

## **New Generations Federal Credit Union**

1700 Robin Hood Road  
Richmond, VA 23220  
(804) 359-8754  
www.newgenfcu.org

### **Remote Deposit Capture User Agreement**

This Remote Deposit Capture User Agreement (“Agreement”) contains the terms and conditions for the use of New Generations Federal Credit Union’s remote deposit capture services that New Generations Federal Credit Union (“New Generations”, “us”, or “we”) may provide to you (“you” or “user”). Other agreements you have entered into with New Generations, including but not limited to the Mobile Application Disclosure and the Electronic Services Application & Disclosure, governing your New Generations account(s) (collectively referred to as the “other agreements”), are incorporated by reference and made a part of this Agreement. In the event of a discrepancy between this Agreement and the other agreements, the terms of this Agreement shall control.

- 1. Services.** The remote deposit capture services (“Services”) are designed to allow you to make deposits to your share draft (“Checking”), share (“Savings”), or Money Market accounts from home or other remote locations by scanning checks or electronically transmitting a digital image of your paper checks to New Generations or a processor designated by New Generations. There is currently no charge for the Services.
- 2. Member Eligibility.** You understand that at a minimum you must be a New Generations member in good standing to qualify for the Services. Other qualifications may apply in order for you to qualify for the Services.
- 3. Acceptance of these Terms.** Your use of the Services constitutes your acceptance of this Agreement. You agree to comply with the hardware and software requirements set forth at Exhibit “A”, which is attached hereto and incorporated by this reference. New Generations reserves the right to change the terms and charges for the Services described in this Agreement by notifying you of such change in writing and New Generations may amend, modify, add to, or delete from this Agreement from time to time. Your continued use of the Services will indicate your acceptance of the revised Agreement.
- 4. Compliance with Laws.** You agree to comply with all laws, statutes, regulations and ordinances pertaining to your use of the Services, 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 Services we provide. 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.
- 5. Limitations of Services.** When using the Services, you may experience technical or other difficulties. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. Some of the Services have qualification requirements,

and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue the Services, in whole or in part, or your use of the Services, in whole or in part, immediately and at any time without prior notice to you.

- 6. Eligible Items for Deposit.** You agree to scan and deposit only “checks” as that term is defined in Federal Reserve Regulation CC (“Regulation CC”). You agree that the image of the check transmitted to us shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code as adopted in Virginia.
- 7. Unacceptable Items for Deposit.** You understand and agree that you will not use the Services to deposit the following items:
  - Any third part 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(s) at New Generations.
  - Any item that contains evidence of alteration to the information on the check.
  - 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.
  - A “remotely created check”.
  - Any item that is “stale dated”, expired, or “post dated”.
  - Any item that is “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.
  - Cash.
  - Savings Bonds.

Deposits of this nature will result in the immediate termination of the Services and an immediate reversal of the transaction or credit to your account. A reversal means the balance of the item(s) deposited will be removed from your account and will reduce your account balance. The reversal may also result in a negative balance on your account.

- 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 at the time of presentment to you by the drawer. Prior to scanning the original check, you will restrictively endorse any item transmitted through the Services as “For deposit only, New Generations account # \_\_\_\_\_” or as otherwise instructed by New Generations. You agree to follow any and all other procedures and instructions for use of the Services as New Generations may establish from time to time. The scanned image of the check transmitted to us using the Services 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. The Service may reject your deposit if the image is not satisfactory. Receipt of the image does not guarantee we can accept the image.

- 9. Receipt of Items.** Upon receipt of the digital image, we will review the image for acceptability. You understand and agree that receipt of an image does not occur until after we notify you of receipt of the image by a confirmation screen upon the conclusion of your transaction. 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. Following receipt of the image, we will process the image. Notwithstanding anything to the contrary, we reserve the right, within our sole and absolute discretion, to accept or reject any item for remote deposit into your account and, in the event we reject an item for remote deposit, you understand and agree that you must deposit the original item. You understand and agree that even if we do not initially reject an item you deposit through the Services, we may ask you to provide the original item, 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 Services 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. Rejection of Deposit.** We are not liable for any fees, 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.
- 11. 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, including any applicable fees. Please refer to the current Fee Schedule.
- 12. Availability of Funds.** For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before 3 p.m. Eastern Time on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after 3 p.m. Eastern Time or on a day we are not open, we will consider that your deposit was made on the next business day we are open. You understand and agree that, for purposes of deposits made using the Services, the place of deposit is Richmond, Virginia. You understand that following our receipt and processing of the images, funds from the check will be made available for your withdrawal and/or use on the second business day after we receive your deposit; however, longer delays may apply. 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. Refer to our Funds Availability Disclosure for complete information.

- 13. Email Address.** You agree to notify us immediately if you change your email address. You can change your email address in eBank, our Online Banking System.
- 14. Unavailability of Services.** You understand and agree that the Services may at times be temporarily unavailable due to New Generations system maintenance or technical difficulties including, but not limited to, those of the Internet service provider and Internet software. In the event that the Services are unavailable, you acknowledge that you can deposit an original check at our branches or through some of our ATMs, or by mailing the original check to New Generations Federal Credit Union, 1700 Robin Hood Road, Richmond, VA 23220. It is your sole responsibility to verify that items deposited using the Services have been received and accepted for deposit by us. To verify that your deposit was accepted you can sign into Mobile Banking or Online Banking, and verify your deposit was received. The credit will be provisional until the deposit has cleared.
- 15. Retention and Disposal of Transmitted Items.** Upon your receipt of a confirmation from New Generations that we have received the image of an item, you agree to prominently mark the item as “Electronically Presented” or “RDC” and the date to ensure that it is not re-presented for payment.
- You agree to securely store each original check that you deposit using the Services for a period of at least sixty (60) days after transmission to us. After sixty (60) days and no later than ninety (90) days after you transmit the original check, you will safely 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 re-present the check for deposit.
  - You will promptly provide any retained check, or a sufficient copy of the front and back of the check, to New Generations 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.
- 16. Deposit Limits.** We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Services and to modify such limits from time to time. Current deposit limits are \$5,000 for one check or \$25,000 per day, whichever occurs first.
- 17. eMobile Mobile Banking Application.** We will provide you with the **Mobile Banking Application (“App”)**. If you meet the preselected eligibility criteria for the Services, you will receive a response when you use the icon for eBank Remote Deposit Capture so that you can capture and transmit check images (front and back) and other information to us electronically for deposit. If you are not sure if you qualify for the Services, you may contact the Member Information Center at (804) 359-8754, option 4.

- 18. In Case of Errors.** You agree to immediately notify us of any suspected errors regarding checks deposited through the Services by calling (804) 359-8754, option 4, or emailing us through the eBank Online Banking secure email service.
- 19. Periodic Statement.** Any remote deposits made through the Services will be reflected on your monthly periodic statement. You understand and agree that you are required to notify us of any error relating to images transmitted using the Services by no later than sixty (60) days after you receive 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.
- 20. Ownership & License.** You agree that we retain all ownership and proprietary rights in the Services, associated content, technology, and website(s). Your use of the Services 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 Services. Without limiting the restriction of the foregoing, you may not use the Services (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to the business interest of New Generations, or (iii) to actual or potential economic disadvantage in any aspect to New Generations. You may use the Services only for non-business, personal use in accordance with this Agreement. 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 Services.
- 21. DISCLAIMER OF WARRANTIES.** YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR RISK. YOU ALSO UNDERSTAND AND AGREE THAT THE SERVICES 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 SERVICES, 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 NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICES 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 SERVICES WILL BE ACCURATE OR RELIABLE, OR THAT ANY ERRORS IN THE SERVICES 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 NEW GENERATIONS' 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.
- 22. 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 SERVICES 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 SERVICES, OR YOUR BREACH OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION OR

CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF NEW GENERATIONS HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

**23. Accountholder's Warranties.** You make the following warranties and representations with respect to your use of the Services and each image of an original check you transmit to us using the Services:

- 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 deposit through the Services, 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 Services for the required retention period and neither you nor any other party will submit the original check for payment.
- Your account into which you deposit checks using the Services, and the funds from such checks, are only used for consumer purposes and not for business purposes.
- You will not use the Services 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.

**24. 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 out of your use of the Services and/or breach of this Agreement. You understand and agree that this paragraph shall survive termination of this Agreement.

**25. Termination of the Services.** You may, by written request, terminate the Services provided for in this Agreement. We may terminate your use of the Services at any time. In the event of termination of the Services, you will remain liable for all transactions performed on your account.

**26. Relationship to Other Disclosures.** The information in this Agreement applies only to the Services described herein the *Remote Deposit Capture User Agreement*. Provisions in other disclosures and disclosure documents, as may be revised from time to time, remain in effect for all other aspects of your account.

**27. Governing Law.** You understand and agree that this 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 Virginia, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. You agree to submit to the personal jurisdiction of the courts of the Commonwealth of Virginia.

- 28. Confidentiality.** You acknowledge and agree that confidential data relating to the Services, marketing strategies, business operations and business systems (collectively, “Confidential Information”) may come into your possession in connection with this Agreement. You understand and agree that you are prohibited from disclosing and agree to maintain the confidentiality of our Confidential Information.
- 29. 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.
- 30. Relationship.** This 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.
- 31. 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 in the Services due to causes beyond our reasonable control.
- 32. Other Terms.** You may not assign this Agreement. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid.

### **33. Definitions**

**Check** (as defined in Regulation CC) a negotiable demand draft that is drawn on:

- Or payable through or at an office of a bank or credit union;
- A Federal Reserve Bank or a Federal Home Loan bank;
- The Treasury of the United States;
- A state or local government that is not payable through or at a bank or credit union;
- A United States Postal Service money order;
- A Traveler’s check drawn on or payable through or at a bank or credit union;
- An original check.

**Item** (as defined in Article 4 of the Uniform Commercial Code) means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment for ACH or wire transfers.

**Remotely Created Check** (as defined in Regulation CC) A check that is not created by the paying bank and does not bear a signature by the person on whose account the check is drawn, but is authorized by the account owner.

**Substitute Check** (as defined in Regulation CC) is a check reproduction of an original check that:

- Contains an image of the front and back of the original check;

- Bears a MICR line that contains all the information appearing on the MICR line of the original check at the time the original check was issued and any additional information that was encoded on the original check's MICR line before an image of the original check was captured.
- Conforms in paper stock, dimension, and otherwise with ANSI X9.100-140 and
- Is suitable for automated processing in the same manner as the original check.

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## **Exhibit A**

### **INSTRUCTIONS FOR eBank REMOTE DEPOSIT CAPTURE**

#### Hardware and Software Requirements

In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by New Generations from time to time. New Generations is not responsible for any third party software you may need to use the Services. Any such software is accepted by you as is and is subject to the terms and conditions of the software agreement you enter into directly with the third party software provider at time of download and installation.

For eBank Remote Deposit Capture, minimum requirements are either an iPhone device running iOS version 6.0 or higher or an Android device running Android version 2.3.4 or higher, equipped with a camera in both cases. New Generations reserves the right to change hardware and software requirements and will notify you of any material change via e-mail or on our Website(s) by providing a link to the revised requirements. Your continued use of the Services will indicate your acceptance.