

# **Business Deposit Capture Agreement and Disclosure**

Business Deposit Capture ("BDC")

Georgia's Own Credit Union ("Georgia's Own")

## **A. Business Deposit Capture Services**

Business Deposit Capture allows you to deposit checks to your Georgia's Own Credit Union ("Georgia's Own") accounts from remote locations by electronically transmitting a digital image of your paper checks to Georgia's Own in accordance with this Agreement. Simply endorse the check 'For Business Deposit Capture Only to Georgia's Own Credit Union' and we will review the image to ensure it meets image quality standards for the deposit and collection of the check.

## **B. General Terms and Conditions Agreement**

This Agreement establishes the rules that govern the processing of deposited checks through member's account(s) using Georgia's Own BDC. The acceptance of this Agreement or use of the Service means you agree to all terms and conditions in this Agreement. Please read this Agreement carefully and keep a copy for your records.

In addition to this Agreement, your Accounts are also governed by our Membership Agreement and Disclosures and our Truth In Savings Disclosure (together, the "Deposit Agreement"). However, in the event of a conflict, the terms and conditions of this Agreement shall supersede the terms and conditions of the Deposit Agreement with respect to the deposits made through the Service. Deposits made through other channels continue to be governed by the Deposit Agreement.

Georgia's Own may change this Agreement at any time in its sole discretion with or without notice to you. We may add new terms and conditions and we may delete or amend existing terms and conditions. Such changes shall become effective as stated in any notice sent to you, the member. Examples of such notices might include, but are not limited to, newsletters, mailed disclosures, notices posted on our website, etc. Your continued use of the Service will indicate your acceptance of any such changes.

## **c. Definitions**

In addition to all the other terms defined herein, the following terms shall have the following meanings:

1. "We", "Our", "Us", and "Credit Union" shall mean Georgia's Own Credit Union and its successors and assigns.
2. "You", "Your", and "Member" shall mean the account holder authorized by Credit Union to use BDC, and any user depositing funds in member's account through the BDC service.

3. "Account" or "Accounts" shall mean the deposit accounts with us to which you are authorized to make a deposit using BDC.
4. "Business Day" shall mean any weekday (Monday-Friday) in which the Credit Union is open.
5. "Check 21" means the Check Clearing for the 21st Century Act.
6. "Image" means the electronic image of the front and back of an Item, in addition to other required information, as specified by us, in the format we specify.
7. "Image Replacement Document" or "IRD" means a substitute check, as defined in Check 21.
8. An "Item" is an original: check, 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 U.S. currency that is payable to you. Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC.
9. "Service(s)" means any of the BDC functions offered and or used by you in connection with this agreement, including optional and future services added by an addendum  
"System" means the program that is maintained by the Credit Union, or other third parties, that you connect to through the internet in order to access the services.

#### **D. Hardware and Software**

In order to use BDC, you must obtain and maintain, at your expense, compatible hardware and software as specified by the Credit Union from time to time. Visit the 'Browser Compatibility' page found on [georgiasown.org](http://georgiasown.org) for specific versions. Georgia's Own is not responsible for any third party software you may need to use the Service. Any such software is accepted by you "as is".

#### **E. Limitations and Transmission Timeframes**

You may be subject to transaction limitations through BDC. See Section G below.

#### **F. Deposited Checks and Image Quality**

You are responsible for the image quality of any Image that you transmit. If an Image that we receive from you or for deposit to your Account is not of sufficient quality to satisfy our image quality standards as we may establish them from time to time, we may reject the Image without prior notice to you.

Each Image must include the front and back of the Item and the following information must be

clearly readable: amount, payee name, drawer signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and any endorsement or other information written on the check. Our processing agent will ensure that the image quality of your Images meets our minimum standards for substitute checks to comply with the Check Clearing for the 21st Century Act and Regulation CC. We reserve the right to deny remotely deposited Items when such do not meet our minimum image quality standards. Image quality is important for presentment and clearing. You agree that we may determine the manner in which checks are cleared or presented for payment. Without limiting the generality of the foregoing, you authorize us to process any Image that you send us or convert an Image to an Image Replacement Document. You authorize us and any other financial institution to which an Image is sent to handle the Image or IRD. We reserve the right to choose the agents through whom we clear items and you agree to be bound by any clearinghouse agreements, operating circulars and image exchange agreements to which we are a party.

You understand that we have no obligation to review any deposited Item for accuracy, legibility, or for any other purpose. However, we may adjust information associated with the Item to facilitate processing.

#### **G. Deposit Limits**

We may establish limits on the dollar amount and/or number of Items or deposits permitted to be deposited by you through use of the Service from time to time. At present, Business account holders may deposit up to \$20,000 at a time. At any point, Georgia's Own has the right to establish different limits.

If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of the established limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times

#### **H. Deposit of Other Items; Deposits When Service Not Available.**

You agree that you will not use the Service to deposit anything not meeting the definition of an Item. If you use the Service to transmit anything that is not an Item, or if for any reason we are not able to recognize something transmitted as an Item, we may reject it without prior notice to you. You agree to make those deposits through other channels that we offer, such as at a Credit Union branch, ATM, or mail. You further agree to use such other channels when the Service may not be available.

#### **I. Returned Items.**

You are solely responsible for any Item for which you have been given provisional credit, and any such Item that is returned or rejected may be charged to your Account or any other account in your name. You acknowledge that all credits received for deposits made through the Service are provisional, subject to verification and final settlement. Any Item that we return to you will be returned in the form of an Image or an IRD. You agree that we may hold funds in any of your Georgia's Own accounts following the termination of this Agreement for a reasonable time in

order to assure that no Item will return unpaid or otherwise result in any associated costs, damages, or losses.

#### **J. Handling of Transmitted Items.**

You agree not to allow an Item to be deposited or presented for payment more than once to the extent that it could result in the payment of the Item more than once. You will not allow the transmission of an Image of an Item that has already been presented to us or to any financial institution by any means. You will not allow transmission of an Image of an Item that has already been transmitted through the Service. If an Image of an Item has been transmitted to us or to any other financial institution, you will not allow the Item to be subsequently presented by any other means. If any Item is presented or deposited more than once, whether by Image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.

For any Image which you have transmitted, you shall be responsible for preventing the transmission of another Image of the Item or presentment of the Item by any other means. You agree to retain the Item for at least 45 calendar days from the date of the Image transmission and, during such 45 day period, securely store the Item and deliver any original Item to us upon our demand. You agree that, upon expiration of such 45 day period, you shall destroy any Item of which you have transmitted an Image or otherwise render it incapable of transmission or presentment.

#### **K. Cooperation With Investigations.**

You agree to cooperate with us in the review or investigation of any transactions, poor quality transmissions or claims, including, without limitation, by providing, upon request and without further cost, any originals or copies of Items in your possession and your records relating to Items and transmissions. In the event you fail to comply with our request you agree to be liable for any loss arising from your failure.

#### **L. Processing.**

##### **1. Item Processing**

At our sole discretion, we may process the Images you send to us electronically through other financial institutions, or we may create Image Replacement Documents that will be processed through traditional check processing methods. If you send us Images that are incomplete, that fail to satisfy our image quality requirements, or otherwise do not allow us to meet the requirements of Check 21 or any image exchange agreement that would cover our further electronic transmission of Images that you send us, or we are otherwise unable to process Images that you send us, we may charge the Images back to your Account or any other account in your name. You agree to be bound by any clearinghouse agreements, operating circulars, and image exchange agreements to which we are a party.

##### **2. Receipt of Items**

We reserve the right to reject any Image or Item transmitted through the Service, at our

discretion, without liability to you. We are not responsible for Images we do not receive or for Images that are dropped during transmission. An Image of an Item shall be deemed received only when you receive a confirmation from us that we have received the Image and accepted your deposit. However, the confirmation that we send you does not mean that the transmission was complete or error free.

### 3. Funds Availability

If an Image you transmit through the Service is received and accepted before 2:00 p.m. Eastern Time on a business day that we are open, we consider that day to be the day of your deposit. Otherwise, we will consider that the deposit was made on the next business day we are open. You agree, however, that Items transmitted through the Service are not subject to the funds availability requirements set forth in the “Funds Availability Policy and Disclosure” section of the Credit Union’s Membership Agreement and Disclosures or Regulation CC of the Federal Reserve Board.

Nevertheless, we will generally make the first \$225 of a day’s total deposits available by the first (1<sup>st</sup>) business day after the day of your deposit and the remainder available by the second (2<sup>nd</sup>) business day after the day of your deposit. We reserve the right to delay availability up to 60 days from the date we receive payment for Items transmitted through the Service.

### 4. Errors

You agree to notify us of any suspected errors regarding Items deposited through the Service as soon as possible, and in no event later than 30 days after the applicable Credit Union account statement is sent to you. Unless you notify us within 30 days, such statement regarding all deposits made through the Service shall be deemed correct, and you are prohibited from bringing a claim against us for such alleged error.

### **M. Fees.**

You are responsible for paying the fees for use of the Service as the Credit Union may change them from time to time. The Credit Union may change the fees for use of the Service at any time pursuant to the section titled “Amendment” below. You authorize the Credit Union to deduct any such fees from any account in your name, including accounts owned jointly by you.

### **N. Representations and Warranties**

You make the following representations and warranties to us:

1. You and any user you authorize will use the Service only for lawful purposes and in compliance with all applicable rules and regulations and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.
2. You will use the Service to transmit and deposit Images of Items only.

3. You will transmit only Images of Items acceptable for deposit through the Service and will handle Items as agreed herein.
4. You are a person authorized to enforce each Item or are authorized to obtain payment of each Item on behalf of a person entitled to enforce an Item.
5. Items submitted for deposit through use of the Service are valid Items and you will reimburse and indemnify the Credit Union for all loss, damage, and expenses, including reasonable attorney's fees, incurred in defending any allegation that such Items are invalid or fraudulent.
6. Items have not been altered.
7. Each Item bears all required and authorized endorsements.
8. Each Item has been endorsed as "For Business Deposit Capture Only to Georgia's Own Credit Union".
9. All of the warranties set forth in Section 4-207 of the Uniform Commercial Code.
10. All Images accurately and legibly represent all of the information on the front and back of the Item.
11. You will not use the Service to transmit or deposit any Item, (i) payable to any person or entity other than you, (ii) which you know or should know to be fraudulent, altered, unauthorized, or missing a necessary endorsement, (iii) that is a substitute check or image replacement document, (iv) that is drawn on an institution located outside of the United States, (v) that is not payable in United States currency, (vi) that is dated more than 6 months prior to the date of deposit, or (vii) that is created by you purportedly on behalf of the maker, such as a remotely created check.
12. No depository bank, drawee, drawer, or endorser will receive presentment or return of, or otherwise be charged for, a substitute check, the original check, or a paper or electronic representation of a substitute check or the original check such that that person will be asked to make a payment based on a check that it already has paid.
13. You will use the Service in the manner required by this Agreement.
14. You, if acting on behalf of a business entity, are fully authorized to execute this Agreement.
15. You are not engaged in any business that would result in your being a "money service business" as defined in the Federal Bank Secrecy Act and its implementing regulations.

16. You have not knowingly accepted restricted transactions in connection with another person in unlawful internet gambling as defined in the Unlawful Internet Gambling Enforcement Act and Regulation GG (Prohibition on Funding of Unlawful Internet Gambling).
17. All information you provide to us is accurate and true.

You shall be deemed to have repeated each of the foregoing representations and warranties each time you transmit an Image through use of the Service.

**o. Indemnification and Limitations on Liability.**

In addition to the indemnifications and limitations on liability contained in the Membership Agreement and Disclosures, you hereby indemnify and hold harmless Credit Union and each of its directors, officers, employees, agents, successors, and assigns (“Indemnitees”) from and against all liability, loss, and damage of any kind (including attorneys’ fees and other costs incurred in connection therewith) incurred by or asserted against such Indemnitee in any way relating to or arising out of (a) the Service, (b) any Image, Item or IRD, (c) any failure by you to comply with the terms of this Agreement or breach by you of any representation or warranty contained herein, (d) any failure by you to comply with applicable laws and regulations, or (e) any acts or omissions of you or any third party. This paragraph shall survive the termination of this Agreement for any reason.

YOU AGREE YOUR USE OF THE SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICE, WHETHER EXPRESS 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 (i) WILL MEET YOUR REQUIREMENTS, OR (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. FURTHER, WE MAKE NO WARRANTY THAT (i) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICE WILL BE ACCURATE OR RELIABLE, OR (ii) ANY ERRORS IN THE SERVICE OR TECHNOLOGY WILL BE CORRECTED.

YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES RESULTING FROM THE USE OR THE INABILITY TO USE THE SERVICE INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF THE SERVICE, 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. WITHOUT IN ANY WAY LIMITING THE

FOREGOING, YOU AGREE FURTHER THE CREDIT UNION SHALL NOT BE LIABLE FOR ANY DAMAGES OTHER THAN THOSE CAUSED SOLELY AND DIRECTLY BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND ITS LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL IN FEES YOU PAID FOR THE USE OF THE SERVICE DURING THE SIX MONTH PERIOD PRIOR TO THE SUPPOSED ACT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

#### **P. Intellectual Property**

This Agreement does not transfer to you any ownership or proprietary rights in the Service or any associated software or any part thereof. We or our agents retain all intellectual property rights, title and interest in and to the Service, Remote Device and any associated software.

Neither you nor any user you authorize will (a) sell, lease, distribute, license or sublicense the Service; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Service or any part of it in any way for any reason; (c) provide, disclose, divulge or make available to or permit use of the Service by any third party; (d) copy or reproduce all or any part of the Service; or (e) interfere, or attempt to interfere, with the Service in any way.

#### **Q. Use of Services**

As a condition to using the service, you agree that you are solely responsible for the use of the Service and that you will use the Service in accordance with this agreement. You agree not to attempt to circumvent the security features of the Services or the System or make any improper or unauthorized transfer of funds from accounts via the Service or the System. You agree that you are prohibited from engaging in conduct that would violate the proprietary rights of the owner(s) of the System and the Service as well as accessing or using the System or the Service in any other unauthorized manner. You agree to be liable to the Credit Union and its vendors, for any claims, losses, liabilities, damages, expenses or costs arising as a result of the negligent or intentional misuse of the Service or the System by you or your authorized users.

By using the Service you accept the risk that an item may be intercepted or misdirected during transmission. Georgia's Own bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.

#### **R. Authorized Users**

The Credit Union shall be entitled to rely on the apparent authority of any person who accesses the Services using valid member and user login IDs and passwords, including such persons who may not be signers on the account. Except as otherwise provided by law, you will indemnify Georgia's Own and hold it harmless for any loss or expense caused by any person with the apparent authority to access the Service. You agree to provide each authorized user a copy of these terms in connection with their use of the Service. The Credit Union may elect to verify the



authenticity or content of any transmission by placing a call to any authorized signer on your account at our discretion. We may deny your access to the Service without prior notice if we are unable to confirm any person's authority to access the Service or if we believe such action is necessary for security reasons

#### **s. Security Requirements**

To prevent unauthorized usage of the Service, you agree to ensure the security of the personal computer and/or Business device you own and use to access the Service. By securing these devices, we specifically mean installing operating system patches, antivirus software, firewall and spyware detection as applicable and keeping this security software current, as well as securing the physical device from theft or unauthorized use. Additionally, Georgia's Own may also request additional information from you regarding the security methods you have put in place to ensure the security of the devices you are using to access the Service.

#### **t. Termination**

We may terminate or suspend the Service, or your use of the Service, immediately and at any time with or without notice to you. You may terminate your use of the Service at any time by giving notice to us. Your notice will not be effective until we have had a reasonable time within which to act upon it. Notwithstanding termination, any Image transmitted through the Service shall be subject to this Agreement.

#### **u. Severability**

Any provision of this Agreement that is unenforceable shall be ineffective to the extent of such provision, without invalidating the remaining provisions of this Agreement. If performance of the Service would result in violation of any law, regulation, or governmental policy, this Agreement shall be deemed amended to the extent necessary to comply therewith.

#### **v. Entire Agreement**

This Agreement and the Deposit Agreement contain the entire agreement between the parties relating to the subject matter addressed herein, and supersede any prior or contemporaneous understandings or agreements, whether oral or written, between the parties regarding the subject matter contained herein.

#### **w. Headings**

The headings preceding the text of the sections and subsections of this Agreement are used solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement.

#### **x. Assignment**

This Agreement shall not be assigned or delegated by you without the prior written consent of Credit Union.

**y. Waiver**

Waiver by us of any breach or default by you of the terms of this Agreement shall not be deemed to nor shall the same constitute a waiver of any subsequent breach or default by you.

**z. Governing Law**

This Agreement, and your rights and our obligations under this Agreement, are governed by and interpreted according to the laws of the State of Georgia and of the United States. In the event of any dispute arising out of or related to the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and collection expenses in addition to any other recovery. You and we agree any legal action related to this Agreement shall be filed and heard in Fulton County, Georgia, except as prohibited by applicable law.

Unauthorized use of this service is strictly prohibited.

**Electronic Signature:** You consent and agree that your selection of the “I Agree” button in the top right of this window, your enrollment to use the Service or your use of the Service constitutes your signature, acceptance and agreement to the terms and conditions of this Agreement as if actually signed by you in writing. Further, you agree that no certification authority or other third party verification is necessary to the validity of your electronic signature. You agree that the lack of such certification or third party verification will not in any way affect the enforceability of your signature or any resulting contract between you and the Credit Union.