

Customer Automated Funds Transfer ["CAFT"] Credit Originator Agreement

BETWEEN:

Affinity Credit Union 2013 ["Affinity"]

AND

["Payor"]

In consideration of Affinity agreeing to transmitting Direct Deposits issued by the Payor, and in consideration of other financial institutions agreeing through the rules of Payments Canada, to deposit Direct Deposits paid to the account of their customers, the parties agree as follows:

1.0 DEFINITIONS – INTERPRETATION AND APPLICATION

1.1 In this Agreement, unless there is something in the context inconsistent therewith, the following words and phrases shall have the following meanings:

"Account" means the Payor 's designated account with Affinity, specifically used for processing CAFT transactions.

"CAFT Administrator" means a person appointed by the Payor to access the CAFT System and process CAFT transactions for the Payor.

"CAFT Services" means the processing of direct deposits administered by a CAFT Administrator on behalf of a Payor in accordance with this Agreement.

"Clearing System" means the arrangement made from time to time by Affinity with Payments Canada for the clearing and settlement of transactions through its national clearing and settlement system.

"Direct Deposit" means an order which is created by a Payor in accordance with any applicable Payments Canada rules or standards which directs the crediting of a Payees' designated accounts in designated Institutions.

"Institution" means any financial institution that is a direct clearer Payor of Payments Canada, or that has made arrangements for clearing payments with a direct clearer Payor of Payments Canada.

"Payee" means an individual, corporation, government or other entity or organization, which is, or is to be, the beneficiary of a Direct Deposit to the credit of its account with an Institution.

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"Payments Canada" is the organization that operates a payment clearing and settlement system in Canada pursuant to the *Canadian Payments Act R.S.C. 1985, c. C-21*.

"Payments Canada Rules" means the rules, by-laws, regulations and standards of Payments Canada, as amended from time to time.

“Payor” means the legal person whose account at Affinity is to be, or has been, debited with the amount of the Direct Deposit.

“Processing Institution” means an Institution that holds the account of Payee, which is to be credited with a Direct Deposit.

- 1.2 Terms used herein which are defined in the Payments Canada Rules and those which are not otherwise defined herein shall have the meanings attributed to them in the Payments Canada Rules.
- 1.3 This agreement and the terms therein, as amended, revised, modified, replaced or restated may be updated from time to time and posted in the Service Agreement section under the Legal directory found at [Legal | Affinity Credit Union \(affinitycu.ca\)](https://www.affinitycu.ca/legal). The Payor shall have 45 days from the issuance of any Notice by Affinity advising of any changes to challenge or oppose the proposed changes. If the Payor does not challenge or oppose the proposed changes they will be deemed to have agreed to the changes.
- 1.4 This agreement nullifies and or supersedes any previous agreement governing the services identified herein.

2.0 SERVICES

- 2.1 Affinity agrees to process CAFT Services through the Clearing System subject to the terms and conditions of this Agreement.
- 2.2 The Payor shall provide Affinity at the times specified by Affinity, all information required and, in the format, specified to enable Affinity or its designate to process Direct Deposits on behalf of the Payor. Such information shall include, without limitation, the name of each Payor, the name and branch or office of the Processing Institution, the type and number of such account, and the dates and amounts of Direct Deposits to be drawn on or made to such account for payment to the Payee.
- 2.3 Affinity shall, on behalf of the Payor, and in accordance with the information furnished by the Payor, deliver Direct Deposits to the Processing Institutions.
- 2.4 The Processing Institution is the agent of the Payee, and in accordance with the information furnished by the Payee to the Processing Institution, processes Direct Deposits specifying the amounts to be credited to the Payee and debited to the accounts of Payors.
- 2.5 Affinity shall provide the Payor with Direct Deposit procedures and shall have the right to amend the procedures from time to time. The Payor shall comply with all procedures and shall indemnify Affinity for compliance with procedures by the Payor.
- 2.6 The processing of Direct Deposits by Affinity on behalf of the Payor shall be subject to all applicable rules and regulations established by Payments Canada. The Payor agrees to abide by all such Payments Canada Rules as in force and amended from time to time. Without limiting the generality of the foregoing, the Payor agrees to abide by all relevant provisions of Payments Canada Rules related to the processing of Direct Deposit transactions.

3.0 CAFT ADMINISTRATORS

- 3.1 The Payor may designate one or more CAFT Administrators to process Direct Deposit transactions on behalf of the Payor. The Payor undertakes that any CAFT Administrator named must comply with all terms and conditions for CAFT Services.

- 3.2 The Payor shall be responsible to verify the identity of each CAFT Administrator with Affinity at the time of his or her appointment by the Payor. The Payor is responsible to advise Affinity of any changes to the listing of CAFT Administrators as soon as reasonably practicable.
- 3.3 The Payor acknowledges that any designated CAFT Administrator appointed by the Payor will have access to the accounts of the Payor and any messages which Affinity may send to the Payor.
- 3.4 The Payor acknowledges that any designated CAFT Administrator will have the authority to initiate and approve all CAFT Transactions from the Current Account.
- 3.5 Affinity has the right to rely on the accuracy of all transactions initiated by CAFT Administrators.

4.0 SETTLEMENT

- 4.1 As soon as any Direct Deposit is charged to Affinity through the Clearing System, Affinity shall forthwith debit the Current Account of the Payor in the amount of the Direct Deposit and shall only be required to re-credit an amount if such amount is re-credited to Affinity. If an amount re-credited is subsequently re-charged to Affinity, Affinity shall have the right to again debit the Current Account of the Payor with such amount.
- 4.2 The Payor will pay to Affinity for the use of the CAFT service such fees and charges as are established by Affinity for such services from time to time.
- 4.3 Affinity's records of all CAFT Transactions will be deemed to be correct and will be conclusive and binding on the Payor. All Transactions will appear on the Account statement. In the event the Payor believes or suspects that the Account record contains an error or omission, the Payor must provide written notice immediately to Affinity. Affinity shall investigate any alleged errors or omissions in accordance with the terms and conditions of the Payor's Account agreements.

5.0 REPRESENTATIONS, WARRANTIES AND COVENANTS

- 5.1 The Payor warrants and guarantees to Affinity that each Payee, will have signed and delivered to the Payor appropriate written authorization. The Payor assumes all liability for ensuring that the person(s) signing as a Payee has valid and lawful signing authority for the Payee's account.
- 5.2 The Payor agrees to execute the Customer Automated Funds Transfer Set Up Authorization Form provided to it by Affinity, and to keep the information required therein current.

6.0 SECURITY REQUIREMENTS

- 6.1 The Payor is responsible to manage access to the CAFT Service and Payor's account.
- 6.2 Payors and Administrators must implement a Password in connection with the CAFT service. The Password must be kept confidential and may only be revealed to Affinity officers when required. The Payor and Administrators agree that any Password shall not be recorded in any format or medium. The Payor's and Administrators may change the Password at any time, and when required by the Affinity. The Payor agrees to notify Affinity immediately of any suspected or actual misuse of the Password.
- 6.3 All CAFT Transactions shall be considered legitimate and properly authorized when made by any Payor or CAFT Administrator. The Payor accepts the responsibility for all losses

that may arise from themselves or a CAFT Administrator misusing his or her authority in any way or failing to ensure industry standard acceptable due diligence is implemented to protect against misuse.

- 6.4 Where the Payor and/or any CAFT Administrator know of facts that give rise or ought to give rise to suspicion that any CAFT Transactions are fraudulent, unapproved, or otherwise likely to be found not to be valid for any reason, the Payor or CAFT Administrator has a duty to make reasonable inquiries of proper parties into such transactions to determine whether they are validly approved transactions, and to disclose to Affinity suspicions and the facts upon which those suspicions are based.
- a) Affinity may, in its sole discretion and at any time without notice, monitor, investigate and examine all aspects of the CAFT Services, including suspicious circumstances disclosed by the Payor or Administrator but it does not owe the Payor any obligation to undertake any investigation of suspicious circumstances.
 - b) Affinity may place a hold on or freeze the Current Account pending investigation of any improper use of any Account. Any hold or freeze imposed by Affinity pursuant to this Agreement, or investigation undertaken by Affinity is imposed or undertaken by Affinity at its sole discretion and for its sole benefit.
 - c) Release of a hold or freeze by Affinity is not a confirmation that a Transaction or instruction is in fact good and may not be relied upon as such by the Payor. If any improper use is established to the satisfaction of Affinity, it may withdraw or suspend the use of CAFT Services and/or operation of the Current Account without notice. Affinity will not unreasonably restrict the Payor from the use of any funds subject to dispute, as long as it is reasonably apparent that the Payor or CAFT Administrator was not the cause, directly or indirectly, or contribute to the problem or unapproved transaction, have fully cooperated with the investigation, and have complied with this Agreement and the Account agreement.
 - d) Affinity will respond to reports of a problem or unapproved transaction within a reasonable period, indicate what reimbursement, if any, will be requested for any loss incurred by the Payor.
 - e) Reimbursement may be considered for losses from a problem or unapproved transaction provided that Affinity is notified of any potential concerns after the CAFT Transaction or the next login to the CAFT Services, and it is shown that the Payor and Administrators took all reasonable and required steps to protect and safeguard against loss, theft, and unapproved access as required by this Agreement and the Account agreements.
- 6.5 The Payor acknowledges that inherent risks exist associated with the use of the internet and that security is not guaranteed. Affinity will not be liable for any loss, damage, injury, or inconvenience suffered or incurred by the Payor resulting from the Payor's or CAFT Administrator's use of the internet or from the Payor's or Administrator's failure to use reasonable measures to protect the confidential and personal information of the Payor, or any Payee.
- 6.6 The Payor is responsible to ensure that any access terminal used to process CAFT Transactions has an up-to-date operating system, web browser, anti-virus and anti-spyware software, and a firewall, and that each Payor and Administrator acknowledges that it is his or her personal responsibility to reduce the risk of contaminants or online attacks and to comply with this provision.
- 6.7 The Payor acknowledges and understands that from time-to-time updates in both technology and or processes occur. Any reasonable recommendations made by Affinity to protect and safeguard against loss, theft, and unapproved access must be

implemented and is the responsibility of the Payor to implement. Failure to implement these reasonable recommendations constitutes a material breach.

7.0 TERMINATION

- 7.1 Either party may terminate this Agreement by providing not less than 30 days written notice to the other party prior to the date the termination is to take effect. Notwithstanding any such termination, the provisions of this Agreement and the provisions of the Payments Canada Rules shall continue to remain in full force and effect with respect to any Direct Deposits processed in accordance with the provisions of this Agreement prior to the day that the termination takes effect and until such time as all such outstanding transactions have been posted to the Payor's Current Account.
- 7.2 Notwithstanding the provisions of Section 7.1, this Agreement may be terminated by Affinity at any time without notice, if:
- a) the Payor fails to have funds available for settlement of Direct Deposits; or
 - b) the Payor is in breach of its obligations under this Agreement; or
 - c) the Current Account is inactive for a period of 6 months without notice to Affinity.

8.0 LIABILITY AND INDEMNITY

- 8.1 Affinity shall not be responsible or liable for any claim, demand, cost, expense, damage, penalty, delay or inconvenience to the Payor or any other person resulting from failure of Affinity to perform any of the services herein contemplated where such failure has arisen beyond the control of Affinity.
- 8.2 Affinity shall not be liable for any demand, cost, expense, damage, or penalty in event of breach of contract, for any special, indirect, or consequential damages. The liability of Affinity for any claim shall be limited in each claim to the service charge assessed by Affinity in relation to the service giving rise to the claim.
- 8.3 The Payor undertakes and agrees to hold harmless and to indemnify Affinity, and any processing institution against any and all amounts debited or credited, damages, expenses, judgements or orders suffered or incurred by Affinity or processing institution in processing any Direct Deposit as a result of any error or incompleteness in such orders based on information furnished to Affinity by the Payor, or its officers, employees, or agents, designated as a CAFT Administrator or as a result of any error by Affinity or any Processing Institution in processing such orders, or as a result of a failure by the Payor to obtain any authorization required by Section 5 of this Agreement.
- 8.4 The acceptance by a Processing Institution of monies paid by Affinity on behalf of the Payor hereunder shall be a full and final discharge of the Credit Union's obligation to the Payor in respect of monies so paid.
- 8.5 Affinity disclaims any liability and is not responsible for the actions or omissions of any CAFT Administrator or Payor.
- 8.6 The Payor understands and agrees that Affinity engages a third party for the purpose of providing access to provide the requested CAFT service. The Payor understands and agrees it will ensure that any equipment including, but not limited to, software, communication devices, computer hardware, internet service providers, or other devices or products ("equipment") used or accessed by the Payor to obtain CAFT service will comply with the specifications issued from time to time by the identified third party for access to the applicable hardware and software.

The Payor agrees to indemnify, defend and hold harmless any third-party service provider for the purpose of providing access to provide the CAFT service from any loss or damage incurred due to the use of equipment not in compliance with the said third party specifications and requirements.

- 8.7 Subject to section 8.2, Affinity is not responsible for any loss or damage suffered or incurred by any Payor except to the extent caused by its own gross negligence or willful misconduct, and in any such case will not be liable for any indirect, consequential, or exemplary damages (including, but not limited to, loss of profit(s)), regardless of the cause of action _____ (initial required) and even if it has been advised of the possibility of such damages.
- 8.8 In no event will Affinity be liable for any loss or damage suffered by a Payor that is caused by:
- a) inaccuracies in, or inadequacies of, any information furnished by a Payor or CAFT Administrator (if applicable), to Affinity;
 - b) forged, unapproved or fraudulent use of the CAFT Services, or forged, unapproved, or fraudulent instructions or material alteration to any instruction.
- 8.9 Except for loss caused exclusively by the gross negligence or intentional willful misconduct of Affinity, and subject to the limitations of liability in this Agreement and in any Account agreements, the Payor assumes all risk of loss due to the use of the CAFT Services, including without limitation, the risk of third-party fraud, internal fraud of the Payor or CAFT Administrator, and all use made of the Password.

9.0 COMPLIANCE WITH LAWS

- 9.1 Affinity is authorized at its discretion and without liability hereunder to comply with the provisions of any statute, ordinance, or regulation, which lawfully purports to impose on Affinity a duty to take or refrain from taking action of any kind.
- 9.2 The Payee agrees to be bound by, comply with, respect, and apply all relevant provisions of the *Canadian Payments Act* and the Payments Canada Rules in force from time to time as they apply to PADs including, without limitation, the Confirmation/ pre- notification requirements, waiver of pre-notification requirements or cancellation requirements, as set out in the Payments Canada Rules.

10.0 GENERAL

- 10.1 Any Notice required or permitted to be given hereunder shall be in writing and shall be either delivered personally, by registered mail, or by email to Affinity at the address set forth below and to the Payor at the Payor 's latest address on the records of Affinity.

AFFINITY CREDIT UNION
Attn: Cash Management
130 1st Avenue North, Saskatoon, SK S7K 0G1
Email: cashmanagement@affinitycu.ca

The Payor acknowledges and agrees to provide any updated contact information to facility Notices pursuant to this agreement.

Whenever under this Agreement, such notice shall be in writing and effective upon receipt. All notices shall be presumed to be received by the recipient at the following times, as applicable:

- a) if by registered mail with return receipt requested, 5 Business Days after mailing;

- b) if by overnight commercial courier with a system for tracking delivery, 1 Business Day after being given to such courier; or
 - c) if by e-mail, the next Business Day, provided the sender does not receive a delivery failure notice.
- 10.2 This Agreement shall be interpreted in accordance with the laws of the Province of Saskatchewan and be subject to all applicable laws of Saskatchewan and Canada applicable therein.
- 10.3 This Agreement may not be assigned by the Payor, whether directly or indirectly, by operation of laws, change of control or otherwise, without the prior written consent of Affinity.
- 10.4 This document may be signed and delivered electronically or by other similar means and may be executed in counterparts, all of which shall be as effective as if signed and delivered as one original document with original signatures.
- 10.5 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- 10.6 Where an electronic signature is available and used, the person using the electronic signature is adopting such signature and authorizes it to be attached to or associated with this document.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties have caused this Agreement to be executed by their duly authorized representatives this ____ day of _____, 20__.

AFFINITY CREDIT UNION 2013

Payor Name

Signature

Signature

Printed Name

Printed Name

Title

Title

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Payor Name

Signature

Signature

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