

# COLLEGE OF DuPAGE BRANCH BANKING SERVICES AGREEMENT

**THIS AGREEMENT** (the "Agreement"), is entered into this 1<sup>st</sup> day of January, 2008 (the "Effective Date"), by and between **College of DuPage, Community College District 502**, (hereinafter referred to as the "College"), whose address and phone number are 425 Fawell Blvd., Glen Ellyn, IL, 60137, (630) 942-2800 and **DuPage Credit Union**, (hereinafter referred to as the "Financial Institution"), whose address and phone number are 1515 Bond Street, Naperville, IL 60563, (630) 428-3440.

**WHEREAS** DuPage Credit Union desires to provide College of DuPage with Services (as such term is defined in Section 1 hereof, and includes the Retail Banking and ATM services provided at the College facilities; and the College's Branch Banking Services RFP dated April 25, 2005; and the Financial Institution's Proposal submitted by Robert M. Palumbo, President, dated May 19, 2005, which are hereby attached hereto as Exhibits A and B respectively, and which are incorporated into and become part of this Agreement) on the terms and conditions set forth herein. In the event of discrepancy between this Agreement, the College's RFP, and the Financial Institution's Proposal, the order of precedence for interpretation will be first the Agreement, second the College's RFP, and third the Financial Institution's Proposal.

**NOW THEREFOR** in consideration of the premises and the mutual agreement and covenants hereinafter set forth, the parties mutually agree as follows:

## 1. SERVICES—SCOPE OF WORK

- 1.1 Financial Institution agrees to provide to the College, Retail Banking and ATM services as specified in Section 3.1 of their Proposal response dated May 19, 2005 and their revised Proposal response dated June 16, 2005.

## 2. EFFECTIVE DATE, DURATION, AND RENEWAL

- 2.1 **Contract Term.** This contract shall take effect on **January 1, 2008, and terminate on December 31, 2012**, unless terminated earlier in accordance with the terms of this contract.
- 2.2 **Contract Renewal.** This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in any interval that is advantageous to the College, for a period not to exceed a total of five (5) years.

## 3. FINANCIAL INSTITUTION PAYMENTS

- 3.1 **Branch Bank Rent Payment.** The space **rental fee for the Branch Bank location will be waived for the initial term of the Agreement.** In consideration for the mutually agreed upon permanent Retail Branch Banking location to be provided, beginning with the first renewal (if any), the Financial Institution shall pay an annual rental fee of **\$20.30 per square foot of designated space.** This fee shall be paid on a monthly basis in arrears.

Beginning with the second year of the first renewal, and for all subsequent renewal years, at January 1, there will be an increase in the rental fee at the rate of 3.0% to be compounded annually for the remaining renewal years, as outlined below, not to exceed a total of four (4) years.

1/2013 - 12/2013	\$20.30	\$40,598	\$3,383
1/2014 - 12/2014	\$20.91	\$41,816	\$3,485
1/2015 - 12/2015	\$21.54	\$43,070	\$3,589
1/2016 - 12/2016	\$22.18	\$44,362	\$3,697
1/2017 - 12/2017	\$22.85	\$45,693	\$3,808

Should permanent facilities for the Financial Institution not become available prior to or at the expiration of the initial term of this Agreement the space rental fee will continue to be waived, in any renewal, until a permanent location can be provided.

- 3.2 **ATM Space Rental Payment.** In consideration for the space to be provided, the Financial Institution shall pay a rental fee of \$.50 for each surchargeable foreign transaction performed at all ATM's located on the College campus. This fee shall be calculated and paid on a monthly basis in arrears. The space rental fee for the ATM machine(s) will remain fixed for the initial term of the agreement.

At the time of the first renewal there will be an increase in the rental fee, resulting in a rate of \$.52 for each surchargeable foreign transaction. The space rental fee for the ATM machine(s) will remain fixed at this adjusted rate for the balance of any renewal term, not to exceed a total of five (5) years. Surchargeable foreign transactions shall be defined as any ATM withdrawal that incurs a surcharge fee. Should ATM surcharging become unlawful during the term of this Agreement, both parties will renegotiate this section.

- 3.3 **ATM Transaction Fees.** Financial Institution members shall not be charged a fee to use the on-site ATM's or any other ATM owned by the Financial Institution. Non-members may be charged a per transaction fee to use the ATM's as determined by the Financial Institution. This ATM transaction fee will be based on market conditions and an analysis of fees charged by other local financial institutions. This fee shall not exceed the highest fee of the other financial institutions in the local market. Additional fees charged by the non-member's financial institution may be passed on in addition to the transaction fee.

- 3.4 **Savings Rates and Other Fees.** Financial Institution shall offer rates and fees competitive with the market. Rates and fees offered at the College facility shall be the same as those offered at other retail locations operated by the Financial Institution. In the event the Financial Institution offers different rates at other retail locations, rates and fees offered at the College facility shall be the most advantageous of those offered by the Financial Institution.

4. **CONTRACT COSTS, RENT and ADJUSTMENTS**

- 4.1 **Financial Institution Costs.** Financial Institution shall provide the following items at their expense.
- 4.1.1 Temporary facility to accommodate Retail Banking services.
  - 4.1.2 Furniture and fixtures of a permanent nature for the space.
  - 4.1.3 Any construction or renovation costs associated with the space.
  - 4.1.4 Interior janitorial services.
  - 4.1.5 A proportionate share of real estate taxes.
- 4.2 **College Costs.** College shall provide the following items at their expense.
- 4.2.1 Electricity.
  - 4.2.2 Natural gas.
  - 4.2.3 Sewer and water.
  - 4.2.4 Trash disposal.
  - 4.2.5 Exterior grounds maintenance.
  - 4.2.6 Space for temporary facility.
  - 4.2.7 Space for ATM machine(s).

5. **INSURANCE**

- 5.1 The Financial Institution agrees to secure, at its sole expense, and maintain throughout the term of the Agreement and any renewal or extension thereof, the insurance coverage as specified in Section 3.3 of the Branch Banking Services RFP.
- 5.2 Copies of the above policies shall be furnished to the Director of Business Affairs or designated representative, together with copies of receipts for all premium payments made thereon as they become due and are paid, for the duration of the Agreement.

6. **ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

The Financial Institution shall not assign, transfer or subcontract any portion of this contract without the express written consent of the College as specified in Section 3.4.8 of the Branch Banking Services RFP.

7. **CONTRACT TERMINATION**

7.1 **Termination Without Cause**

Either party may terminate this agreement without cause upon written notice to the other party as specified in Section 3.2.2 of the Branch Banking Services RFP.

7.2 **Termination for Cause**

The College may terminate this contract for failure of the Financial Institution to perform any of the services, duties, or conditions contained in this Agreement after giving the Financial Institution written notice of the stated failure as specified in Section 3.2.2 of the Branch Banking Services RFP. Consistent failure to participate in problem resolution meetings or to make a good faith effort to resolve problems may result in termination of the contract.

8. **HOLD HARMLESS**

The Financial Institution shall defend, indemnify and hold harmless the College of DuPage, the Board of Trustees, its members, employees and agents, individually and collectively from and against any and all claims, demands, suits, loss, damage, injuries and liability including attorney's fees, costs and expenses incurred in connection therewith, however caused, resulting from, arising out of, or in any way connected with the performance of the agreement hereunder, or any renewal or extension thereof, whether or not caused or contributed to by or on account of any acts or omissions on the part of Financial Institution or of any assignee or sub-contracted institution of Financial Institution or any of Financial Institution's respective agents, servants or employees or any negligence or alleged negligence on the part of the College; the Board of Trustees, its members, employees and agents, individually and collectively.

9. **LIAISON AND SERVICE OF NOTICES**

All project management and coordination on behalf of the College shall be through a single point of contact designated as the College's liaison. Financial Institution shall designate a liaison that will provide the single point of contact for management and coordination of Financial Institution's work. All work performed pursuant to this contract shall be coordinated between the College's liaison and the Financial Institution's liaison.

Scott Engel will be the liaison for the College  
Business Affairs, IC Building Room 2119  
425 Fawell Blvd., Glen Ellyn, IL 60137  
(630) 942-2233 (Telephone)  
(630) 942-2191 (Fax)  
[engels@cod.edu](mailto:engels@cod.edu) (E-mail)

President or Sr. Vice President of Corporate Development will be the liaison for the Financial Institution.  
1515 Bond Street (Address)  
Naperville, IL 60563 (City, State, ZIP)  
(800)323.2611 (Telephone #)  
(630)305.6106 (Fax #)

The College's liaison and Financial Institution's liaison may be changed by written notice to the other party. Written notices, requests, or complaints will first be directed to the liaison.

10. **CHOICE OF LAW AND VENUE**

The parties hereto acknowledge and agree that this Agreement shall be deemed as having been executed at the College. This Agreement will be governed by and construed in accordance with the laws of the State of Illinois. Venue for any action related to this Agreement shall be in DuPage County, Illinois. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Agreement.

11. **ENTIRE AGREEMENT**

Except as otherwise provided in the Preamble and Section 1 hereof, this Agreement, the College's Request for Proposal, the Financial Institution's proposal response, and any relevant correspondence attached hereto constitutes the entire agreement of the parties with respect to the subject matter hereof. Further, neither party has relied on any representation, promise, agreement, condition or understanding which is not expressly set forth herein. The terms of this Agreement may not be amended or modified except by a further written statement signed by the parties hereto specifically referencing this Agreement and by direct reference therein made a part of this Agreement.

12. **AMENDMENTS AND WAIVERS**

No failure or delay on the part of either party hereto in exercising any right or remedy under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or of any other right or remedy. All remedies are cumulative hereunder. No provision of this Agreement may be waived except in a writing signed by the party granting such waiver.

13. **INTERPRETATION**

All headings and captions appearing herein are inserted for purposes of convenience and reference only, and shall not be used to construe or interpret any provision hereof.

14. **NOTIFICATION**

All notices and communications permitted or required by this Agreement shall be in writing and shall be certified or registered mail, return receipt requested, postage prepaid or hand delivered to the other party, at the address set forth above (or at such other address as either party shall designate in writing to the other party during the term of this Agreement). In addition, the College shall also deliver any notice to Financial Institution at the Facility. Notices shall be deemed received upon actual receipt by the addressee.

15. **SEVERABILITY**

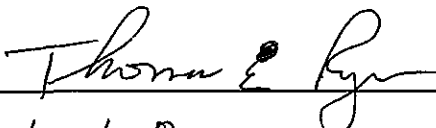
In case one or more of the provisions contained in this Agreement, or parts hereof, should for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the same shall not affect any other provision in this Agreement, or part hereof, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision, or part hereof, had never been contained herein.

16. **FORCE MAJEURE**

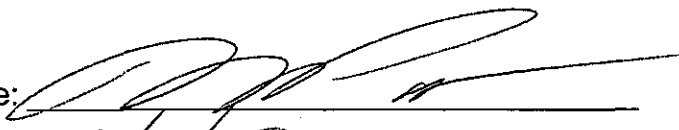
Neither Financial Institution nor the College shall have any liability for their respective failure to perform this Agreement when performance is prevented by force majeure. As used herein, the term "force majeure", shall mean unanticipated labor disputes, fire, casualties or other causes beyond the control of either party.

In **WITNESS HEREOF**, the parties hereto have caused this Agreement to be executed and delivered, in duplicate, by their duly authorized officers, effective as of the Effective Date.

College of DuPage  
Dr. Thomas E. Ryan  
Vice President Administrative Affairs and Treasurer  
425 Fawell Blvd., Glen Ellyn, IL 60137

Signature:   
Date: 2/26/08

DuPage Credit Union  
Robert M. Palumbo  
President  
1515 Bond Street, Naperville, IL 60563

Signature:   
Date: 3/4/08