

Dakota West Credit Union

Pay-a-Person Terms & Conditions

This document shall serve as the end-user agreement (the Agreement) for pay-a-person (P2P) services offered by Dakota West Credit Union (DWCU, the Credit Union, We, Us). By clicking the ACCEPT button, you, the member and end-user, agree to be bound by the terms and conditions of service as outlined in this document regarding the use of the Credit Union's P2P services. This document is a legal agreement between you, the end-user, and DWCU. These terms and conditions of service affect your rights and you should read them carefully.

This Agreement constitutes a contract between the end-user (You or Your), a member of DWCU, and the Credit Union or its designated third-party processor or service provider in connection with P2P services (the Service) offered by Us through Our online banking platform and Our mobile banking platform (collectively, the Sites). This Agreement applies to Your use of the Service and any portion of the Sites through which the Service is offered. The Service enables you to initiate a P2P payment instruction from an eligible transaction account at DWCU to another account at any United States (U.S.) financial institution. We may utilize the Automated Clearinghouse (ACH) network to execute P2P payment instructions as requested by You; however, other payment networks may be used to facilitate the execution and transmission of payment instructions. P2P payments executed through the ACH network shall be evidenced by a request initiated electronically as described herein and will be initiated on Your behalf pursuant to the terms of this Agreement and the rules of the National Automated Clearinghouse Association (the Rules), and all other applicable laws, rules and regulations.

1. ELIGIBILITY FOR PAY-A-PERSON SERVICES

P2P services are offered only to individuals that are residents of the U.S. and legal nonresident aliens, who can form legally binding contracts under applicable state law. Without limiting the foregoing, the Service is not offered to minors or any non-individual member, such as a corporation. By using the Service, You represent that You meet these requirements and that You agree to be bound by the terms and conditions of this Agreement.

2. INITIATING PAYMENT INSTRUCTIONS

All P2P payment instructions must be initiated by You through the Site and are subject to the terms and conditions of this Agreement as well as all applicable state and federal laws and regulations. Before You are permitted to initiate a P2P payment instruction, You will be required to agree to this Agreement and follow the procedures set forth on the Site.

3. SECURITY PROCEDURE REQUIREMENTS

- a. You shall comply with the security procedure requirements with respect to all P2P payment instructions You initiate. You agree to take full and final

responsibility for all errors relating to or concerning P2P payment instructions You initiate.

- b. You are responsible for establishing and maintaining practices to safeguard against unauthorized access to Your account and the transmission of P2P payment instructions. You warrant that no other individual will be allowed to initiate P2P payments on Your behalf. You also agree to take all reasonable steps to maintain the confidentiality of Your security practices, passwords, codes, security devices, and related instructions associated with Your account, the Site, and the Service. If You believe or suspect that any such information or instructions have been discovered or accessed by any unauthorized persons, You agree to notify Us immediately. The occurrence of unauthorized access will not affect any P2P payments You requested and were transmitted by Us in good faith prior to Our receipt of such a notification.
- c. If a request for a P2P payment, or a request for a cancellation or amendment of a P2P payment, received by Us purports to have been transmitted or authorized by You, it will be deemed effective, and We will initiate transmission of the P2P payment on Your behalf. Except as limited by applicable law, You shall be obligated to pay Us the amount of all P2P payments transmitted by Us on Your behalf, even if the P2P payment or request was not authorized by You, provided We accepted and acted on the P2P payment request in good faith.

4. COMPLIANCE WITH SECURITY PROCEDURES

- a. DWCU shall be deemed to have complied with security procedures if the password entered in connection with the Service on the Site matches the password associated with Your account.
- b. If a request for a P2P payment, or a request for a cancellation or amendment of a P2P payment, received by Us was transmitted or authorized by You, You shall pay DWCU the amount of the P2P payment, whether or not We complied with the security procedure with respect to that P2P payment and whether or not that P2P payment was erroneous in any respect or error that would have been detected if We had complied with such procedure.

5. PAYMENT AUTHORIZATION AND REMITTANCE

- a. By providing Us with names and mobile phone numbers and/or electronic mail (e-mail) addresses of P2P payment recipients, You authorize Us to follow the P2P payment instructions that We receive through the Service.
- b. When We receive a P2P payment instruction from You, You authorize Us to debit Your account and remit funds on Your behalf. You also authorize Us to credit Your account for the receipt of payments returned to Us because the processing of your P2P instructions could not be completed.
- c. We will use reasonable efforts to complete all P2P payment instructions as directed; however, We shall incur no liability if We are unable to complete any

payment instruction due to the existence of any one or more of the following circumstances:

- i. If, through no fault of Ours, Your account does not contain sufficient funds to complete the P2P payment instruction, or the P2P payment instruction would exceed the credit limit of your overdraft protection account.
 - ii. The Service is not working properly, and You know, or have been advised by Us, about the malfunction before You execute the P2P payment instruction.
 - iii. The payment is refused or returned by the recipient or recipient's financial institution.
 - iv. You have not provided the correct information, including, but not limited to, P2P instructions, account information, or the name, mobile phone number, or e-mail address of the recipient.
 - v. Circumstances beyond Our control, such as, but not limited to, natural disasters like a flood, tornado, fire, etc., network or system down time, or interference from an outside force which prevent the proper execution of the P2P payment instruction.
- d. It is Your responsibility to ensure the accuracy of any and all information input into the Site to Us to carry out the P2P payment instructions including, but not limited to, the name, mobile phone number and/or e-mail address of the recipient. You are responsible for informing Us immediately if You or the recipient becomes aware that the P2P payment instructions sent were incorrect in any way. We will make a reasonable effort to stop or recover a payment made based on an error contained within You P2P payment instructions; however, We do not guarantee such stoppage or recovery and will incur no liability or loss for damages resulting from such incorrect information.
- e. You agree that Your authorization provided on the Site is conclusive evidence that, with regard to each P2P payment instruction initiated, You authorize and are empowered to authorize Us to process the payment instructions received on your behalf.

6. YOUR REPRESENTATIONS AND AGREEMENTS

Each and every P2P payment instruction You initiate, You represent and warrant that:

- a. You are authorized to initiate such a request for a P2P payment and hereby authorize DWCU to process and transmit each P2P payment instruction initiated by You, provided that:
 - i. Such authorization is operative at all relevant times, including, without limitation:
 1. At the time You establish pre-authorization on the Site.
 2. At the time You initiate a P2P payment.
 3. At the time We transmit or debit the payment as initiated.

- b. Your P2P payment instructions are not prohibited under this Agreement, including as set forth in Section 7 – Prohibited Payments.
- c. You shall perform Your obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions and laws promulgated by the Office of Foreign Asset Control (OFAC) and NACHA’s Rules.
- d. You shall comply with and perform all of Your obligations described in any other applicable agreement. You shall indemnify DWCU against any loss, liability, or expense (including attorneys’ fees and other expenses) resulting from or arising out of any breach of any of the foregoing representations or agreements.

7. PROHIBITED PAYMENTS

The types of payments listed below are strictly prohibited through the Service. DWCU has the right, but not the obligation, to monitor for, block, cancel, and/or reverse such payments.

- a. Payments to persons or entities located in prohibited countries and territories or with accounts in prohibited countries or territories.
- b. Payments that violate any local, state, or federal law, regulation, statute, or ordinance.
- c. Payments related to the production, distribution, purchase or sale of the following:
 - i. Tobacco products.
 - ii. Prescription drugs and devices.
 - iii. Narcotics, steroids, controlled substances, or other products that present a risk to consumer safety.
 - iv. Drug paraphernalia.
 - v. Ammunition, firearms, or firearm products or accessories.
 - vi. Weapons or knives regulated under applicable law.
 - vii. Goods or services that encourage, promote, facilitate, or instruct others to engage in illegal activity.
 - viii. Goods or services of a sexual nature.
 - ix. Goods or services that promote hate, violence, racial intolerance, or the financial exploitation of a crime.
 - x. Good or services that defame, abuse, harass, or threaten others.
 - xi. Goods or services that are bigoted, hateful, racially offensive, vulgar, obscene, indecent, or discourteous.
 - xii. Goods or services that advertise or solicit the sale of others.
 - xiii. Goods or services that infringe or violate any copyright, trademark, right of publicity or privacy, or any other proprietary right under the laws of any jurisdiction.
- d. Payments relating to gambling, gaming, and/or any other activity with an entry fee and a prize, including, but not limited to, casino games, sports betting, animal

racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery), and sweepstakes.

- e. Payments related to transactions that:
 - i. Support pyramid or Ponzi schemes, matrix programs, other “get rich quick” schemes, or multi-level marketing (MLM) programs.
 - ii. Are associated with purchases of real property, annuities, lottery contracts, lay-away systems, off-shore banking, or transactions to finance or refinance debts funded by a credit card.
 - iii. Are for the sale of items before the seller has control or possession of the item.
 - iv. Involve money laundering or terrorist financing.
 - v. Are associated with a money service business as defined by the Financial Crimes Enforcement Network (FinCEN).
 - vi. Provide credit repair or debt settlement services.
- f. Tax payments and court-ordered payments including, but not limited to, alimony and child support.
- g. In addition to the above-listed prohibited payments, We may also block and/or reverse payments that involve donations or payments to any charity or non-profit organization unless We have performed due diligence on the subject charity or non-profit organization to determine its legitimacy.

In no event shall We, Our third-party service providers, or other entities to whom We assign or delegate Our rights or responsibilities to be liable for any claims or damages resulting from Your scheduling of prohibited payments. We have no obligation to research or resolve any claim resulting from a prohibited payment. All research and resolution for any misapplied, mis-posted, or misdirected prohibited payments will be Your sole responsibility. We encourage You to notify Us immediately if You become aware of any violation on Your part of this section, or of this Agreement.

8. CREDIT UNION RESPONSIBILITIES; LIMITATIONS ON LIABILITY; INDEMNITY

In the performance of the Services outlined in this Agreement, DWCU shall be entitled to rely solely on the information, representations, and warranties provided by You pursuant to this Agreement, and any other applicable agreement or authorization provided by You and shall not be responsible for the accuracy or completeness thereof. The Credit Union shall be responsible only for performing the services expressly provided for in this Agreement and shall be liable only for its gross negligence or willful misconduct in performing those services. We shall not be responsible for Your acts or omissions, including, without limitation, the amount, accuracy, timeliness, or transmittal or authorization of any P2P payment instructions initiated by You. We shall also not be liable for the actions or omissions of any third-party service provider, including, but not limited to, a Federal Reserve

Bank, automated clearinghouse, or receiving financial institution. No such entity or person shall be deemed an agent of DWCU.

You agree to indemnify DWCU and its employees, officers, and board members against any loss, liability, or expense (including attorneys' fees and expenses) resulting from, or arising out of, any claim or any act or omission on Your part or any other person described in Section 8.

- a. In the event of Our liability, We will be liable only for Your actual damages. In no event shall the Credit Union be liable for any consequential, special, incidental, punitive, or indirect loss or damage which You may incur or suffer in connection with this Agreement, whether or not the likelihood of such damages was known or contemplated by Us and regardless of the legal or equitable theory of liability which You may assert, including, without limitation, loss or damage from subsequent wrongful dishonor resulting from Our acts or omissions pursuant to this Agreement.
- b. Without limiting the generality of the foregoing provisions, DWCU shall be excused from failing to act or delay in acting, if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions, or other circumstances beyond Our reasonable control. In addition, DWCU shall be excused from failing to transmit or delay in transmitting a P2P payment instruction if such a transmittal would result in DWCU having to exceed any limitation upon Our intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in the Credit Union's reasonable judgment otherwise violating any provision of any present or future risk control program of Ours, the Federal Reserve, or any rule or regulation of any other U.S. governmental regulatory authority.
- c. Subject to the foregoing limitations, Our liability for loss of interest resulting from Our error or delay shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of Minneapolis for the period involved.
At Our option, payment of such interest may be made by crediting Your account.

9. INCONSISTENCY OF NAME AND ACCOUNT NUMBER

You acknowledge and agree that if a P2P payment instruction describes the receiver inconsistently (i.e. the recipient's name does not match the account number provided), the P2P payment may be applied by the receiving financial institution on the basis of the account number You provided, even if the recipient name does not match. You remain obligated to pay any initiated payment regardless of inconsistencies between the recipient name and account number provided.

10. AMENDMENTS

Except as otherwise required by law, rule, or regulation, We may, from time to time, amend any of the terms and conditions contained within this Agreement. Such amendments shall

become effective at the time they are posted to the Site unless a delayed effective date is expressly stated in the revision. Any use of the Service after a notice of change or after the posting a revised version of this Agreement on the Site will constitute Your agreement to such changes and revised versions. Additionally, We may, from time to time, revise or enhance the Service and/or related applications, which may render all such prior versions obsolete. Consequently, We reserve the right to terminate this Agreement as to all such prior versions of the Service, and/or related applications, and limit access to only the Service's most recent revisions or enhancements.

11. NOTICES, INSTRUCTIONS, ETC.

Except as otherwise expressly provided herein, We shall not be required to act upon any notice or instruction received from You or any other person, or to provide any notice or advice to You or any other person with respect to any matter. We shall be entitled to rely on written notice or other written communication, including without limitation, electronic information entered on the Site, believed to be genuine and provided in good faith by You, and any such communication shall be conclusively deemed to have been authorized and executed by You.

12. TEXT AND E-MAIL ALERTS

You may request automated alert messages to be sent to You via text or e-mail. We offer alert messages to notify You of a variety of events and circumstances. We may make new alerts available from time to time or discontinue old alerts. The frequency with which You receive alert messages depends on the number and types of alerts You request and on whether You enter into an account transaction that triggers an alert. Alert messages will be sent to the mobile telephone number or e-mail address You have specified. Alert messages may be delayed or prevented by a variety of factors. We neither guarantee the delivery, nor the accuracy of the contents, of any alert. We shall not be held liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by You or any third party in reliance on an alert or the contents of an alert.

General Provisions for Text Alerts: By requesting to receive text message alerts, You authorize DWCU to send text messages to the phone number You specify. Text alerts are supported by most mobile carriers. Neither DWCU nor Your mobile carrier is liable for delayed or undelivered messages. Your mobile carrier's messaging and data rates may apply. Message frequency varies based on user activity. If you have questions about alerts, contact DWCU.

13. COOPERATION IN LOSS RECOVERY EFFORTS

In the event of any loss or damages for which You or the Credit Union may be liable to each other or a third party, pursuant to the services provided under this Agreement, You and DWCU will undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any action that the relevant party may be obligated to defend or elect to pursue against a third party.

14. ENTIRE AGREEMENT

This Agreement governs Your Use of the Services defined herein. Your access to and use of Credit Union's online and/or mobile banking services shall be governed by the applicable deposit account agreement and other applicable agreements between You and DWCU. In the event of conflict between this Agreement and any other agreement with DWCU, this Agreement shall prevail, unless otherwise provided herein. If you are a consumer, as defined in Regulation E, you may have additional rights to dispute an unauthorized transaction under our Electronic Fund Transfers Agreement and Disclosure. In the event performance of the Services provided herein, in accordance with the terms and conditions of this Agreement, would result in a violation of any present or future statute, regulation, law, or government policy to which the Credit Union is subject to, and which governs or affects the transactions outlined by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation, law, or government policy, and the Credit Union shall incur no liability to You as a result of such violation or amendment. No course of dealing between You and the Credit Union will constitute a modification of this Agreement.

15. TERMINATION

You may terminate this Agreement at any time upon giving written notice of the termination to Credit Union. A termination of this Agreement shall be effective on the second business day following the day We receive written notice of such termination, or such a later date as specified in the provided notice, provided that we have a reasonable opportunity to act upon such notice. We reserve the right to terminate this Agreement immediately upon providing written notice of such termination to You. We may terminate or suspend this Agreement for your breach of the Rules or the terms of this Agreement, consistent with the Rules and other applicable laws and regulations. Any termination of this Agreement shall not affect any of the Credit Union's rights, Your obligations with respect to P2P payments initiated by You prior to such termination, Your payment obligations with respect to services performed by the Credit Union prior to termination, or any other obligations that survive termination of this Agreement. If you initiate any P2P payments after the termination of this Agreement, as to those P2P payments, if processed by Us, you will continue to be bound by this Agreement notwithstanding the termination.

16. AUDIT

We reserve the right to audit You or third-party senders for compliance with this Agreement, the Rules, and applicable laws and regulations.

17. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of North Dakota, without regard to conflicts of law principles.

By proceeding to utilize the Services governed by this Agreement, and submitting electronically any P2P payment requests, You agree that You have read the foregoing

Agreement, understand its contents, agree to its terms, and agree that your signing this Agreement may be done electronically by submitting a P2P payment request.