



## Remote Deposit Capture Services Agreement

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This Mobile Deposit Agreement and Disclosure ("Agreement") describes your rights and obligations as a user of Wauna Federal Credit Union's Mobile Deposit Service ("Service"). It also describes the rights and obligations of Wauna Federal Credit Union ("Credit Union"). Please read this Agreement carefully. By requesting and using this Service, you agree to comply with the terms and conditions of this Agreement.

We may, at any time, and at our sole discretion, make changes to the Service and to this Agreement, provided, however, that we will give you prior notice of any changes, as may be required by applicable laws and regulations. Use of the service, after any such changes, constitutes your agreement to the changes.

### 1. Definitions

The following definitions apply in this Agreement:

"Time of day" references are to Pacific Standard Time;

"We", "us", or "Credit Union" refer to Wauna Federal Credit Union which offers the Services and which holds the accounts accessed by the Services;

"You" or "your" refers to the owner of the Account or the Authorized User.

"Authorized User" refers to a person with authority with respect to the account;

"Account" means the Credit Union account from which you will be conducting transactions using the Service;

"Online Banking" is the internet-based service providing access to your Credit Union account(s);

"Mobile Banking" means the service that allows you to use a downloadable software application on a smartphone or other eligible Wireless Device to perform certain electronic banking tasks as described in this agreement;

"Wireless Devices" mean mobile phones and/or other compatible and supported wireless devices such as tablets;

"Mobile Deposit" means a check deposit made using the camera on a Wireless Device to deposit a check in an Account. An app on the Wireless Device takes a picture of the front and back of the check, and both images, along with the dollar value, are transmitted to the Credit Union.

"User ID" is the Credit Union-generated identification code assigned to you for your connection to the Service; and

"Password" is the customer-generated code selected by you for use during the initial sign-on, or the codes you select after the initial sign-on, that establishes your connection to the Service.

### 2. Business Days

For purposes of transactions, the Credit Union's business days are Monday through Friday, excluding holidays and weekends.

### **3. Mobile Deposit Process**

The credit union reserves the right to establish and assign to you deposit limits for the Service (including limits on the dollar amount and/or number of checks that you may transmit through the Service each day) and to modify such limits from time to time in the credit union's sole discretion, and you agree to comply with all such limits. If we approve the Mobile Deposit service for you, you must use your Online and Mobile Banking password with your Login to access your accounts. You may take a picture with the camera on your wireless device to create an electronic image and transmit the electronic image to Credit Union Mobile Banking App to be deposited to your account. The Credit Union's processing agent shall perform an image quality assessment of the imaged checks. Items may be converted into substitute checks to facilitate collection. You agree that the manner in which checks are cleared or presented for payment shall be determined by Credit Union or other collecting institutions, in their sole discretion. We reserve the right to select the clearing agents through which we clear checks.

### **4. Funds Availability**

You agree that items transmitted using the Service are not subject to the funds availability requirements of the Federal Reserve Board Regulations CC. Mobile Deposits are processed through the Shared Branching Network and Account will receive provisional credit immediately. The funds will be generally available according to our Funds Availability Policy disclosure, as amended from time to time, which is incorporated herein by reference. You agree that the imaging and transmitting of checks alone does not constitute receipt by Credit Union or at the credit union's discretion. Also, acknowledgment of receipt or delivery does not constitute an acknowledgment by Credit Union that the transmission of a check or items does not contain errors or that funds will be available.

### **5. Deposit Acceptance**

You agree that Credit Union may at any time, in its sole discretion, refuse to accept deposits of checks from you via Mobile Deposit session. In the event that the Service is interrupted or is otherwise unavailable, you may deposit checks in-person at a Credit Union branch or via night drop or mail or other contractually acceptable method.

### **6. Member Account**

- A. Member Account. You must designate a Credit Union savings or checking account as the settlement account to be used for the purposes of settling, transactions requested in connection with the Service. We will provide you with details of each specific transaction. You will be responsible for reviewing and balancing of any settlement account.
- B. Responsibility for Imaging. You are solely responsible for imaging deposit items, accessing the service from the Credit Union, and for maintaining your imaging equipment. You will be responsible for the payment of all telecommunications expenses associated with the service. Credit Union shall not be responsible for providing or servicing any equipment for you.
- C. Deposit Requirements. You agree that you will only use the Service to deposit checks drawn on financial institutions within the United States, excluding its territories. For checks not falling within this requirement you must deposit those checks in person. You agree that each check you deposit through the Service will meet the image quality standards directed in the application.
- D. Check Retention & Destruction. You agree that all checks belong to you and not to the Credit Union and that those items shall be handled in accordance with this Agreement and your Membership and Account Agreement. After our receipt of a deposit transmission we will acknowledge by electronic means our receipt of such transmission. Your electronic transmission is subject to proof and verification. You will retain the original of all imaged checks that have been deposited via Mobile Deposit for a reasonable period of time in order to verify settlement and credit or to balance periodic statements, but in no case beyond ninety (90) days from the date processed. It is your responsibility to properly destroy and dispose of such original checks after such time or to mark them "VOID". During the period that you maintain any original checks, you understand and agree that you must use a high degree of care to protect these original checks against security risks.

These risks include, without limitation, (1) theft or reproduction of the original checks (including by employees) for purposes of presentment for deposit of these original checks (i.e., after the original checks have already been presented for deposit via the Service) and (2) unauthorized use of information derived from the original checks. When you dispose of any original checks, you understand and agree that you must use a high degree of care when selecting and implementing disposal procedures to ensure that the original checks are not accessed by unauthorized persons during the disposal process and, once destroyed, the original checks are no longer readable or capable of being reconstructed.

E. Deposit Prohibitions. You agree not to deposit, or attempt to deposit, or allow others, either directly or indirectly, to deposit, or attempt to deposit, by any means:

- any post-dated or stale-dated check;
- money orders, traveler's checks, or gift checks;
- starter checks or counter checks; and
- state warrants or other instruments that are not checks

In the event that you, or any third party, makes, or attempts to make, a deposit in violation of this Subsection you agree to defend, indemnify, and hold Credit Union and its agents harmless from and against all liability, damage and loss arising out of any claims, suits, or demands brought by third parties with respect to any such Substitute Check or original check. You agree that the aggregate amount of any items which are deposited more than once will be debited from your account, and to the extent funds in your account are insufficient to cover such amount, any balance shall be debited by Credit Union from any other deposit accounts with Credit Union in its sole discretion. You further acknowledge that you and not the Credit Union is responsible for the processing and handling of any original items which are imaged and deposited utilizing the Service and you assume all liability to the drawer of any item imaged using the service or liability arising from the Credit Union's printing of any substitute check from those images.

F. Your Representations and Warranties. You represent and warrant that:

- you will comply with all federal and state laws, and rules and regulations applicable to deposit and check transactions, including those of the National Automated Clearing House for ACH transactions;
- all checks deposited through the Service are made payable to you;
- all signatures on each check are authentic and authorized; and
- each check has not been altered.

In the event you breach any of these representations or warranties, you agree to defend, indemnify and hold Credit Union and its agents harmless from and against all liability, damages and loss arising out of any claims, suits or demands brought by third parties with respect to any such breach. You further authorize the Credit Union to charge your account for the amount of any such demand, claim or suit that constitutes a breach of warranty claim under the provisions of the Uniform Commercial Code.

G. Financial Responsibility. You understand that you remain solely and exclusively responsible for any and all financial risks, including, without limitation, insufficient funds associated with accessing the Service. The Credit Union shall not be liable in any manner for such risk unless Credit Union fails to follow the procedures described in materials for use of the service. You assume exclusive responsibility for the consequences of any instructions you give to the Credit Union, for your failures to access the Service properly in a manner prescribed by the Credit Union, and for your failure to supply accurate input information, including, without limitation, any information contained in an application.

H. Account Reconciliation.

You will verify and reconcile any out-of-balance condition, and promptly notify the Credit Union of any errors within the time periods established in the Membership and Account Agreement after receipt of your account statement. If notified within such period, the Credit Union shall correct and resubmit all erroneous files, reports, and other data at the Credit Union's then standard charges, or at no charge, if the erroneous report or other data directly resulted from the Credit Union's error.

## 7. Responsibility for Endorsement

For all mobile check deposits, you must endorse the back of the original paper check with:

- Your name;
- The check number; and
- "FOR WAUNA FCU MOBILE DEPOSIT ONLY".

If you fail to provide this endorsement, we may refuse the deposit and return it to you and you agree to indemnify the Credit Union from any liability or loss to the Credit Union arising from the payment of the original paper check without such required endorsement.

## 8. Credit Union's Obligations

- Financial Data. The Credit Union agrees to transmit all the financial data under its control required to utilize the service selected by you and to act on appropriate instructions received from you in connection with such service. The Credit Union shall exercise due care in seeking to preserve the confidentiality of the User ID, password, or other code or identifier and to prevent the use of the service by unauthorized persons. You agree that implementation by the Credit Union of its normal procedures for maintaining the confidentiality of information relating to its members and where practicable the obtaining by the Credit Union from any third parties engaged in the installation, maintenance and operation of the system of similar undertakings, shall constitute fulfillment of its obligation to exercise due care, but shall not otherwise be under any liability or have any responsibility of any kind for any loss incurred or damage suffered by you by reason or in consequence of any unauthorized person gaining access to or otherwise making use of the service. You assume full responsibility for the consequences of any misuse or unauthorized use of or access to the Service.
- Service Availability. You understand that Service availability is at all times conditioned upon the corresponding operation and availability of the communication systems used in communicating your instructions and requests to the Credit Union. We will not be liable or have any responsibility of any kind for any loss or damage thereby incurred by you in the event of any failure or interruption of such communication systems or services resulting from the act or omission of any third party, or from any other cause not reasonably within the control of the Credit Union.
- Exception Items. When we review and process your check image, we may reject any electronic image that we determine to be ineligible for the service ("Exception Item") including, without limitation, electronic images of items drawn on banks located outside the United States, items drawn on U.S. Banks in foreign currency, electronic images that are illegible (due to poor image quality or otherwise), electronic images of items previously processed, electronic images previously converted to substitute checks, and electronic images with unreadable MICR information. If your check image is rejected, an adjustment will be made to your Account, and we will notify you of any Exception Items. You agree that if you wish to attempt to deposit any Exception Item to any of your accounts with Credit Union, you will only do so by depositing the original item on which the Exception Item is based. You acknowledge and agree that even if Credit Union does not initially identify an electronic image as an Exception Item, the substitute check created by the Credit Union from that item may nevertheless be returned to Credit Union because, among other reasons, the electronic image is deemed illegible by a paying bank. Credit Union's failure to identify an Exception Item shall not preclude or limit your obligations to Credit Union.
- Account Information. We will provide you with daily transaction history via the Internet, the Online Banking, and Mobile Banking service detailing items processed, return items, and deposit adjustments.
- Retention of Check Images. Credit Union will retain any substitute checks it generates for seven (7) years.

## 9. Services Fees

Currently there is no monthly fee for the Mobile Deposit Service. You agree to pay all fees and charges for deposit services as set forth on the Rate and Fee Schedule. All Service Fees are subject to change by Credit Union upon thirty (30) days written notice to Member.

## 10. Disclaimer of Warranties

MEMBER ACKNOWLEDGES THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE CREDIT UNION IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM YOUR USE OF THE SERVICE. THE CREDIT UNION MAKES NO AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICE INCLUDING THE WARRANTY OF TITLE AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE CREDIT UNION DISCLAIMS ANY WARRANTIES REGARDING THE OPERATION, PERFORMANCE OR FUNCTIONALITY OF THE SERVICE (INCLUDING, WITHOUT LIMITATION, THAT THE SERVICE WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE). MEMBER FURTHER ACKNOWLEDGES THAT THERE ARE CERTAIN SECURITY, CORRUPTION, TRANSMISSION ERROR AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET AND/OR TELECOMMUNICATION LINES OR CIRCUITS. MEMBER HEREBY ASSUMES ALL RISKS RELATING TO THE FOREGOING.

## 11. Credit Union's Liabilities

- A. Direct Damages. THE CREDIT UNION'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY MEMBER AND ONLY TO THE EXTENT SUCH DAMAGES ARE A DIRECT RESULT OF THE CREDIT UNION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; PROVIDED THAT THE MAXIMUM AGGREGATE LIABILITY OF THE CREDIT UNION RESULTING FROM ANY SUCH CLAIMS SHALL NOT EXCEED ONE HUNDRED DOLLARS. IN NO EVENT SHALL THE CREDIT UNION BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND INCLUDING LOST PROFITS WHETHER OR NOT THE CREDIT UNION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE CREDIT UNION'S LICENSORS OR SUPPLIERS WILL NOT BE SUBJECT TO ANY LIABILITY TO MEMBER IN CONNECTION WITH ANY MATTER.

Your Duty to Report Errors. You will notify Credit Union of any errors, omissions, or interruptions in, or delay or unavailability of, the Services as promptly as practicable, and in any event within one business day after the earliest of discovery thereof, or the date discovery should have occurred through the exercise of reasonable care, and, in the case of any error, within fourteen (14) days of the date of the earliest notice to you which reflects the error. Your failure to notify Credit Union of any error, omission, or other discrepancy within seven (7) days from the date of a loss shall relieve Credit Union of any liability for such error, omission, or discrepancy. In case of errors or questions regarding Mobile Deposit transactions, call (800) 773-3236 or write us at: Wauna Credit Union, Attn: Operations Department, P.O. Box 67, Clatskanie, OR 97016.

- B. Credit Union's Performance. You acknowledge and agree that Credit Union shall not be liable for any damages or loss of any kind resulting from any unintentional error or omission by Credit Union in performing the Service, in accordance with or unintentional deviation from the terms and conditions of this Agreement. You acknowledge that Credit Union's systems and procedures established for providing the Service are commercially reasonable.
- C. Limitation. Credit Union shall have no liability to you, or any other person or entity for any loss, damage, cost, or expense arising out of this Agreement or the Service regardless of the form in which asserted, whether in contract, tort (including negligence), warranty, or any other legal or equitable grounds, and regardless of whether the remedies available fail of their essential purpose, except as provided by applicable law for any error or delay in performing the Service provided for in this Agreement, and we shall have no liability for not effecting a transaction, if:
- We receive actual notice or have reason to believe that you filed or commenced a petition or proceeding for relief under any bankruptcy or similar law;
  - The ownership of funds involving a transaction is in question;
  - We suspect a breach of the security procedures;
  - We suspect that your account has been used for illegal or fraudulent purposes; or
  - We reasonably believe that a transaction is prohibited by federal law or regulation, or otherwise so provided in the Agreement
  - Credit Union will not be liable if Member fails to report timely any error or discrepancy

reflected in an account statement prepared by Credit Union, or if Member fails to report a breach of a security procedure. If Credit Union fails to perform under this Agreement in accordance with the standards set herein, Credit Union's liability for damages, losses, and other compensation owing to you will be limited as set forth above.

## **12. Force Majeure**

The Credit Union shall not be responsible for liability, loss, or damage of any kind resulting from any delay in the performance of or failure to perform its responsibilities hereunder due to causes beyond the Credit Union's reasonable control.

## **13. Termination**

You may, by contacting Credit Union, terminate the Service provided for in this Agreement. We may terminate your use of the Service at any time and without prior notice and with or without cause. In the event of termination of the Service, you will remain liable for all transactions performed on your account. Notwithstanding any such notice of termination, this Agreement shall remain effective in respect of any transaction occurring prior to such termination. Upon any termination of this Agreement, (1) you will immediately cease using the Service, and (2) you will promptly remit all unpaid monies due under this Agreement. The Credit Union may immediately suspend or terminate your access to the Service in the event that the Credit Union reasonably determines such suspension or termination is necessary in order to protect the Service or the Credit Union from harm or compromise of integrity, security, reputation, or operation.

## **14. Modification of Services**

Credit Union reserves the right to modify the Service from time to time without making prior notice to Member, provided, however, that Credit Union will give you at least thirty (30) days notice prior to making any modifications to the Service that would materially alter their functionality.

## **15. Enforcement**

You agree to be liable to the Credit Union for any liability, loss, or expense as provided in this Agreement that the Credit Union incurs as a result of any dispute involving your accounts or services. You authorize the Credit Union to deduct any such liability, loss, or expense from your account without prior notice to you. This Agreement shall be governed by and construed under the laws of the State of Oregon as applied to contracts entered into solely between residents of, and to be performed entirely in, such state. In the event either party brings a legal action to enforce the Agreement or collect any overdrawn funds on accounts accessed under this Agreement, the prevailing party shall be entitled, subject to Oregon law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions, if applicable. Should any one or more provisions of this Agreement be determined illegal or unenforceable in any relevant jurisdiction, then such provision may be modified by the proper court, if possible, but only to the extent necessary to make the provision enforceable and such modification shall not affect any other provision of this Agreement.