

## DisclosureRemoteDepositCapture

In this Disclosure and Agreement, the words "you" and "your" mean the member or joint owners that applied for and/or uses any of the Mobile Deposit Service (the "Service") described in this Disclosure and Agreement. The words "we", "us", "our," and "credit union" mean Del-One Federal Credit Union (Del-One). Your application for use of the Service and notification of acceptance of your application as well as the Del-One Account Agreement and Disclosure are hereby incorporated into and made a part of this Disclosure and Agreement. In the event of a discrepancy between this Disclosure and Agreement, or the Del-One Member Services Agreement, this Disclosure and Agreement for the Service will control.

### **Use of the Service**

Following receipt of our notification approving your use of the Service, you are authorized by us to remotely deposit paper checks you receive to your account with us by electronically transmitting a digital image of the paper checks to us for deposit. Your use of the Service constitutes your acceptance of the terms and conditions of this Disclosure and Agreement. Upon receipt of the digital image, we will review the image for acceptability. You understand that, in the event you receive a notification from us confirming receipt of an image, such notification does not mean that the image contains no errors or that we are responsible for any information you transmit to us. We are not responsible for any image that we do not receive. Notwithstanding anything to the contrary, we reserve the right, within our sole and absolute discretion, to accept or reject any item for mobile deposit into your Account. You understand that any amount credited to your Account for items deposited using the Service is a provisional credit and you agree to indemnify and hold us harmless against any loss we suffer because of our acceptance of the remotely deposited check.

The software provided by the Credit Union to Member contains software provided by one or more third parties ("Third Party Software") under contract with Credit Union (each a "Third Party")

Restrictions. Member agrees that it will not itself, and will not permit any parent, subsidiary, affiliate, agent or other third party to: (1) 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. 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 Member, including all intellectual property rights therein. Member acknowledges 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 Member 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 Credit Union and the Third Parties.

Member 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 Member 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.

Guarantee Specific to Deposits Received for Credit to a Business Account. Your use of the Services for the purpose of depositing to a Business Account constitutes your understanding and agreement that you may be personally liable for any expenses (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 (credit union) enforcing this Guarantee. This Guarantee shall benefit the (credit union) and its successors and assigns.

### **Compliance with Law**

Member represents, warrants, and covenants that it will comply with all applicable laws, rules, regulations and prevalent industry standards in their 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.

### **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 endorse the back of the original check. Your endorsement will contain the following verbiage, "For Del-One Mobile Deposit." The captured 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.

### **Rejection of Deposit**

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. We are authorized by you to debit the amount of such item plus any applicable fees to your Account.

### **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 mobile 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 the Account.

### **Unavailability of Service**

You understand and agree that the Service may at times be temporarily unavailable due to Del-One system maintenance or technical difficulties including those of the Internet service provider, cellular service provider and Internet software. In the event that the Service is unavailable, you acknowledge that you can deposit an original check at our branches or through our ATMs or by mailing the original check to our address at 270 Beiser Blvd. Dover, DE 19904. You acknowledge it is your sole responsibility to verify that items deposited using the Service have been received and accepted for deposit.

### **Funds Disclosure**

Funds are normally received within two business days. Longer delays may apply in accordance with our Funds Availability Policy. Please keep your paper check until the funds post to your account. This agreement entitles all members who sign up for this service a maximum of \$5,000 in daily deposits with no limitation on the number of checks deposited. Del-One reserves the right to make dollar limit changes.

### **Accountholder's Warranties**

You make the following warranties and representations with respect to each image of an original check you transmit to us utilizing 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.

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.

Other than the digital image of an original check that you remotely deposit through our Service, there are no other duplicate images of the original check.

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.

You have possession of each original check deposited using the Service and no party will submit the original check for payment.

### **Storage of Original Checks**

You must securely store each original check for a period of 14 days after transmission to us. 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.

### **Securing Images on Mobile Devices**

When using the Mobile Deposit Service, 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.

### **Accountholder's Indemnification Obligation**

You understand and agree that you are required to indemnify us and hold us harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees and expenses arising from your use of the Service and/or breach of this Disclosure and Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

### **In Case of Errors**

In the event that you believe there has been an error with respect to any original check or image transmitted to us 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: 302-739-4496

or e-mail us at: [opssupport@del-one.org](mailto:opssupport@del-one.org)

### **Limitation of Liability**

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. Member 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 Member's use of the Third Party Software, unless such claim directly results from an action or omission made by such Third Party in bad faith.

### **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.

### **Change in Terms**

We may change the terms and charges for the Service indicated in this Disclosure and Agreement by notifying you of such change in writing and may amend, modify, add to, or delete from this Disclosure and Agreement from time to time. Your use of the Service after receipt of notification of any change by us constitutes your acceptance of the change.

### **Termination of the Service**

You may, by written request, terminate the Service provided for in this Disclosure and Agreement. 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.

### **Relationship to Other Disclosures**

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

### **Governing Law**

You 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 all applicable laws of the State of Delaware, notwithstanding any conflict-of-law doctrines, or other jurisdictions to the contrary. You also agree to submit to the personal jurisdiction of the courts of the State of Delaware.

## **Periodic Statement**

Any mobile deposits made through the Service will be reflected on your account statement. You understand and agree that you are required to notify us immediately upon receipt of your account statement of any error relating to images transmitted using the Service for any transaction you allege is erroneous. You are responsible for any errors that you fail to bring to our attention within 60 days after receipt of your account statement.

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

You understand and agree that you cannot exceed the limitations on frequency and dollar amounts of mobile deposits that are set forth by us in the Funds Disclosure, unless Del-One has made future adjustments to this Service as described in the Funds Disclosure.

## **Unacceptable Deposits**

You understand and agree that you are not permitted to deposit the following items using the Service:

Any item drawn on your account or your affiliate's account.

Any item that is stamped with a "non-negotiable" watermark.

Any item that contains evidence of alteration to the information on the check.

Any item issued by a financial institution in a foreign country.

Any item that is incomplete.

Any item that is "stale dated" or "postdated."

Savings Bonds

Insurance Drafts

Any third-party check, i.e., any item that is made payable to another party and then endorsed to you by such party.

## **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 member information of a Third Party. Confidential Information will not include any information that Member 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. Member acknowledges that Third Parties own all rights, titles and interests, including all IP Rights in Third Party Confidential Information. Member may use Third Party Confidential Information only in connection with its utilization of the Third Party Software and Credit Union's services, and not for any other purpose. Member will protect Third Party Confidential Information from unauthorized use or access.

iii. Member acknowledges 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 ITS USE FOR A PARTICULAR PURPOSE. Neither 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.

**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.

**Relationship**

This Disclosure and 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.