

## DIGITAL FEDERAL CREDIT UNION

### ONLINE BANKING DEPOSIT SERVICES DISCLOSURE AND AGREEMENT

Effective: **March 1, 2009**

In this Disclosure and Agreement, the words "Member", "I", "me", "my", "us" and "our" mean the entity that applied for and/or uses any of the remote deposit capture services ("PC Deposit" or the "Services") described in this Disclosure and Agreement. The words "you", "your", "yours", and "DCU" mean Digital Federal Credit Union. My Application, the PC Deposit Approval Email ("Approval Email") received by me subsequent to my application if applicable, this Disclosure and Agreement, as well as both the your *Truth-in-Savings Disclosure and Account Agreements* and the *Electronic Services Disclosure and Agreements* ("Account Agreements") to which I have agreed previously, are hereby incorporated into and made a part of this Disclosure and Agreement. In the event of a discrepancy between this Disclosure and Agreement and my Application, any and all Emails I receive specifically regarding my use of the Services, or the Account Agreements, this Disclosure and Agreement will control.

#### Terms and Conditions

*Online Banking Deposit* is DCU's remote deposit capture services. Remote deposit capture allows a user to scan checks and transmit the scanned images to the financial institution for deposit. The financial institution in turn transmits the scanned image, ACH data, or a substitute item to the paying financial institution for collection.

#### 1. Service and Service Terms.

The following terms and conditions apply to the Services for DCU's remote deposit capture services ("PC Deposit"). I acknowledge and agree that the Services or any portion of the Services may be provided by one or more subcontractors. Capitalized terms used herein and not otherwise defined shall have the same meaning specified in other account disclosures I have received from you.

#### 2. Overview and definitions.

This Agreement states the terms and conditions by which DCU will deliver the Services, as described below.

1. **2.1** "Authorized User" means Member or agent of Member.
2. **2.2** "Business Day" means any day which DCU is open to conduct substantially all of its banking services, but shall not include Saturday, Sunday or bank holidays.
3. **2.3** "Capture Device" means any device acceptable to DCU, which provides for the capture of images from original Items and for transmission through a clearing process.
4. **2.4** "Check" shall have the definition set forth in Check 21.
5. **2.5** "Check 21" means the Check Clearing for the 21st Century Act, as well as Subpart D of Federal Reserve Board Regulation CC, and to the extent applicable, Subpart A.
6. **2.6** "IRD" or "Image Replacement Document" means (a) a Substitute Check as defined in Check 21; or (b) the paper reproduction that will be created when an Item cannot be converted to an ACH Transaction.
7. **2.7** "Item" means a Check, money order, cashier's check, official check, U.S Treasury check, or any other payment instrument drawn on a financial institution within the United States and payable in US Dollars, from a Payor to Member that may be transmitted as either data or image, and where applicable in the context, includes the electronic image of the front and back of an Item, in addition to other required information as specified by DCU from time to time, in the format specified by DCU from time to time. Notwithstanding the foregoing, it is understood that Member will only be transmitting electronic images of the front and back of Items and not any paper Items. In order for an Item to be processed for deposit, it must be restrictively endorsed in the proper location on the back of the Item as specified in [Exhibit "A"](#) which is attached hereto and incorporated by this reference.  
  
"For deposit only to Digital Federal Credit Union, Member # \_\_\_\_\_, Account # \_\_\_\_", (with the member number and correct account number inserted), dcu.org, date.
8. **2.8** "Payor" means consumers or businesses who make payments to Member by means of Items, but Member shall not be a Payor.

9. **2.9** "Services" means the specific services provided by DCU, including electronic check conversion and image archive systems that allow the use of a Capture Device to obtain and transmit the front and back images of Items and accompanying transaction data for the purpose of delivery to DCU for clearing as an IRD. Services also include any applicable support services.
10. **2.10** "Service Start Date" means the date that the Services are first utilized by the Member.
11. **2.11** "Term" shall mean the term of this Agreement beginning as of the Service Start Date until terminated as provided herein.

### 3. Use of the Services.

Following receipt of an email notifying me that I have been approved for use of the Services (the "Approval EMail"), I am authorized by you to remotely deposit paper checks I receive by electronically transmitting a digital image of the paper checks to you for deposit. I agree to comply with the hardware and software requirements set forth at [Exhibit "A"](#) which is attached hereto and incorporated by this reference.

I agree, at my sole expense to: a) provide connectivity between the Capture Device and the Technology; b) maintain the Capture Device in accordance with the instructions provided by DCU, its subcontractors and/or any other Capture Device provider; c) if applicable, utilize my own software, or DCU software to scan, load, and format Items as needed for transmission to DCU prior to the communicated cut-off time; d) process return data and any remittance data delivered by DCU for the purpose of updating my internal systems (which may include electronic and paper return Items); e) implement and maintain security measures, including firewall protection, in compliance with my obligations under this Agreement; and (f) allow my internal system to create logs to record the transactions and transmit the logs to DCU.

### 4. Compliance with Law.

I agree to comply with all laws, statutes, regulations and ordinances pertaining to the Services, all laws relating to the banking transactions contemplated hereunder, as well as all laws pertaining to the conduct of my business if applicable. I promise to indemnify and hold you harmless from any damages, liabilities, costs, expenses (including attorneys' fees) or other harm arising out of any violation thereof. This indemnity will survive termination of my Account and this Agreement.

### 5. Check Processing and Requirements.

**IRD Processing.** Items may be transmitted for electronic processing by other banks or converted to IRDs and transmitted to a printing facility for printing and clearing through traditional paper processing channels, at DCU's sole discretion. The IRDs will be created in accordance with Check 21; alternatively, DCU may process Items as photocopies in lieu of originals, under guidelines established between DCU and Member and applicable industry standards. Items that fail to satisfy the warranties made to DCU by Member, that fail to meet the requirements of DCU or Check 21, or that are otherwise not able to be processed may be charged back to Member's account or returned to Member. Member agrees to be bound by any clearinghouse agreements, operating circular, image exchange agreements to which DCU is a party.

**Processing of Items.** Images of Items transmitted by Member are not considered received by DCU until Member has received an electronic confirmation of the receipt of the deposit from DCU. However, receipt of the confirmation from DCU does not mean that the transmission was error free or complete. Items transmitted by the Member and received by DCU or its subcontractors by 3:00 p.m. Eastern Time Monday through Friday, shall be credited to the Member's applicable account on the same Business Day. Items received by DCU after 3:00 p.m. Eastern Time on any Business Day shall be credited to the Member's applicable account on the next successive Business Day. Funds from Items deposited under the terms of this Agreement will be available to the Member pursuant to DCU's Funds Availability Policy. Items for deposit shall not be transmitted more frequently than twice during any Business Day.

**Member Liability.** Member shall be solely responsible if any IRD for which Member has been given provisional credit is subject to return or reversal, and neither DCU nor its subcontractors shall be liable or responsible for same. Member acknowledges that all credits received for deposit are provisional, subject to verification and final settlement. Any dishonored Items will be returned as an image of the original or a substitute check as the charged-back item. Information and data reported hereunder: (a) may be received prior to final posting and confirmation and is subject to correction and (b) is for informational purposes only and may not be relied upon. Member agrees that DCU shall have no liability for the content of payment-related information.

## **6. Rejection of Deposit.**

Notwithstanding anything to the contrary, you reserve the right, within your sole and absolute discretion, to accept or reject any item for remote deposit into my Account.

You are not liable for any service or late charges levied against me due to your rejection of any item. In all cases, I am responsible for any loss or overdraft plus any applicable fees due to an item being returned.

## **7. Items Returned Unpaid.**

A notice will be sent to me of transactions you are unable to process because of returned items. With respect to any item that I transmit to you for remote deposit that you credit to my Account, in the event such item is dishonored, I authorize you to debit the amount of such item along with any applicable fees from the Account.

## **8. Unavailability of Services.**

I understand and agree that the Services may at times be temporarily unavailable due to Credit Union system maintenance or technical difficulties including those of the Internet service provider and Internet software. In the event that the Services are unavailable, I acknowledge that I can deposit an original check at your branches or through your ATMs or by mailing the original check to you at Digital Federal Credit Union, Attn: Mail Deposit, 220 Donald Lynch Blvd, Marlborough, MA 01752. It is my sole responsibility to verify that items deposited using the Services have been received and accepted for deposit by you. However, you will receive an email notification of items that are rejected by the next business day following rejection.

## **9. Business Day and Availability Disclosure.**

Your business days are Monday through Friday, except holidays. Your business hours are 8:00 a.m. to 5:00 p.m., Eastern Time, each business day.

## **10. Funds Availability.**

I understand and agree that, for purposes of deposits made using the Services, the place of deposit is Marlborough, Massachusetts. With regard to the availability of deposits made using the Services, such funds will be available as set forth in the "Funds Availability Policy" section of the *Truth-in-Savings Disclosure and Account Agreements* a copy of which I received when I opened the membership and which is also available online

## **11. Accountholder's Warranties.**

I make the following warranties and representations with respect to each image of an original check I transmit to you utilizing the Services:

1. Each image of a check transmitted to you 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.
2. The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
3. Each check that I submit to you for deposit will not be resubmitted in any format to you or to any other person for payment and will not cause the same drawer's account to be debited twice.
4. Each check that I submit to you for deposit will be directly payable to the individual or business in whose name the account to which I am requesting it be deposited is open.
5. Other than the digital image of an original check that I remotely deposit through your Services, there are no other duplicate images of the original check.
6. I 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. The information I provided in my Application remains true and correct and, in the event any such information changes, I will immediately notify you of the change.
8. I have not knowingly failed to communicate any material information to you.

9. I have possession of each original check deposited using the Services and no party will submit the original check for payment.
10. Files and images transmitted to you will contain no viruses or any other disabling features that may have an adverse impact on your network, data, or related systems.

## **12. Storage of Original Checks.**

I must securely store each original check, accessible only [under dual control] by my authorized personnel, that I deposit using the Services for a period of sixty (60) days after you have acknowledged acceptance. Persons who have access to the stored checks must be fully bondable and have passed a thorough screening. After such period expires, I will destroy the original check. I understand and agree that I am responsible for any loss caused by my failure to secure the original checks.

## **13. Charges for Use of the Services.**

Charges associated with the Services are as follows:

**Consumer Account:** No fees

**Sole Proprietor/DBA Business Account:** No fees

**Other Business Account (i.e. LLC, Corporation, Realty Trust, etc.):** \$15/month and \$.03 for each item. \$5/month and \$.03 for each item on additional accounts. These fees can be offset by compensating balances on your checking accounts.

I understand that other fees as stated in the Schedule of Fees and Charges may apply. Fees are assessed based on the type of Membership to which the deposit is being made regardless of the actual login used to access the Service (i.e. Deposits made to the account of an LLC having logged in using his or her Consumer Account Login, will result in a "LLC Account" fee(s) being applied).

## **14. Limitations on Frequency and Dollar Amount.**

I understand and agree that I cannot exceed the limitations on frequency and dollar amounts of remote deposits.

## **15. Unacceptable Deposits.**

I understand and agree that I am not permitted to deposit the following items using the Services:

1. Any item drawn on my account or my affiliate's account.
2. Any item that is stamped with a "non-negotiable" watermark.
3. Any item that contains evidence of alteration to the information originally contained on the check.
4. Any item issued by a financial institution in a foreign country or not payable in US Dollars.
5. Any item that is incomplete. This includes any item that does not include all of the required information as is described in [Exhibit "A"](#), Section 1).
6. Any item that is "stale dated" or "post dated."
7. Any third party check, i.e., any item that is made payable to another party and then endorsed to me by such party.

## **16. Withdrawal of Access/Termination of the Services.**

I may, by written request, terminate the Services provided for in this Disclosure and Agreement. You may terminate my use of the Services at any time upon written notice.

You may also deny, suspend or revoke access to the Services immediately, in whole or in part, in your sole discretion, without notice, if you believe I am in breach of this Agreement, am otherwise using or accessing the Services inconsistent with the terms and conditions hereof, or if you feel it is necessary to maintain the security of the

system. Further, DCU or its subcontractor shall have the right to suspend the Service immediately in the event of an emergency.

Upon the termination of this Agreement for any reason: (a) my access to, and use of, the Services will terminate; (b) I will return to DCU any and all DCU Services, equipment, software, documentation, Technology or other deliverables provided to me by DCU, including any copies thereof held by me; and (c) each party shall return any and all Confidential Information in its possession to the party that disclosed such Confidential Information or destroy same, and provide written verification of same. Notwithstanding the foregoing, DCU's obligations with respect to subsection (c) shall be subject to DCU's record retention policies and applicable laws and regulations.

In the event of termination of the Services, I will remain liable for all transactions performed on my Account.

#### **17. Relationship to Other Disclosures.**

The information in these Disclosures applies only to the Services described herein. Provisions in other disclosure documents, as may be revised from time to time, remain effective for all other aspects of the Account.

#### **18. Governing Law.**

I understand and agree that this Disclosure and Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Massachusetts, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. I also agree to submit to the personal jurisdiction of the courts of the Commonwealth of Massachusetts.

#### **19. Periodic Statement.**

Any remote deposits made through the Services will be reflected on my monthly account statement. I understand and agree that I am required to notify you of any error relating to images transmitted using the Services by no later than sixty (60) days after I receive the monthly periodic statement that includes any transaction I allege is erroneous. I am responsible for any errors that I fail to bring to your attention within such time period.

#### **20. WARRANTIES AND DISCLAIMERS.**

- 20.1 MEMBER WARRANTY.** MEMBER REPRESENTS AND WARRANTS TO DCU: (A) MEMBER HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER AND ALL INFORMATION SUPPLIED BY MEMBER TO DCU IS ACCURATE AND TRUE.; (B) MEMBER WILL PROVIDE ALL REASONABLE ASSISTANCE TO DCU AND ITS SUBCONTRACTORS IN PROVIDING THE SERVICES SET FORTH HEREIN; (C) MEMBER AND ANY AUTHORIZED USERS WILL ONLY USE THE SERVICES FOR LAWFUL PURPOSES AND IN COMPLIANCE WITH ALL APPLICABLE RULES AND REGULATIONS AND WITH DCU'S REASONABLE INSTRUCTIONS, RULES, POLICIES, SPECIFICATIONS, TERMS AND CONDITIONS, AND OPERATING PROCEDURES AND WILL NOT VIOLATE ANY LAW OF ANY COUNTRY OR THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; (D) MEMBER HAS ONLY TRANSMITTED ACCEPTABLE ITEMS FOR DEPOSIT AND HAS HANDLED THE ORIGINAL ITEMS FOLLOWING TRANSMISSION TO DCU AS AGREED, DIRECTED BY WITH DCU AND IN ACCORDANCE WITH APPLICABLE LAW; (E) MEMBER IS A PERSON AUTHORIZED TO ENFORCE EACH ITEM OR IS AUTHORIZED TO OBTAIN PAYMENT OF EACH ITEM ON BEHALF OF A PERSON ENTITLED TO ENFORCE AN ITEM; (F) THE ITEMS HAVE NOT BEEN ALTERED; (G) EACH ITEM BEARS ALL APPLICABLE INDORSEMENTS IN A RESTRICTED FORMAT AS DIRECTED BY DCU; (H) ALL THE WARRANTIES SET FORTH IN AND SUBJECT TO THE TERMS OF 4-207 OF THE UNIFORM COMMERCIAL CODE AS ADOPTED IN THE STATE OF TEXAS; (I) (1) THE ELECTRONIC IMAGE PORTION OF EACH ITEM ACCURATELY AND LEGIBLY REPRESENTS ALL OF THE INFORMATION ON THE FRONT AND BACK OF THE ORIGINAL CHECK AS OF THE TIME THE ORIGINAL CHECK WAS TRUNCATED, (2) THE INFORMATION PORTION OF THE ITEM CONTAINS A RECORD OF ALL APPLICABLE MICR-LINE INFORMATION REQUIRED FOR A SUBSTITUTE CHECK, AND (3) THE ITEM CONFORMS TO THE TECHNICAL STANDARDS FOR AN ELECTRONIC ITEM AS SPECIFIED BY DCU FROM TIME TO TIME; (J) MEMBER WILL SUBMIT ONLY ONE ACCURATE AND CLEAR IMAGE OF THE FRONT AND BACK OF EACH ITEM TO DCU ONLY ONE TIME; (K) MEMBER WILL NOT DEPOSIT THE ORIGINAL ITEM 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; (L) THE AMOUNT OF AN ITEM ENTERED BY MEMBER OR ANY AUTHORIZED USER FOR TRANSMISSION TO DCU IS ACCURATE; AND (M) MEMBER AND ANY AUTHORIZED USERS WILL NOT (1) SELL, LEASE, DISTRIBUTE, LICENSE OR SUBLICENSE THE TECHNOLOGY OR SERVICES; (2) MODIFY, CHANGE, ALTER, TRANSLATE, CREATE DERIVATIVE WORKS FROM, REVERSE ENGINEER, DISASSEMBLE OR DECOMPILE THE TECHNOLOGY OR SERVICES IN ANY WAY FOR ANY REASON; (3) PROVIDE, DISCLOSE, DIVULGE OR MAKE AVAILABLE TO, OR PERMIT USE OF THE TECHNOLOGY OR SERVICES BY, ANY THIRD PARTY; (4) COPY OR REPRODUCE ALL OR ANY PART OF THE TECHNOLOGY OR SERVICES; (5) INTERFERE, OR ATTEMPT TO INTERFERE, WITH THE TECHNOLOGY OR SERVICES IN ANY WAY; (6) ENGAGE IN SPAMMING, MAILBOMBING, SPOOFING, PHARMING, PHISHING, OR ANY OTHER FRAUDULENT, ILLEGAL OR UNAUTHORIZED USE OF THE SERVICES; (7) INTRODUCE OR TRANSMIT THROUGH THE TECHNOLOGY OR SERVICES, WITHOUT LIMITATION, VIA ANY PORTION OF THE MEMBER'S COMPUTER SYSTEM THAT INTERFACES WITH THE TECHNOLOGY OR SERVICES, OR OTHERWISE, ANY VIRUS, WORM, SOFTWARE LOCK, DROP DEAD DEVICE, TROJAN-HORSE ROUTINE, TRAP DOOR, BACK DOOR, TIMER, TIME BOMB, CLOCK, COUNTER OR OTHER LIMITING ROUTINE, INSTRUCTION OR DESIGN OR ANY OTHER CODES OR INSTRUCTIONS THAT MAY BE USED TO ACCESS, MODIFY, DELETE, DAMAGE, DISABLE OR PREVENT THE USE OF THE TECHNOLOGY, SERVICES OR OTHER COMPUTER SYSTEMS OF DCU OR ITS SUBCONTRACTORS; (8) REMOVE, OBSCURE OR ALTER ANY COPYRIGHT NOTICE, TRADEMARKS OR OTHER PROPRIETARY RIGHTS NOTICES AFFIXED TO OR CONTAINED WITHIN THE TECHNOLOGY OR SERVICES; OR (9) ENGAGE IN OR ALLOW ANY ACTION INVOLVING THE TECHNOLOGY OR SERVICES THAT IS INCONSISTENT WITH THIS AGREEMENT. SHOULD MEMBER RECEIVE NOTICE OF ANY CLAIM REGARDING THE SERVICES, MEMBER SHALL PROMPTLY PROVIDE DCU WITH A WRITTEN NOTICE OF SUCH CLAIM.
2. **20.2 DCU WARRANTY.** DCU WARRANTS THAT: (A) DCU HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER; AND (B) IT HAS DEVELOPED EACH SERVICE (OTHER THAN ANY PORTION FURNISHED BY A SUBCONTRACTOR OR THIRD PARTY VENDOR) AND OWNS AND/OR HAS THE RIGHT TO FURNISH THE SAME (INCLUDING ANY PORTION FURNISHED BY A SUBCONTRACTOR OR THIRD PARTY VENDOR).
  3. **20.3 DISCLAIMER.** EXCEPT AS SET FORTH ABOVE IN SECTION 6.2, DCU AND ITS SUBCONTRACTORS MAKE NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY REGARDING OR RELATING TO ANY OF THE TECHNOLOGY OR SERVICES AND/OR ACCESS TO OR USE OF THE SERVICES OR TECHNOLOGY PROVIDED TO MEMBER HEREUNDER. DCU AND ITS SUBCONTRACTORS SPECIFICALLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. DCU AND ITS SUBCONTRACTORS ALSO DO NOT GUARANTEE THAT MEMBERS' ACCESS TO THE SERVICES PROVIDED UNDER THIS AGREEMENT WILL BE UNINTERRUPTED, ERROR FREE OR SECURE. DCU AND ITS SUBCONTRACTORS DO NOT GUARANTEE THE ACCURACY OF, AND SPECIFICALLY DISCLAIM LIABILITY FOR, INFORMATION OR DATA THAT IS SUPPLIED OR KEY-ENTERED BY MEMBER OR AGENTS. DCU AND ITS SUBCONTRACTORS DO NOT WARRANT THE ACCURACY, RELIABILITY, COMPLETENESS OR TIMELINESS OF THE CONTENT OF INTERNET WEBSITES OR OTHER DATA RECEIVED BY MEMBER OR PAYORS VIA THE INTERNET.

## **21. LIMITATION OF LIABILITY/INDEMNIFICATION.**

1. **21.1 LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IN NO EVENT WILL DCU'S LIABILITY UNDER THIS AGREEMENT FOR ANY DAMAGES OF ANY KIND EXCEED AN AMOUNT EQUAL TO THE AMOUNT OF ITEMS RECEIVED BY DCU FROM MEMBER FOR DH SERVICES DURING THE MONTH PRECEDING THE DATE ON WHICH THE CLAIM FIRST ACCRUED. DCU SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES.
2. **21.2 INDEMNIFICATION.** IN ADDITION TO ITS INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT, AND EXCEPT FOR LOSSES OR EXPENSES ATTRIBUTABLE TO DCU'S OWN LACK OF GOOD FAITH OR FAILURE TO EXERCISE ORDINARY CARE, MEMBER AGREES TO INDEMNIFY DCU FOR ANY LOSS OR EXPENSE SUSTAINED (INCLUDING INTEREST, COSTS, ATTORNEY'S FEES AND EXPENSES OF LITIGATION) RESULTING FROM (i) MEMBER'S LACK OF AUTHORITY TO MAKE THE WARRANTY IN SUBSECTION 6.1(E); (ii) ANY ACTION TAKEN OR NOT TAKEN BY



DCU WITHIN THE SCOPE OF ITS AUTHORITY IN HANDLING AN ITEM; (iii) ANY WARRANTY REQUIRED TO BE MADE BY DCU WITH RESPECT TO AN ITEM UNDER APPLICABLE LAW OR REGULATION; AND (iv) BREACH OF THE WARRANTIES IN SUBSECTIONS 6.1(A) THROUGH 6.1(M).

## 22. Changes in Financial Circumstances.

I understand and agree that I must inform you immediately in the event my financial circumstances as evidenced in my Application and any supporting financial information materially change. This includes, but is not limited to, notification of the following: (a) any change in a representation or statement made or furnished to you by me or on my behalf in my Application; (b) changes in anticipated or actual transaction volume at my business; (c) a material change occurs in my ownership or organizational structure (acknowledging that any change in ownership will be deemed material when ownership is closely held); (d) I liquidate or dissolve, or enter into any consolidation merger, partnership, or joint venture; (e) I sell any assets except in the ordinary course of my business as now conducted, or sell, lease, assign or transfer any substantial part of my business or fixed assets or any property or other assets necessary for the continuance of my business as now conducted including, without limitation, the selling of any property or other assets accompanied by the leasing back of the same; (f) I cease doing business, become insolvent, a receiver is appointed for all or any part of my property, I make an assignment for the benefit of creditors, or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws or any other law or laws relating to debtors; (g) any guaranty of my indebtedness to you, whether related or unrelated to the Account or the Services, ceases to be in full force and effect or is declared to be null and void; or the validity or enforceability thereof is contested in a judicial proceeding; or any guarantor denies that it has any further liability under such guaranty; or any guarantor defaults in any provision of any guaranty, or any financial information provided by any guarantor is false or misleading; (h) I or any guarantor dies; if I am a sole proprietorship, the owner dies; if I am a partnership, any general or managing partner dies; if I am a corporation, any principal officer or 20.00% or greater shareholder dies; if I am a limited liability company, any managing member dies; if I am any other form of business entity (any person(s) directly or indirectly controlling twenty percent (20.00%) or more of the ownership interests of such entity dies; (i) any creditor tries to take any of my property on or in which you have a lien or security interest, including a garnishment of any of my accounts with you; (j) a judgment or judgments is entered against me or any guarantor(s) in the aggregate amount of \$250 or more that is not satisfied within thirty (30) days or stayed pending appeal; (k) an involuntary lien or liens is attached to any of my assets or property and not satisfied within thirty (30) days or stayed pending appeal; (l) an adverse change occurs in my financial condition or applicable credit histories; and (m) I am in default under any agreement for borrowed money or any other material contract. I agree to provide you any financial records you reasonably request to determine my financial status during the term of this Disclosure and Agreement.

## 23. Confidentiality.

1. **23.1 DCU Information.** Member acknowledges that the Technology and Services contain valuable trade secrets, which are the sole property of DCU or its subcontractors ("Bank Confidential Information"), and Member agrees to hold same in strict confidence and disclose only to those agents whose duties reasonably require access to same, provided that all such agents are informed of such use or disclosure restrictions as set forth herein. Member agrees to use no less than reasonable care to prevent other parties from learning of these trade secrets. Member will take no less than all reasonable steps to prevent the unauthorized use, disclosure, duplication or access to the Bank Confidential Information.
2. **23.2 Member Information.** DCU acknowledges that Member's information may contain information regarding its Members, which are the sole property of Member ("Member Confidential Information," and, collectively with Bank Confidential Information, "Confidential Information"), and DCU agrees to hold same in confidence and will protect Member Confidential Information pursuant to DCU's Privacy Promise.
3. **23.3 Exceptions.** The obligations of this Section 9 shall not apply to any information that: (a) is now, or hereafter becomes, through no act or failure to act on the part of the receiving party (the "Receiver"), generally known or available; (b) is known by the Receiver at the time of receiving such information, as evidenced by the Receiver's records; (c) is hereafter furnished to the Receiver by a third party, as a matter of right and without restriction on disclosure; (d) is independently developed by the Receiver without reference to or use of the disclosing party's information; or (e) is required to be disclosed by law or in connection with a legal or administrative proceeding, provided that the party to whom the information belongs is given prompt prior written notice of such proposed disclosure, if not otherwise prohibited.
4. **23.4 Unauthorized Use.** Both parties acknowledge that the unauthorized use, disclosure or duplication of trade secrets or other confidential information belonging to each party shall constitute a material breach of this Agreement and is likely to cause irreparable injury to the owner, for which there is no adequate remedy at law. Accordingly, DCU and Member each hereby agree that the other party may

seek injunctive relief against it to prevent or remedy any breach of the confidentiality obligations described herein without the other party being required to post bond, or if bond is required, only nominal bond.

## 24. Miscellaneous Provisions.

1. **24.1 Relationship of Parties.** DCU and Member are independent parties and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between DCU and Member. Neither DCU nor Member will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.
2. **24.2 Notices.** Member agrees that any notices required or permitted under this Agreement or the Service Agreement may be given electronically or by regular mail.
3. **24.3 No Waiver.** The failure of either party to enforce at any time any provision of this Agreement or to exercise any right herein provided shall not in any way be construed to be a waiver of such provision or right, and shall not in any way affect the validity of this Agreement or any part hereof, or limit, prevent or impair the right of either party to subsequently enforce any provision or exercise any right hereunder.
4. **24.4 Severability.** The invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of any other term or provision.
5. **24.5 Intellectual Property Ownership.** This Agreement does not transfer to Member any ownership or proprietary rights in the Technology or any work or any part thereof, and all right, title and interest in and to the Technology will remain solely with DCU or its subcontractors.
6. **24.6 Email Address.** I agree to notify you immediately if I change my email address, as this is the email address where you will send me notification of receipt of remote deposit items.
7. **24.7 Change in Terms.** You may change the terms and charges for the Services indicated in this Disclosure and Agreement by notifying me of such change in writing and may amend, modify, add to, or delete from this Disclosure and Agreement from time to time. My use of the Services after receipt of notification of any change by you constitutes my acceptance of the change.
8. **24.8 In Case of Errors.** In the event that I believe there has been an error with respect to any original check or image thereof transmitted to you for deposit or a breach of this Agreement, I will immediately contact you regarding such error or breach as set forth below.  
  
**Telephone you at:** 508.263.6700 or 800.328.8797 **OR Email you at:** [dcu@dcu.org](mailto:dcu@dcu.org)
9. **24.9 Section Headings.** Section headings within this Agreement are meant for ease of use only and do not limit content in any way.
10. **24.10 Use of Services.** My use of the Services constitutes my acceptance of the terms and conditions of this Disclosure and Agreement. My continued use of the services after notification of a change from you constitutes my acceptance of the change. I authorize you to gather and exchange whatever credit, checking account and employment information you consider appropriate from time to time and understand you may make credit or other decisions based in part on this information

## 25. Hardware and Software Requirements.

In order to utilize the Services, I must have the following hardware and software with the indicated specifications:

- Windows XP or Vista with Internet Explorer 6+ or Firefox 2+ OR
- MAC OS X 10.5 with Safari 3+ or Firefox 2+
- High-speed Internet connection
- TWAIN compliant document scanner

### RECOMMENDED REQUIREMENTS:

- Windows XP or Vista with Internet Explorer 7 or Firefox 3
- MAC OS X 10.5 with Safari 3.1 or Firefox 3

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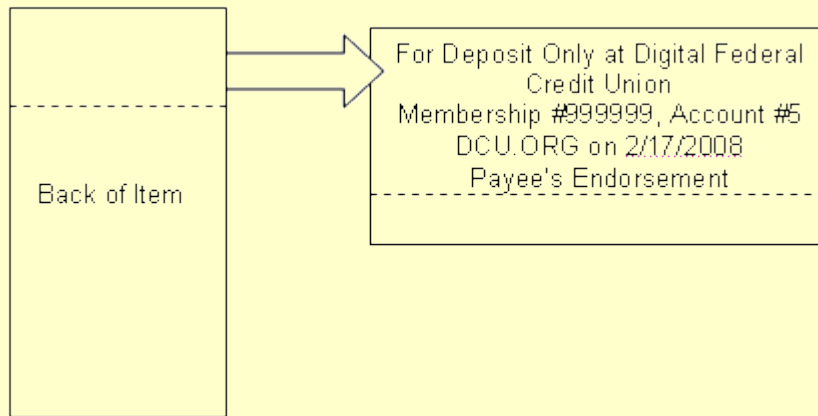
## Exhibit "A"

### DCU Online Banking Deposit Instructions\*



1. The back of each item must include the following:
  - The words "For deposit only at Digital Federal Credit Union"
  - The Membership Number
  - The Account Number to which it is being deposited
  - The words "DCU.ORG"
  - On (today's date) mm/dd/yyyy
  - Payee's Endorsement

Example:



2. Select your scanner (you will only need to do this 1 time)
3. Enter the total deposit amount of your checks
4. Scan the front and back of your check(s)
5. Review and Submit your deposit

\*The "New Deposit" page of PC Deposit contains a more detailed process to deposit your check(s). Please review the instructions prior to submitting deposits.