

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

BETWEEN:

Affinity Credit Union 2013 ["Affinity"]

AND

["Payee"]

In consideration of Affinity agreeing to collect pre-authorized debits issued by the Payee and in consideration of other financial institutions agreeing, through the rules of Payments Canada, to accept pre-authorized debits drawn on accounts 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 Payee's designated account with Affinity, specifically used for processing CAFT transactions.

"Authorization" means execution or similar adoption by any Payor, including but not limited to the use of an identification/password combination or other method which is consistent with the Payments Canada Rules, for the purpose of providing consent and agreement by the Payor in accordance with both applicable laws and the terms of the authorized debit agreement.

"Business" means any commercial entity including, but not limited to, any corporation, partnership, sole proprietorship, franchise, association, government entity, venture or enterprise.

"Business PAD" means a PAD drawn on the account of a Payor for the payment of goods or services related to a business or commercial activity of the Payor, including, but not limited to, payments between franchisees and franchisors, distributors and suppliers, and dealers and manufacturers.

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

"CAFT Services" means the processing of PAD transactions administered by either a Payee or CAFT Administrator on behalf of a Payee in accordance with this Agreement.

"Cash Management PAD" means a PAD drawn on the account of a Payor for the purpose of transferring, consolidating or repositioning funds between the Payor's account at one Payments Canada Member and an account at another Payments Canada Member for the Payor or a closely-affiliated business (e.g. transfers between a parent company and its subsidiary).

"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.

“Confirmation” means the mandatory written notice from the Payee to the Payor prior to the first PAD wherein the details agreed to by the Payor in setting up a Payor’s PAD Agreement with the Payee are communicated in accordance with the Payments Canada Rules.

“Funds Transfer PAD” means, where the Payor and the Payee are the same individual, a PAD drawn on the account of a Payor for the purpose of transferring funds from his or her account at one Payments Canada Member to his or her account at another Payments Canada Member, including, but not limited to, registered savings plan, mutual funds, segregated funds, annuities, deposit accounts, cash accounts, and investments accounts.

“One-time” means occurring once, on a set date.

“PAD” means a pre-authorized debit payment item issued by a Payee or Payments Canada Member Payee that is drawn on an account of a Payor held by a Processing Payments Canada Member.

“Payee” means both the Person whose account at Affinity is to be, or has been, credited with the amount of the PAD and also generates electronic transactions for processing.

“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 Member” means a member of Payments Canada.

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

“Payments Canada Member Payee” means a Payments Canada Member who is also the Payee.

“Payor” means the Person whose account at Affinity is to be, or has been, debited with the amount of the PAD.

“Payor’s PAD Agreement” means a continuing but revocable authority given in writing or otherwise Recorded, signed or similarly Authorized by the Payor to the Payee that authorizes the Payee to issue a PAD against the Payor’s account, at the Processing Payments Canada Member.

“Person” means a natural person, member, business, or other legal entity.

“Personal PAD” means a PAD drawn on the account of a Payor for payments such as, but not limited to, charitable donations, non-member investment contributions, mortgage instalments, utility bills, insurance premiums, membership fees, property taxes, credit card billings, lines of credit, loans and payment for other consumer goods or services.

“Processing Payments Canada Member” means the Payments Canada Member that holds the account of a Payor.

“Recorded” means any form of representation of information or of concepts in any medium that is accessible so that it may be used for subsequent reference and can be read or otherwise perceived by a Person.

“Reimbursement Claim” means a duly completed and endorsed written statement of a Payor in the form required by the Payments Canada Rules or, where permitted by the Payments Canada Rules, a written or otherwise recorded communication from a Payor to its processing Payments Canada Member by way of the Internet, e-mail, telephone or other electronic means that has been authenticated pursuant to the processing Payments Canada Member’s customary security measures relating to such means.

“Set Interval” means occurring at specified, set or predictable period or times; or upon the occurrence of such criteria and/or event(s) as may be set out in a Payor’s PAD Agreement.

“Sponsoring Payments Canada Member” means the Payments Canada Member that holds the account of the Payee to be credited with the PAD.

“Sporadic” means occurring occasionally, irregularly, intermittently, infrequently, periodically, and not at a Set Interval or One-Time.

“Written” means any form of representing or reproducing words in visible form, and includes an electronic document, provided the electronic document is under the control of the intended recipient, the information contained in the electronic document is substantially in the same form as a paper copy, and the information contained in the document is accessible if requested.

- 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 governs the processing of Business PADs, Personal PADs and Cash Management PADs and expressly excludes and does not apply to Funds Transfer PADs.
- 1.4 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 Payee 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 Payee does not challenge or oppose the proposed changes they will be deemed to have agreed to the changes.
- 1.5 This agreement nullifies and or supersedes any previous agreement governing the services identified herein.

2.0 SERVICES

- 2.1 The Payee shall furnish to Affinity at the times and in the format specified by Affinity, information required by Affinity to enable Affinity to process or cause to be processed PADs on behalf of the Payee and to deliver the PADs through the “clearing system” on behalf of the Payee for the purpose of collecting them in the ordinary course and such information shall include, without limitation, the name of each Payor, the name and branch or office of the processing Payments Canada Member, the type and number of such account, the dates and amounts of PADs to be drawn on or made to such account for payment to the Payee and whether the PAD is a Business PAD or a Personal PAD.
- 2.2 Affinity shall, as agent and on behalf of the Payee and in accordance with the information furnished by the Payee to Affinity, process PADs specifying the amounts to be credited to the Payee and debited to the accounts of Payors and shall credit such amounts to the account of the Payee maintained with Affinity and shall deliver the PADs to the processing Payments Canada Members through the clearing system.
- 2.3 Affinity will from time to time deliver to the Payee such reports and statements regarding the services provided under this Agreement as are customarily provided by Affinity.
- 2.4 The processing of PADs shall be subject to all applicable rules and regulations established by Payments Canada.

3.0 CAFT ADMINISTRATORS

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

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

4.0 PAYMENT

- 4.1 The Payee shall pay to Affinity for the services rendered by Affinity and such fees and charges as are established and amended by Affinity from time to time.
- 4.2 The Payee hereby irrevocably authorizes Affinity to debit the account(s) of the Payee with Affinity, all sums to be paid pursuant to this Agreement, including, without limitation, charges for services and amounts required to be paid by the Payee pursuant to the provisions hereof.

5.0 REPRESENTATIONS, WARRANTIES AND COVENANTS

- 5.1 The Payee represents and warrants to Affinity that each Payor on whose behalf any PAD purports to have been drawn or instruction purports to have been given, will have executed or otherwise authorized and delivered to the Payee an authority in a form satisfactory to Affinity instructing the Payee to issue PADs and, where applicable, given a direction pursuant to such an authority, to issue a PAD as though it were signed or otherwise Authorized by such Payor and authorizing such direction to be acted upon as through it were a written direction signed by such Payor.
- 5.2 The Payee 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.
- 5.3 The Payee undertakes to make available for inspection, within a reasonable time, upon the request of Affinity, or the request of the Payor or any authorized representative of the Payor (including the processing Payments Canada Member), the authorization of any Payor for whom the Payee has issued or caused to be issued a PAD.
- 5.4 The Payee shall furnish to Affinity for its review the Payee's form of Payor's PAD Agreement. The Payee shall make all changes to such form, process or procedures as may be required to ensure that such form, process and procedures comply with the Payments Canada Rules in effect from time to time.
- 5.5 The Payee undertakes to provide or make available the terms and conditions of the Payor's PAD Agreement including a copy of the Payors executed agreement.
- 5.6 The Payee shall ensure that each Payor's PAD Agreement is signed or otherwise authorized by the Person or Persons having valid signing authority for the account to which the authorization relates and that the signature or authorization method employed by the Payor meets the requirements of the Payments Canada Rules and is in a form that constitutes proper authority for the processing Payments Canada Member to debit the account of the Payor, as may be set out in the Payor's account agreement with the processing Payments Canada Member.
- 5.7 The Payee shall, prior to issuing or causing to be issued PADs against a Payor's account, inform the Payor of the recourse, notification and all other provisions of the Payments Canada Rules relevant to Payors.

5.8 If the Payee issues:

- a) PADs with sporadic frequency, the Payee shall obtain a proper authorization from the Payor for each and every PAD with sporadic frequency, in accordance with the Payments Canada Rules. Such authorization shall not be waived by the Payor; and
- b) One-Time PADS, the Payee shall obtain a new Payor's PAD Agreement for any subsequent PAD.

5.9 The Payee hereby undertakes, acknowledges, and agrees that:

- a) subject to the expiry of any reasonable cancellation notice period, not to exceed 30 days, that has been clearly set out and established in any agreement between the Payor and a Payee (including in a Payor's PAD Agreement), upon receipt by the Payee of any written or otherwise oral communication from a Payor clearly instructing the Payee to cease issuing PADs or otherwise revoking a Payor's PAD Agreement or an Authorization to issue PADs, the Payee shall use its best efforts to cancel the PAD in the next business, billing or processing cycle but shall, within 30 days from the notice, cease to issue any new PADs against that Payor and not issue any further PADs against that Payor unless and until that Payor provides the Payee with a new Payor's PAD Agreement;
- b) the Payee will
 - (i) accept and effectively act upon any notice of change of a Payor's payment routing information that it receives from Affinity by the processing Payments Canada Member in relation to an administrative change pursuant to the Payments Canada Rules that does not involve the Payor changing his or her account to another processing Payments Canada Member; and
 - (ii) deem such notice of change to be that Payor's Authorization to change its relevant payment routing information, provided that Affinity shall be responsible to the Payee only for the accuracy of information provided in any such notice of change that it provides to the Payee;
- c) upon the return of a PAD for reason of "Non-Sufficient Funds" or "Funds Not Cleared", the Payee may, within 30 days of the return, re-submit the PAD electronically on a one-time only basis for the same amount as the original debit and such submission shall not contain interest, NSF charges or any other charges in addition to the original PAD amount;
- d) where the Payee's name has changed, the Payee will provide a minimum of ten (10) days written notice to the Payor in advance of the next PAD; and
- e) the Payee will ensure that an audit trail, including the Payor's PAD Agreement and evidence of authorization, where applicable, and all requisite information needed to retrieve or trace a PAD is maintained for a minimum of 12 months following the last PAD processed in accordance with that Payor's PAD Agreement.

5.10 The Payee hereby agrees and undertakes that no Payor's PAD Agreement entered into by a Payee may be assigned by the Payee whether directly or indirectly, by operation of law, change of control or otherwise except:

- a) if the Payee has prominently displayed (e.g. in bold print, highlighted or underlined) an assignment clause in the Payor's PAD Agreement or in the Confirmation and the Payee has provided to the Payor written notice of the full details of such assignment, including the identity and contact information of the assignee; or,

- b) the Payee has provided to the Payor, prior written notice of the full details of such assignment, including the identity and contact information of the assignee, a minimum of ten (10) calendar days in advance of any PAD being issued in the assignee's name.
- 5.11 In the case of Cash Management PADs, the Payee warrants and represents to Affinity that if the Payor is also a Payee, execution of this Agreement by the Payee constitutes a continuing but revocable Authorization by the Payor to debit its designated account with such Cash Management PADs in a form that constitutes a proper authority or agrees to the Processing Payments Canada Member to debit the Payor's account for the amount of each Cash Management PAD that is initiated by the Payee, as may be set out in the Payor's account agreement with the Processing Payments Canada Member.
- 5.12 In the case of Cash Management PADs, the Payee warrants and represents to the financial institution that each Payor who is not also the Payee on whose behalf any Cash Management PAD will be a business closely affiliated with the Payee and will have signed or otherwise Authorized a continuing but revocable authority, which constitutes proper authority for the Processing Payments Canada Member to debit the Payor's account for the amount of each Cash Management PAD that is initiated by the Payee as may be set out in the Payor's account agreement with the Processing Payments Canada Member.

6.0 SECURITY REQUIREMENTS

- 6.1 The Payee is responsible to manage access to the CAFT Service and the Payee Account.
- 6.2 Payees and CAFT 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 Payees and Administrators agree that any Password shall not be recorded in any format or medium. The Payees and Administrators may change the Password at any time, and when required by Affinity. The Payee 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 Payee or CAFT Administrator. The Payee 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 Payee 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 Payee 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 Payee or CAFT Administrator but it does not owe the Payee any obligation to undertake any investigation of suspicious circumstances.
 - b) 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 Payee.
- 6.5 The Payee acknowledges that inherent risks exist associated with the use of the internet and that security is not guaranteed. Affinity shall not be liable for any loss, damage, injury, or inconvenience suffered or incurred by the Payee resulting from either the Payee's or CAFT Administrator's use of the internet or from the Payee's or

Administrator's failure to use reasonable measures to protect the confidential and personal information of the Payee, including any Payor.

- 6.6 The Payee 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 Payee 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 Payee 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 Payee 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 thirty (30) days prior written notice. Notwithstanding any such termination the provisions of this Agreement shall continue to remain in full force and affect with respect to any PAD issued in accordance with the provisions of this Agreement prior to the day upon which such termination takes effect.
- 7.2 Notwithstanding the provisions of Section 7.1, this Agreement may be terminated by Affinity at any time without notice, if:
- a) the Payee fails to have funds available for settlement of Returned Transactions;
 - b) the Payee 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 The Payee shall be solely responsible for the accuracy and completeness of all information furnished to Affinity and Affinity shall not be responsible in any way for errors resulting from the inaccuracy or incompleteness of any information furnished to Affinity by the Payee or any officer, employee or agent of the Payee designated as CAFT Administrator. The Payee hereby undertakes and agrees to indemnify Affinity for any and all amounts that may be erroneously paid by Affinity or any processing Payments Canada Member in respect of any PAD erroneously credited or debited by Affinity or any processing Payments Canada Member pursuant to any such information furnished by the Payee.
- 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 Payee undertakes and agrees to hold harmless and to indemnify Affinity and any processing Payments Canada Member against all loss, costs, fees, damages, expenses, liabilities, claims, suits and demands whatsoever that Affinity or any processing Payments Canada Member may suffer, incur or be under or that may be made or brought against Affinity or any processing Payments Canada Member by reason of or in any way arising out of the drawing and issuing of PADs, except where such loss, costs, fees, damages, expenses, liability, claims, suits or demands result from erroneous information provided or an error committed by Affinity or any processing Payments Canada Member.

- 8.4 The Payee undertakes and agrees to reimburse Affinity for any claim paid by Affinity as a result of a Reimbursement Claim filed by a Payor or other Person alleging that a PAD was not drawn in accordance with the Payor's PAD Agreement, that the Payor's PAD Agreement was revoked, that pre-notification was not given in accordance with the Payments Canada Rules (currently 10 calendar days before the date the PAD was processed to the account of the Payor), that Confirmation was not provided in accordance with the Payments Canada Rules or that no Payor's PAD Agreement ever existed between the Person making the claim and the Payee. The Payee shall, upon the request of Affinity and in compliance with the Payments Canada Rules, make every reasonable effort to obtain a copy of the Payor's authorization to issue or cause to be issued the PAD in dispute by the Payor and provide it to Affinity within a reasonable time after receipt of the request.
- 8.5 The Payee undertakes and agrees to reimburse Affinity and any processing Payments Canada Member for payment of any claim made by a Payor in accordance with the Payments Canada Rules. The Payee acknowledges that Affinity is required to honour any debits received from processing Payments Canada Members for the amounts of any PADs returned in accordance with the Payments Canada Rules and reimbursed by the processing Payments Canada Member to the Payor.
- 8.6 The Payee shall be liable for, and shall indemnify Affinity against, any interest claim associated with the return of a PAD.
- 8.7 Subject to section 8.2, Affinity is not responsible for any loss or damage suffered or incurred by any Payee 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 Notwithstanding the termination of this Agreement, the provisions of the Payments Canada Rules and the indemnification provisions in this Agreement shall continue to remain in full force and effect with respect to any PAD drawn and issued or any other obligation of Affinity in accordance with the provisions of this Agreement prior to the day upon which such termination takes effect.
- 8.9 The Payee understands and agrees that Affinity engages a third party for the purpose of providing access to provide the requested CAFT service. The CAFT Originator 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 CAFT Originator 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 Payee 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.
- 8.10 Affinity disclaims any liability and is not responsible for the actions or omissions of either the Payee or CAFT Administrator, and in no event will Affinity be liable for any loss or damage suffered by a Payee that is caused by:
- a) inaccuracies in, or inadequacies of, any information furnished by the payee 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.

8.11 Subject to all of section 8 the Payee 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 Payee 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 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 Payee at the Payee'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

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 Payee, whether directly or indirectly, by operation of law, change of control or otherwise, without the prior Written consent of Affinity.
- 10.4 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- 10.5 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.
- 10.6 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

Payee Name

Signature

Signature

Printed Name

Printed Name

Title

Title

AFFINITY CREDIT UNION 2013

Payee Name

Signature

Signature

Printed Name

Printed Name

Title

Title