



PO Box 1166  
Roseburg, OR 97470  
(541) 672-9000  
www.cascadecu.org

## MOBILE DEPOSIT SERVICE AGREEMENT with mobile Remote Deposit Capture

This document may also be accessed at [www.CascadeCU.org](http://www.CascadeCU.org)

This Mobile Deposit Service Agreement with mobile Remote Deposit Capture (mRDC), ("Agreement") is the contract which covers your and our rights and responsibilities concerning the Mobile Deposit service (with mRDC) ("Service") offered to you by Cascade Community Federal Credit Union ("Credit Union"). By using the Service or clicking the electronic signature "Consent" on the Service enrollment or application page shown on your mobile device, you and any joint owners and authorized users, jointly and severally, agree to the terms and conditions in this Agreement, and any amendments. This Agreement supplements the applicable Consumer or Non-consumer Membership & Account Agreement ("MAA") for your account, and any supplemental agreement associated with Online and Mobile Access. In this agreement, the words "you" and "yours", the words "we," "us," and "our", and the word "account" have the same meaning as when those words are used in the applicable MAA. The Service is subject to the following terms and conditions and to the instructions, rules and terms provided to you via a link within the Service and incorporated by reference herein.

### 1. MOBILE DEPOSIT SERVICE.

**1.1 Mobile Remote Deposit Capture Process.** If we approve the Mobile Deposit Service for you, you must use your password and login to access your accounts. You may photograph a paper check with your mobile device, creating an electronic image, and then use the Service to transmit that electronic image to the Credit Union for deposit to your account. We may, in our discretion, convert items meeting Credit Union required standards into substitute checks to facilitate the deposit and collection of such items. You agree that the manner in which checks are cleared or presented for payment shall be determined by the Credit Union, in its sole discretion. We reserve the right to select the clearing agents thru which we clear checks.

**1.2 Funds Availability.** For most deposits of most users, funds from items deposited thru the Service will normally be available consistent with the following Service policy, based on our risk assessment. When we say that your funds will be available on a specific business day, we mean that you can withdraw, transact on, or make debits against those funds by 9am (Pacific Time Zone in Roseburg OR) unless we specify otherwise. Certain accounts, in our sole discretion, may be granted less restrictive funds availability, or be subject to more restrictive funds availability including requiring our review of each deposit before posting to the account and before we make the funds available. Contact us to see if your account qualifies for less restrictive funds availability and/or higher deposit limits. You should ask us if you need to be sure about when the funds from a particular deposit will be available.

- We require review, during business hours, before posting to your account and before we make the funds available, for each of your first few items when first using the Service, and each item of \$5000 or more.
- For items less than \$5000, after the first few initial items, and during the period when an account has been open for 90 calendar days or fewer, the first \$200 per calendar day of all deposits made thru the Service will normally be available to you immediately when we receive the deposit(s). The balance of all deposits made thru the Service exceeding the immediately available (\$200) amount per calendar day will normally be made available to you not later than 9am (Pacific Time Zone in Roseburg OR) on the second business day after we have received the deposit(s).
- For items less than \$5000, and after the first few initial items, and when the account has been open for more than 90 calendar days, the first \$500 per calendar day of all deposits made thru the Service will normally be available to you immediately when we receive the deposit(s). The balance of all deposits made thru the Service exceeding the immediately available (\$500) amount above per calendar day will normally be made available to you not later than 9am (Pacific Time Zone in Roseburg OR) on the first business day after we have received the deposit(s).
- A 'business day' is any day (Pacific Time Zone in Roseburg OR) except Saturday, Sunday or a Federal holiday.
- Initially, for the first few items, in some later instances with good cause, and for a few accounts with restricted funds availability, we may not make funds available to you as indicated above when deposited by check or draft using the Service. Normally, funds held for these reasons will be made available not later than 9am (Pacific Time Zone in Roseburg OR) on the seventh business day after we have received the deposit(s).

The Credit Union may amend this policy from time to time. You agree that the imaging and transmitting of checks alone does not constitute receipt by the Credit Union. 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. Checks deposited though the Service are not received by the Credit Union until we have acknowledged receipt and provided credit to your account.

**1.3 Deposit Limitations.** You agree you will not use the Service to make deposits exceeding twenty (20) items in any calendar month. Additionally, the Service is set by us to impose per item, per day, and per rolling thirty-day (30 day) limits of \$2500 or more, determined in our sole discretion.

**1.4 Deposit Acceptance, Chargeback, Revocation of Settlement.** You agree that the Credit Union may, at any time, and in its sole discretion, refuse to accept deposits of any or all checks from you via a Mobile Deposit Service session. In the event that the Service is interrupted or are otherwise unavailable, you may deposit checks in-person at a Credit Union branch, a Credit Union ATM, or via night drop, mail, or other contractually acceptable method. The above funds availability does not affect our right to (1) exercise discretion in accepting or rejecting a check for deposit; (2) charge back to your account funds made available to you for any payment for which we have not received payment in actually and finally collected funds; (3) revoke a credit when the Government exercises its right of reclamation for an electronic deposit; and (4) revoke any settlement made by us for a check accepted for deposit to your account and charge back to your account the amount of a check based on the return of the check or receipt of a notice of nonpayment of the check, to claim a refund of such credit, or for any check which you refuse or are unable to present the original item upon our request.

### 2. MEMBER ACCOUNT.

**2.1 Eligibility and Settlement Account.** Your account must be eligible before you may use the Service. Continuing eligibility is determined by us in our sole discretion. Past eligibility does not assure continued or future eligibility. Contact us to learn if your account is presently eligible. You must designate a Credit Union savings or checking sub-account as the settlement account to be used for the purposes of settling each deposit transaction requested in connection with the Service. We will provide you with details of each specific transaction. You will be responsible for reviewing and the balancing of any settlement account.

**2.2 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. The Credit Union shall not be responsible for providing or servicing any equipment for you.

**2.3 Deposit Requirements.** You agree that you will only use the Service to deposit, or attempt to deposit, images of paper checks payable in US funds, drawn on financial institutions within the United States. You agree that each check deposited thru the Service will meet the image quality standards directed in the application. You may present checks for deposit in person, by night drop, or by U.S. Mail that do not meet our requirements or when the Service is unavailable. You agree to endorse the check as required by law and add the following legible text below the endorsement: "*Mobile deposit at CCCU on* [insert date of image capture]". Failure to comply may result in additional Service/deposit limitations and affect the availability of your deposited funds. You agree that we may require you, in our sole discretion, to present to us the physical original check and satisfactory identification.

**2.4 Check Retention & Destruction.** You agree that all checks belong to you and not to the Credit Union and that those items shall be handled by you in accordance with this Agreement and your MAA. We will respond electronically to each deposit transmission received. The image you transmit is subject to proof and verification. You agree to retain the physical original of all checks that have been imaged by mRDC and deposited via the Service for a reasonable period of time but in no case beyond forty-five (45) days from the date processed. During this time, you agree to verify settlement and credit and to balance periodic statements. During the first thirty (30) days of this retention period, we may require you, in our sole discretion, to present to us the physical original check. You agree that your failure to do so within a reasonable period of time may result in our charging back to your account the deposited amount. It is your responsibility to properly destroy and dispose of such original checks after such time. 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, (i) theft, misappropriation, or reproduction of the original checks (including by joint owners, employees or agent/signers) 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 (ii) 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.

**2.5 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: (i) any Substitute Check, the original image of which has already been presented for deposit via the Service, (ii) any image of a check that has already been deposited either as an original or as a substitute check, or (iii) any original check, the Substitute Check of which has already been presented for deposit via the Service. 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 the 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 the Credit Union from any other deposit accounts with the Credit Union that you own, 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 printing by us of any substitute check from those images. You agree you will not attempt to deposit any Farm Direct check/WIC food voucher, Travelers check, 'gift' check, post-dated/stale dated/substitute/voided/fraudulent/altered check, IOU, foreign item, Savings Bond, or item payable to anyone other than you.

**2.6 Your Representations and Warranties.** You represent and warrant that:

1. you, if you are a natural person, and all individuals authorized on our records of your account, are at least 18 years of age;
2. you will only use the Service for lawful purposes and in compliance with all federal and state laws, rules and regulations including those applicable to the handling of original items, and deposit and check transactions, together with the ACH rules of the National Automated Clearing House;
3. all checks deposited thru the Service are, on their face, made payable only to you;
4. your restrictive endorsement and each of your signatures on each original check and imaged by the Service are authentic and authorized; and,
5. each check image transmitted by you to us using the Service is a true and accurate rendering of the front and back of the original, has not been altered, you are authorized to enforce each item transmitted or am authorized to obtain payment of each item on behalf of a person entitled to enforce such transmitted item, and the drawer has no defense against payment of the check.

You also agree you will not (i) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Service, (ii) copy or reproduce all or any part of the technology or Service; or (iii) interfere, or attempt to interfere, with the technology or Service.

In the event you breach any of these representations or warranties, you agree to defend, indemnify and hold the 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 and including our expenses of reasonable attorney fees.

**2.7 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. You agree that the Credit Union shall not be liable in any manner for such risk unless the Credit Union fails to reasonably 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.

**2.8 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 MAA 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 then-standard charges, or at no charge, if the erroneous report or other data directly resulted from Credit Union error.

### **3. CREDIT UNION OBLIGATIONS.**

**3.1 Financial Data.** We will review and process your electronic image file as part of a batch at least once per business day. The Credit Union agrees to transmit all the financial data under its control acting on appropriate instructions received from you in connection with the Service. The Credit Union shall exercise due care in seeking both to preserve the confidentiality of the user number, password, test key, or other code or identifier and to reasonably prevent the use of the Service by unauthorized persons 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. In this regard, it is understood and agreed 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. You assume full responsibility for the consequences of any misuse or unauthorized use of or access to the Service.

**3.2 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 neither be liable nor 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 you and/or any third party, or from any other cause not reasonably within the control of the Credit Union.

**3.3 Exception Items.** When we review and process your electronic file, we may, in our sole discretion, 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. 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 the 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 you do not initially identify an electronic image as an Exception Item, the substitute check created by the Credit Union therefrom may nevertheless be returned to the Credit Union because, among other reasons, the electronic image is deemed illegible by a paying bank. Failure by the Credit Union to identify an Exception Item shall not preclude or limit your obligations to the Credit Union.

**3.4 Account Information.** We will make available to you, electronically, transaction history, items processed and returned, and deposit adjustments.

**3.5 Retention of Check Images.** The Credit Union will retain for seven (7) years any substitute checks it generates.

**4. SERVICE FEES.** Currently there is no monthly fee for the Service when eligibility conditions are fully met. For accounts not fully meeting eligibility including eStatements, a fee may apply. You agree to pay all fees and charges for the Service as set forth on the Fee Schedule or via notification within the Service. All Service Fees are subject to change by Credit Union upon thirty (30) days written (including electronic) notice to the Member.

**5. 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 WIRELESS OR OTHER TELECOMMUNICATION LINES OR CIRCUITS. MEMBER HEREBY ASSUMES ALL RISKS RELATING TO THE FOREGOING.

**6. CREDIT UNION LIABILITIES.**

**6.1 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 GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY THE CREDIT UNION; 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 LICENSORS OR SUPPLIERS OF THE CREDIT UNION WILL NOT BE SUBJECT TO ANY LIABILITY TO MEMBER IN CONNECTION WITH ANY MATTER.

**6.2 Your Duty to Report Errors.** You will notify the Credit Union of any errors, omissions, or interruptions in, or delay or unavailability of, the Service as promptly as practicable, and in any event within one business day after the earliest discovery thereof, or the date discovery should have occurred thru 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 the Credit Union of any error, omission, or other discrepancy within seven (7) days from the date of a loss shall relieve the Credit Union of any liability for such error, omission, or discrepancy.

**6.3 Credit Union Performance.** You acknowledge and agree that the Credit Union shall not be liable for any damages or loss of any kind resulting from any unintentional error or omission by the Credit Union in performing the Service, in accordance with or unintentional deviation from the terms and conditions of this Agreement. You acknowledge that the Credit Union systems and procedures established for providing the Service are commercially reasonable.

**6.4 Limitation of Liability.** The 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: (1) 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; (2) The ownership of funds involving a transaction is in question; (3) We suspect a breach of the security procedures; (4) We suspect that your account has been used for illegal or fraudulent purposes; or (5) We reasonably believe that a transaction is prohibited by federal law or regulation, or otherwise so provided in the Agreement.

The Credit Union will not be liable if Member fails to make timely reporting of 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 the Credit Union fails to perform under this Agreement in accordance with the standards set herein, the Credit Union liability for damages, losses, and other compensation owing to you will be limited as set forth above.

**7. 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 reasonable control of the Credit Union.

**8. TERMINATION, AMENDMENT OF TERMS, MODIFICATION OF SERVICES.** The 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 and adversely alter its functionality. Either party may terminate this Agreement upon not less than ten (10) days prior written notice to the other party. 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, (i) you will immediately cease using the Service, and (ii) 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. Except as otherwise prohibited by applicable law, the terms of this Agreement and all fees and other agreements provided to you in connection with this Service are subject to change at any time. The Credit Union will notify you of any changes in terms, rates, or fees if and at such time as is required by law. If required by law, amendments will be effective upon delivery of notice to the last email address which we have received from you for notices from this Service to the extent permitted by law.

**9. 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.