

**DOWNEY FEDERAL CREDIT UNION**  
**MOBILE CHECK DEPOSIT/REMOTE DEPOSIT CAPTURE AGREEMENT**

This Mobile Remote Deposit Capture Agreement (“Agreement”) contains the terms and conditions for the mobile remote deposit capture services that Downey Federal Credit Union may provide to you. The words “we,” “us,” “our” and “Credit Union” mean Downey Federal Credit Union. The words “you” or “your” mean each and all those who use the mobile remote deposit capture services. The word “account” means any one or more eligible deposit accounts you have with the Credit Union. Our Truth-in-Savings Disclosures & Agreements is hereby incorporated into and made a part of this Agreement. In the event of a discrepancy between this Agreement and the Truth-in-Savings Disclosures & Agreements, this Agreement will control.

- 1. Services.** The mobile remote deposit capture service (“Service”) is designed to allow you to make deposits to your designated eligible accounts using a compatible mobile wireless device to photograph an image of an original paper check that is drawn on or is payable through a United States financial institution and to electronically submit a digital image of such paper check to us or our designated processor. There is currently no charge for the Service. Original checks are converted to “substitute checks” as such term is defined in the Check Clearing for the 21st Century Act and Federal Reserve Board Regulation CC, for deposit with the Credit Union and for processing and presentment to a collecting or paying financial institution. Your use of the Service constitutes your acceptance of this Agreement.
- 2. Requirements.** DFCU will assess, and continually reassess, member eligibility and if a member ceases to meet the Credit Union’s eligibility criteria, access to the RDC service will be denied. We will automatically qualify and approve you to use the Service based on pre-established account eligibility criteria set from time to time by us. We reserve the right to change eligibility criteria for the Service at any time. You must access the Service through our mobile banking application. You must have or acquire and maintain a compatible mobile wireless device with the ability to take photographs and a wireless plan from a compatible wireless carrier or access to a secure Wi-Fi network.
- 3. Compliance with Laws.** You agree to comply with all laws, statutes, regulations and ordinances pertaining to your use of the Service, as well as all laws relating to the banking transactions contemplated hereunder. You also agree to be bound by any clearinghouse rules or agreements, operating circulars, image exchange agreements, and other documents to which we are a party that govern the Service. You promise to indemnify and hold us harmless from any damages, liabilities, costs, expenses (including attorneys’ fees) or other harm arising out of any violation thereof. This indemnity shall survive termination of your account with us and this Agreement.
- 4. Unavailability of Service.** You understand and agree that the Service 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 Service is interrupted or is otherwise unavailable, you acknowledge that you can deposit original checks in person at a Credit Union branch, at an ATM or by U.S. mail. It is your sole responsibility to verify that items deposited using the Service have been received and accepted for deposit by us. However, we will notify you via email of items that are rejected by the next business day following rejection.
- 5. Eligible Items for Deposit.** You agree only to capture images of “checks” as that term is defined in the Federal Reserve Board’s Regulation CC. You agree that the image of the check transmitted to us shall be deemed an “item” within the meaning of Articles 3 and 4 of the Uniform Commercial Code as adopted in California.
- 6. Ineligible Deposits.** You understand and agree that you will not deposit the following items using the Service:

- Any third party check, i.e., any item that is made payable to another party and then endorsed to you by such party.
- Any item drawn on your personal account at the Credit Union.
- Any item that contains evidence of alteration to the information on the check.
- Any item that is illegible.
- Any check previously converted to a “substitute check,” as defined in Regulation CC.
- Any item issued to you by a financial institution in a foreign country.
- Any item not payable in United States currency.
- Any item that is dated more than six (6) months prior to the date of deposit.
- Any item that is “post dated” after the date of deposit.
- Any item stamped “non-negotiable” (whether stamped in print or as a watermark).
- Any item that has been re-deposited or returned such as “non-sufficient funds” or “refer to maker” or returned for any other reason.
- Any item that is incomplete.
- Travelers Checks.
- Checks payable to “Cash.”
- Savings Bonds.
- Registered, government-issued warrants.
- Government checks of any type, state or federal.
- Any item (including tax refund checks and other government checks) made payable to more than one party, unless deposited into an account owned by all of the named payees.

**Deposits of this nature may result in the immediate termination of the Service.** We may in our sole discretion, and without liability to you, refuse any check for any or no reason, or elect to take the check on a collection basis only. We reserve the right to charge back to your account, at any time, any item that we subsequently determine was an ineligible item. We are 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.

- 7. Deposit Limits.** We may establish limits on the dollar amount and/or number of items you may deposit from time to time. If you attempt to initiate a deposit in excess of these limits, we can reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to this Agreement, and we will not be obligated to allow such a deposit at other times. We will inform you of the deposit limits applicable to you in a notice you will receive on your mobile device prior to each transaction. Current deposit limits are \$5,000 per business day.
- 8. Check Requirements.** Any image of a check that you transmit to us must accurately and legibly provide all of the information on the front and back of the check. Prior to electronically transmitting a digital image of the original check, you will restrictively endorse any item transmitted through the Service as “For mobile deposit only-Downey Federal Credit Union, Account # (your account number),” or as otherwise instructed by us. You agree to follow any and all other procedures and instructions for use of the Service as we may establish from time to time. The digital image of the check transmitted to us using the Service must accurately and legibly provide, among other things, the following information: (1) your endorsement; (2) the information identifying the drawer and the paying bank that is preprinted on the check, including complete and accurate MICR information and the signatures; and (3) 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 of the check must comply with the requirements established from time to time by the American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve Board, including the requirements under federal Regulation CC, or any other regulatory agency, clearing house or association.

- 9. Receipt of Items.** Upon receipt of the digital image, we will review the image for acceptability and will convert items meeting our requirements into substitute checks to facilitate the deposit and collection of such items. You understand and agree that electronically transmitting a digital image of a check does not constitute receipt of the deposit by the Credit Union. Acknowledgment that your check image has been received by the Credit Union does not mean that the check image was received error free. We are not responsible for any image that we do not receive. We also reserve the right to reject any item transmitted through the Service, in our sole discretion, without liability to you. We will send you an email to confirm receipt of your deposit. We will send a notice to you if your deposit is rejected in whole or in part. You understand and agree that even if we do not initially reject an item you deposit through the Service, we may return the substitute check we created because, among other reasons, the paying bank deems the electronic image illegible. Our failure to reject such an item shall not limit your liability to us. You understand that any amount credited to your account for items deposited using the Service is a provisional credit and you agree to indemnify us against any loss we suffer because of our acceptance of the remotely deposited check.
- 10. 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 us to debit the amount of such item from your account, plus a Check Returned Unpaid Item Fee, as stated in our current Schedule of Fees and Charges.
- 11. Availability of Funds.** In general, if an image of an item you transmit through the Service is received and accepted on a business day that we are open, we consider that day to be the day of your deposit, subject to the other terms and conditions herein. Otherwise, we will consider that the deposit was made on the next business day we are open. Funds deposited using the Service will be made available for your withdrawal and/or use in accordance with the terms and conditions of our Funds Availability Policy previously provided to you, as amended from time to time, which is incorporated herein by reference. You understand that we may make such funds available sooner based on such factors as creditworthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors as we, in our sole discretion, deem relevant. You also understand that credit is provisional until settlement is final.
- 12. Email Address.** You agree to notify us immediately if you change your email address, as this is the email address where we will send you notification of receipt of remote deposit items. You must maintain a valid email address on record with DFCU. Communication from DFCU not received due to an invalid email address is not the responsibility of DFCU.
- 13. Check Retention and Destruction.** Upon your receipt of a confirmation from us that we have received the image of an item, you agree to prominently mark the item as *“Electronically Presented”* or *“VOID”* to ensure that it is not represented for payment. You agree to securely store each original check that you deposit using the Service for a period of sixty (60) days after transmission to us in order to verify settlement and credit or to balance periodic statements. After such period expires, you will destroy the original check. You understand and agree that you are responsible for any loss caused by your failure to secure the original checks. You agree never to represent the check. During the retention period, you will promptly provide any retained check, or a sufficient copy of the front and back of the check, to us as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any check, or for our audit purposes. If you are unable to provide a sufficient copy of the front and back of the check you will be liable for any unresolved claims by third parties.
- 14. Periodic Statement and Your Duty to Report Errors.** Any deposits made through the Service will be reflected on your monthly periodic statement. You understand and agree that you are required to immediately notify us by telephone at 562.862.8141 or, in writing to: Downey Federal Credit Union, 8237 Third Street, Downey, CA 90241, of any

suspected error relating to images transmitted using the Service by no later than sixty (60) days after the date of the 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.

**15. Ownership & License.** You agree that we retain all ownership and proprietary rights in the Service, associated content, technology, and website(s). Your use of the Service is subject to and conditioned upon your complete compliance with this Agreement. Without limiting the effect of the foregoing, any breach of this Agreement immediately terminates your right to use the Service. Without limiting the restriction of the foregoing, you may not use the Service (i) in any anti-competitive manner; (ii) for any purpose which would be contrary to our business interest; or (iii) to our actual or potential economic disadvantage in any aspect. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the Service.

**16. Representations and Warranties.** You make the following representations and warranties with respect to your use of the Service and each image of an original check you transmit to us using the Service:

- Each image of a check transmitted to us 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.
- The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
- Each check that you submit to us for deposit will not be resubmitted in any format to us or to any other person for payment and will not cause the same drawer's account to be debited twice.
- Other than the digital image of an original check that you remotely deposit through the Service, there are no other duplicate images of the original check.
- 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.
- You have not knowingly failed to communicate any material information to us.
- You will retain possession of each original check deposited using the Service for the required sixty (60) day retention period and neither you nor any other party will submit the original check for payment.
- You will destroy the original check after the required retention period.
- You will not use the Service and/or your accounts for any illegal activity or transactions.
- Files and images transmitted to us will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.
- Each check you submit for deposit is drawn in United States dollars on a financial institution located in the United States, excluding its territories.

**17. DISCLAIMER OF WARRANTIES.** YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR RISK. YOU ALSO UNDERSTAND AND AGREE THAT THE SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU UNDERSTAND AND AGREE THAT WE DO NOT MAKE ANY WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICE, EQUIPMENT, HARDWARE, SOFTWARE OR INTERNET PROVIDER SERVICE, OR ANY PART OF THEM, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICE WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. WE ALSO MAKE NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED FROM USING THE SERVICE WILL BE ACCURATE OR RELIABLE, OR THAT ANY ERRORS IN THE SERVICE OR TECHNOLOGY WILL BE CORRECTED. WE ARE NOT RESPONSIBLE FOR ANY LOSS, INJURY OR DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, CAUSED BY YOUR 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 MOBILE DEVICE, HARDWARE, SOFTWARE OR OTHER EQUIPMENT.

- 18. LIMITATION OF LIABILITY.** YOU UNDERSTAND AND AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES RESULTING FROM OR ATTRIBUTABLE TO THE USE OR THE INABILITY TO USE THE SERVICE INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR ATTRIBUTABLE TO THE USE OF, INABILITY TO USE, THE TERMINATION OF THE USE OF THE SERVICE, OR YOUR BREACH OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF.
- 19. Indemnification.** You agree to indemnify, defend and hold harmless the Credit Union and its directors, officers, employees, members and agents from and against any and all losses, costs, expenses, fees (including, but not limited to, reasonable attorneys' fees), claims, damages, liabilities and causes of action of third parties resulting or arising from: (i) your failure to abide by or perform any obligation imposed upon you under this Agreement; (ii) your willful misconduct, fraud, criminal activity, intentional tort or negligence involving use of the Service; (iii) your actions, omissions or commissions relating to the Service; and (iv) any transmission or instruction, whether or not authorized, acted upon by the Credit Union in good faith. Your obligations under this paragraph shall survive termination of this Agreement.
- 20. Amending this Agreement.** We may amend this Agreement at any time by sending notice as described in this Mobile Remote Deposit Capture Agreement. Your continued use of the Service after the effective date of the change will indicate your acceptance of the revised Agreement.
- 21. Termination of the Service.** You may, upon written request, terminate the Service. We may terminate your use of the Service at any time upon written notice. In the event of termination of the Service, you will remain liable for all transactions performed on your account. Upon termination, you will immediately cease using the Service. The Credit Union may immediately suspend or terminate your access to the Service in the event that the Credit Union reasonably determines such suspension or termination is necessary in order to protect the Service or the Credit Union from harm or compromise of integrity, security, reputation or operation or that you are in breach of this Agreement or are otherwise using the Service in a manner inconsistent with the terms of this Agreement or with applicable law.
- 22. Relationship to Other Disclosures.** The information in this Agreement applies only to the Service described herein. Provisions in other disclosure documents, as may be revised from time to time, remain in effect for all other aspects of your account.
- 23. Governing Law.** This Agreement and its enforcement shall be governed by the laws of the State of California, without regard to any choice of law provision.
- 24. Waiver.** We will not be deemed to have waived any of our rights or remedies under this Agreement unless such waiver is in writing and signed by us. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.
- 25. Force Majeure.** You understand and agree that we are not responsible or liable for any loss, liability, damages, expenses, or cost of any kind resulting from any delay or interruption in the Service due to causes beyond our reasonable control.

- 26. Risk of Loss.** In the event of a system failure or interruption, your data may be lost or destroyed. Any transaction(s) that you initiated, were in the process of completing, or completed shortly before a system failure or interruption should be verified by you through means other than online to ensure the accuracy and completeness of such transaction(s). You assume the risk of loss of your data during any system failure or interruption and the responsibility to verify the accuracy and completeness of any transaction(s) so affected.
- 27. No Assignment.** You may not assign this Agreement. We may assign this Agreement to a third party without prior notice to you.
- 28. Severability.** A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid.