge that you may not earn any interest on balances beneficially held by Program Institutions via the Program. The Administrator earns fees based on the amount of money in the Program, including your Program Deposits. The Credit Union and the Custodian may also earn fees for their services with respect to the Program. See Section 3.E, Interest, Fees, and Expenses.

**Risks of the Program:** *If you have funds at a Program Institution outside the Program (whether directly or indirectly through other intermediaries, such as broker-dealers), this may negatively impact the amount of funds covered by the NCUA or FDIC at such Program Institution. If your deposits in a Program Institution exceed the then current SMSIA or SMDIA, the excess funds are not covered by the NCUA or FDIC. You are solely responsible for monitoring your deposits in Program Institutions outside of the Program and within the Program. As such, you should review the list of Program Institutions carefully. The list of Program Institutions may change from time to time, and you may contact the Credit Union directly to obtain the most recent list. You are solely responsible for instructing the Credit Union to exclude certain Program Institutions from receiving your Program Deposits. See Sections 3.A, Account Specifics, 3.B, "NCUA and, FDIC Insurance, and 3.I, Ability to Exclude Program Institutions. In the event of a failure of a Program Institution, there may be a time period during which you may not be able to access your money. Where your funds are held in MMDAs or share accounts, the return of your funds to your Account at the Credit Union may be delayed.*

Program Institutions are permitted to, but rarely do, impose a delay of up to seven days on any withdrawal request from an MMDA or a share account.

### **3. Detailed Terms & Conditions**

#### **A. Account Specifics**

The Account can be used to earn interest on your funds deposited into the Program. When you open an Account, the Credit Union, facilitated by the Administrator, opens sub-deposit accounts within an omnibus custody account (each a “Sub-Account”) for your benefit. The Credit Union acts as your agent in respect of such account. The Custodian is appointed as the Credit Union’s agent, and, acting on the Credit Union’s behalf and pursuant to instructions from the Administrator, establishes and maintains the Sub-Accounts used in the Program. The Sub-Account structure is used to accommodate Program mechanics and will not affect the way you use your Account.

Your Account and each Sub-Account are considered a single account for purposes of your deposits, withdrawals balances, and federal insurance coverage, and will appear as such on your statements and when you view your account.

#### **B. NCUA and FDIC Insurance**

The funds in each of your Sub-Accounts at each Program Institution are insured up to \$250,000 by the National Credit Union Share Insurance Fund (“NCUSIF”) or the Deposit Insurance Fund (“DIF”), subject to applicable limitations and restrictions of such insurance. The Credit Union may deposit your funds into other insured depository institutions through a deposit management program. Doing so makes your deposits eligible for extended NCUA or FDIC insurance coverage from the Program Institutions.

The NCUA is an independent agency created by the United States Congress that administers the NCUSIF. The FDIC is an independent agency created by the United States Congress that manages the DIF, providing deposit insurance to depositors in commercial banks and savings institutions legally chartered to offer banking services in the United States. The NCUSIF and DIF are backed by the full faith and credit of the United States

government. The NCUSIF and DIF cover the depositors of a failed insured depository institution dollar-for-dollar, principal plus any interest accrued, through the date of a

failure, up to at least the then current SMSIA or SMDIA. As of 7/22/2010, the SMSIA and SMDIA are both \$250,000. Because funds are placed at multiple Program Institutions, and assuming that you have no funds in any of the Program Institutions, your funds are eligible for pass-through insurance through the NCUSIF or DIF once funds arrive at the Program Institutions. Eligibility for pass-through insurance depends on proper titling of accounts and the maintenance of accurate records identifying your beneficial interests by the Credit Union, the Administrator, and the Custodian. You are responsible for informing the Credit Union of deposits maintained by you outside the Program at each Program Institution that may affect coverage.

The Program allocates funds solely on data provided to the Administrator by the Credit Union. Therefore, if you maintain funds at any of the Program Institutions directly or through an intermediary, your funds at such Program Institution may not be fully insured in the event the aggregate balance of all accounts beneficially owned by you at such Program Institution exceeds the then current SMSIA or SMDIA. In the event you have funds at any of the Program Institutions, your deposit insurance coverage may be adversely affected, and your principal and any accrued interest may not be fully insured, even if the total amount deposited in the Program Institution through the Program is less than the SMSIA or SMDIA. Therefore, you may be subject to loss in the event of a failure of a Program Institution if the aggregate amount of your beneficial funds exceeds the SMSIA or SMDIA at such Program Institution. To learn more about the NCUSIF, please carefully review the information provided by the NCUA at: <https://ncua.gov/consumers/share-insurance-coverage> . To learn more about the DIF, please carefully review the information provided by the FDIC at: <https://www.fdic.gov/deposit/deposits>.

### **C. Program Mechanics**

In the event funds from your Account are deposited into Program Institutions via the Program, the Credit Union will deliver funds as your agent to the Custodian. The Administrator is responsible for directing the Custodian to make deposits, in specific amounts, at one or more of the Program Institutions. In the event the Credit Union requests your funds to be returned from the Program to the Credit Union, it will send notice to the

Administrator. The Administrator will then direct the Custodian to make withdrawals, in specific amounts, from one or more Program Institutions. The Custodian will then return funds to the Credit Union in the amount requested by the Credit Union. You are not required or permitted to take any action with respect to the Program, other than opting out of specific Program Institutions.

Your Deposits in the Program will be placed for the purpose of being eligible for federal insurance coverage, with priority given to placement at NCUA-insured credit unions. In the event that you seek deposit insurance coverage exceeding the maximum amount available through NCUA-insured Program Institutions participating in the Program, or there is insufficient capacity at such Program Institutions to satisfy your desired insurance levels, the Administrator may facilitate the placement of excess Deposits at one or more Program Institutions insured by the FDIC (each, an “Overflow Institution”). Deposits will be held at Overflow Institutions on a provisional basis and shall be transferred to NCUA-insured Program Institutions when capacity becomes available, in accordance with the allocation methodologies employed by the Administrator.

#### **D. Program Institutions**

The Administrator has built a network of insured depository institutions, also referred to herein as the Program Institution, through which funds deposited by you at the Credit Union may be deposited into Sub-Accounts at one or more of the Program Institutions, along with funds from other persons. The use of the Program will not create a direct relationship between you and: (i) any of the Program Institutions, (ii) the Administrator or (iii) the Custodian. The Administrator, as the record-keeping agent of the Credit Union, maintains records of the balance of each depositor beneficially held at each Program Institution.

#### **E. Interest, Fees, and Expenses**

You acknowledge that you may or may not earn any interest on balances beneficially held by Program Institutions via the Program. If your Account is interest-bearing, the interest rate paid to you is set by the Credit Union and is determined by the Credit Union in reference to rates payable by Program Institutions in the Program. The rate you earn on your Program Deposits may be higher or lower than the rates available to depositors making non-Program



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Deposits with Program Institutions directly. Interest will be posted to your Account by the Credit Union, facilitated by the Administrator, subject to the current disclosures and other terms of the applicable Account. You acknowledge that the Credit Union, the Administrator, and any intermediary may earn fees and other revenues paid by the Program Institutions and the amount of the fees received by the Credit Union, the Administrator, and

any intermediary may affect the interest paid to your Account by the Credit Union. Refer to the Consumer Schedule of Fees for complete details.

#### **F. Agency Relationship**

Consistent with the Program Terms and Conditions, you hereby agree to participate in the Program and to appoint the Credit Union as your agent with respect to the Program, including to open and maintain one or more Sub-Accounts at one or more Program Institutions, other than the Credit Union. You further authorize the Credit Union to, in turn, appoint the Administrator of the Program and the Custodian as its agent with respect to the Program. The Sub-Accounts shall be held in the name of the Custodian, as the Credit Union's agent, and shall be owned beneficially by you and other designated depositors participating in the Program. You direct the Credit Union, as your agent, to effect deposits to and withdrawals from such Sub-Accounts pursuant to the Program Terms and Conditions.

Unless terminated by the Credit Union, your authorization and agency appointment set forth above shall remain in effect until the Credit Union receives a written notice of termination and the Credit Union has been afforded a reasonable opportunity to act on such written notice.

#### **G. Information about the Administrator**

The Administrator, ModernFi CUSO LLC and its affiliate, ModernFi Deposit Services LLC, are Delaware limited liability companies. The Administrator is not a credit union, bank, broker-dealer, or investment adviser.

#### **H. Withdrawals**

Withdrawals from your Program Deposits are made through the Credit Union and cannot be made directly by you through the Administrator or any of the Program Institutions. In the event that the Credit Union does not receive enough funds to cover your entire withdrawal request (if, for example, Program Institutions fail to send funds as instructed by the Administrator or Program Institutions are closed due to holidays or other events), the funding of all or a portion of your withdrawal requests could be further delayed.

### **I. Ability to Exclude Program Institutions**

You will receive a list of Program Institutions that hold your deposits in your account statement. You may also contact the Credit Union to obtain the most recent list of Program Institutions. You may exclude any Program Institution from receiving funds from you under the Program by notifying the Credit Union. The requested exclusion will be implemented promptly by the Administrator but may be temporarily limited by respective Program Institution as described in Section 2, Risks of the Program. You can obtain publicly available financial information concerning any of the Program Institutions at <https://cdr.ffiec.gov/public/ManageFacsimiles.aspx>. Neither the Administrator nor the Credit Union is responsible for any insured or uninsured portion of any Program Deposits at any Program Institution or guarantees the financial condition of any Program Institution or the accuracy of any publicly available financial information concerning a Program Institution.

### **J. Your Responsibility to Monitor Your Deposit or Investment Options**

Neither the Administrator nor the Credit Union has any obligation to monitor your Account or make recommendations about, or changes to, the Program that might be beneficial to you. As returns on the Program Deposits, your personal financial circumstances and other factors change, it may be in your financial interest to change your deposit position. You may determine what options are available and the current rates and returns thereon at any time by calling the Credit Union.

### **K. Account Statements**

You will receive a monthly, or such frequency in accordance with the Credit Union's policies, account statement from the Credit Union or, if requested by the Credit Union, from the Administrator directly. All activity with respect to your Program Deposits, including interest earned for the period covered and a list of Program Institutions that hold your Program Deposits, will appear on your statement, including the total of your opening and closing Program Deposit balances. You will not receive a separate statement from the Program Institutions. Your account statement will be provided to you monthly or in accordance with the Credit Union's policies. You should retain all account statements.

You must notify the Credit Union immediately of any discrepancies noted in your account statement and in no event later than thirty (30) days after the date of the account statement in which the problem or error first appeared.

#### **L. Tax Reporting**

The interest that you receive from your Program Deposits is generally fully subject to state and federal tax. To the extent required, an IRS Form 1099 will be sent to you by the Credit Union each year, showing the amount of interest income you have earned from your Program Deposits. You will not receive a Form 1099 if you are not a citizen or resident of the United States or Canada. You are solely responsible for determining and meeting your tax obligations.

#### **M. Other Terms**

**Limits on Transfers from MMDAs:** The Credit Union and Program Institution rules may limit the transfers from MMDAs and share accounts to a total of six (6) or less during a monthly statement cycle, and certain aggregation rules may apply to transfers from such accounts at the Program Institutions.

**Inactive Accounts:** The Credit Union and the Program Institutions may be required by law to turn over (escheat) your Program Deposits to a state as determined by applicable law, typically your state of residence, based on Account inactivity for a certain time period established by applicable state law. If Program Deposits are remitted to the state, you may file a claim with the state to recover the funds.

**Transferability:** Your Program Deposits may not be transferred by you except in connection with a change in ownership of the deposit account with the Credit Union that is linked to your participation in the Program. A transfer that occurs due to death, incompetence, marriage, divorce, attachment or otherwise by operation of law shall not be binding unless and until sufficient, acceptable documentation has been received by the Credit Union. In the event of the assumption of the Credit Union by another credit union, the management of your Account may be transferred to the assuming credit union.

**Termination:** Either the Credit Union or the Administrator may, at their sole discretion, and without any prior notice, terminate your participation in the Program. If you close your Account at the Credit Union, your associated Program Deposit account will also be closed, and your funds will be distributed out to you.

**Ordinary Care:** Any failure by the Credit Union, the Administrator, the Custodian or any Program Institution to act or any delay by such party beyond time limits prescribed by law or permitted by these Terms and Conditions is excused if caused by your negligence, interruption of communication facilities, suspension of payments by another financial institution, war, emergency conditions or other circumstances beyond the control of such party, provided such party exercised such diligence as such circumstances would normally require. You agree that any act or omission made by the Credit Union, the Administrator, Custodian or any Program Institution in reliance upon or in accordance with any provision of the Uniform Commercial Code as adopted in [•], any rule or regulation of the State of [•], the Federal Reserve, NCUA, FDIC, or a federal agency having jurisdiction over such party shall constitute ordinary care.

**Personal Information:** The use of your information is governed by the privacy policies of the Credit Union and the Administrator. With respect to the Program, you understand and agree that the Administrator, including its affiliates, the Custodian, the Program Institutions, the Credit Union, and their respective service providers may obtain such information as may be necessary for legitimate business needs in connection with the operation of the Program. Such information will be shared among the parties only for use in providing the services hereunder and as otherwise legally required. For information regarding the collection, processing and use of your personal information and your rights to limit the use and disclosure of such information, you should contact the Credit Union. The

Administrator will never use your personal information for any purpose other than to perform its role as administrator of the Program.

**Alternatives to the Program:** By participating in the Program, you agree to the terms and conditions provided herein. You understand that, at any time, you may terminate your participation in the Program. If you terminate, the funds held through the Program will be credited to your Account at the Credit Union.

**Days of Operation:** The Program will operate on all days when the Federal Reserve Bank of New York is open for business.

**Limitation of Liability:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE CREDIT UNION, THE ADMINISTRATOR, OR THEIR RESPECTIVE AFFILIATES BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY NATURE, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, GOODWILL OR BUSINESS INTERRUPTION.

**Legal Process:** The Credit Union, the Administrator, the Custodian and the Program Institutions may comply with any writ of attachment, execution, garnishment, tax, levy, restraining order, subpoena, warrant or other legal process, which such party reasonably and in good faith believes to be valid. The Credit Union may notify you of such process by telephone, electronically or in writing. You agree to indemnify, defend and hold the Credit Union, the Administrator, the Custodian and the Program Institutions harmless from all actions, claims, liabilities, losses, costs, attorneys' fees, and damages associated with their compliance with any process that such party believes reasonably and in good faith to be valid. You further agree that the Credit Union, the Administrator, the Custodian and the Program Institutions may honor legal process that is served personally, by mail, or by facsimile transmission at any of their respective offices (including locations other than where the funds, records or property sought is held), even if the law requires personal delivery at the office where your Program Deposit records are maintained.

## **N. General Terms**

**Amendment:** The Credit Union and the Administrator may modify these Terms and Conditions at any time, upon notice to you.

**Waiver:** Any provision of these Terms and Conditions may be waived if, but only if, such waiver is in writing and is signed by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**Delegation:** The Administrator may delegate certain of its duties and obligations under this Agreement to an affiliate under common control with the Administrator.

**Severability:** If any term, provision, covenant or restriction of these Terms and Conditions is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of these Terms and Conditions shall remain in full force and effect and shall in no way be affected, impaired or invalidated

**Entire Agreement:** These Terms and Conditions and any other documents provided by the Credit Union or the Administrator to you in connection with the Program constitute the entire agreement between the Credit Union, the Administrator and you, and supersede all prior and contemporaneous agreements and understandings, both oral and written, between the Credit Union, the Administrator and you with respect to the subject matter hereof. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, NO REPRESENTATIONS OR WARRANTIES (ORAL OR WRITTEN, STATUTORY, EXPRESS, IMPLIED OR OTHERWISE) ARE MADE BY ANY PARTY, INCLUDING THE CREDIT UNION AND THE ADMINISTRATOR, WITH RESPECT TO THE PROGRAM, INCLUDING, WITHOUT LIMITATION, AS TO MERCHANTABILITY, FITNESS FOR PURPOSE, CONFORMITY TO ANY DESCRIPTION OR REPRESENTATION, NON- INTERFERENCE OR NON-INFRINGEMENT.

**Binding Effect:** These Terms and Conditions shall ensure the benefit of and be binding upon the parties hereto and their respective permitted heirs, successors, legal representatives and assigns. Nothing in these Terms and Conditions, expressed or implied, is intended to confer on any person other than the parties hereto, and their respective permitted heirs, successors, legal representatives and assigns, any rights, remedies, obligations or liabilities under or by reason of these Terms and Conditions, provided that Administrator shall be a third-party beneficiary hereof.

**Governing Law:** These Terms and Conditions are to be construed in accordance with and governed by the internal laws of the State of [•] and the United States of America without giving effect to any choice of law rule that would cause the application of the laws of any

other jurisdiction to the rights and duties of the parties. Unless otherwise provided herein, the Credit Union, the Administrator, the Custodian and the Program Institutions may comply with applicable clearinghouse, Federal Reserve and correspondent credit union rules in processing transactions for your Program Deposits. You agree that the Credit Union, the Administrator, the Custodian and the Program Institutions are not required to notify you of a change in those rules, except to the extent required by applicable law.

**Disputes:** EXCEPT TO THE EXTENT OTHERWISE PROVIDED BY APPLICABLE LAW, ANY DISPUTES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS WILL BE GOVERNED BY THE TERMS OF THE AGREEMENT THAT GOVERN THE DEPOSIT ACCOUNT AT THE CREDIT UNION THAT IS LINKED TO THE PROGRAM, INCLUDING THE

DISPUTE RESOLUTION TERMS, ARBITRATION TERMS, CHOICE OF LAW, VENUE, WAIVER OF JURY TRIAL, AND COSTS RELATED TO DISPUTE RESOLUTIONS, IF ANY.

**Interpretative Provisions:** The headings herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof. All Exhibits, if any, annexed hereto or referred to herein are hereby incorporated in and made a part of these Terms and Conditions as if set forth in full herein. Any singular term in these Terms and Conditions shall be deemed to include the plural, and any plural term the singular. Whenever the words “include”, “includes” or “including” are used in these Terms and Conditions, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. References to any document provided by the Credit Union to you or to any agreement or contract are to that document, agreement or contract as amended, modified or supplemented from time to time in accordance with the terms hereof or thereof. In any construction of the terms of these Terms and Conditions, the same shall not be construed against either party on the basis of that party being the drafter of such terms.