



## MOBILE DEPOSIT SERVICE AGREEMENT ALOHA PACIFIC FEDERAL CREDIT UNION

This Mobile Deposit Service Agreement, ("Agreement") is the contract which covers your and our rights and responsibilities concerning the Mobile Deposit Service ("Service") offered to you by Aloha Pacific Federal Credit Union ("We" or "Credit Union"). By using the Mobile Deposit Service or clicking the electronic signature "Consent" on the Mobile Deposit enrollment or application page shown on your mobile device, you and any joint owners or authorized users, jointly and severally, agree to the terms and conditions in this Agreement, and any amendments. The Mobile Deposit 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 Deposit Service Process.** Mobile Deposit is a service designed to allow you to make deposits of original checks ("checks") to your accounts from a compatible mobile device by taking a photo of the original check(s), front and back, and delivering the digital images and associated deposit information ("images") to us or our processor with your Mobile Device. After you login to Mobile Banking, you may register for Mobile Deposit Service. Once you review, understand and accept the service agreement, your registration to the service will be complete. You may photograph an image of checks with your mobile device creating an electronic image and you may transmit the electronic image to the Credit Union which will be used to make the deposit to your account. The Credit Union may, in its discretion, convert items meeting the Credit Union's 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 through which we clear checks. Please note: this service is not available for non-personal accounts.

**1.2 Funds Availability.** Funds from items deposited through the Service will be available in accordance with the Credit Union's Funds Availability Policy disclosure, as amended 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 the Credit Union that the transmission of a check or items does not contain errors or that funds will be available. Checks deposited through Mobile Deposit are not received by the Credit Union until we have acknowledged receipt and provided credit to your account.

**1.3 Deposit Limitations.** Mobile Deposits are limited in amount to \$3,000 per business day and \$9,000 within any 30 consecutive day period. We may establish individual limits on the dollar amount and number of items or deposits allowed through this Service from time to time. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times. Deposits made on non-business days will be aggregated with and applied to the next business days limits. Non-business days are generally Saturdays, Sundays, federal holidays and Hawaii state holidays observed by the Credit Union.

**1.4 Deposit Acceptance.** You agree that Credit Union may at any time, in its sole discretion, refuse to accept deposits of checks from you via a 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, via night drop, by mail or any other contractually acceptable method.

**1.5 Service Eligibility.** You must be a member in good standing to utilize this service. Eligibility is at the sole discretion of the Credit Union. We may suspend or permanently revoke this service, in our sole and absolute discretion. This service is available exclusively to mobile banking users only through the Credit Union's mobile banking app.



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### 2. Member Account.

**2.1 Member Account.** You must designate a Credit Union savings, checking or loan 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 the reviewing and 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 maintaining your mobile device. 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 or mobile device for you.

**2.3 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. Each image must provide all information on the front and back of the original check at the time presented to you by the drawer, including, but not limited to, information about the drawer and the paying bank that is preprinted on the original check, MICR information, signature(s), any required identification written on the front of the original check and any endorsements applied to the back of the original check. The image quality must meet the standards established by the American National Standards Institute, the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association.

Endorsements must be made on the back of the share draft or check within 1½ inches from the top edge, although we may accept endorsements outside this space. Your endorsement must include your signature and "For APFCU mobile deposit only" written or stamped legibly.

A check payable to two payees must be endorsed by both payees. If the check is payable to you or your joint owner, either of you can endorse it. If the check is made payable to you and your joint owner, both of you must endorse the check.

The Credit Union reserves the right to refuse, reject, or delay funds availability of deposits if and when all endorsement requirements stated are not met. In addition, any loss the Credit Union incurs from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

**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 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 sixty (60) days from the date processed. 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 or reproduction of the original checks 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 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



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for deposit via Mobile Deposit. 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 you will be responsible for the aggregate amount of any items which are deposited more than once. To cover these items, funds 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, in our sole discretion, from any other deposit accounts with Credit Union. You will be responsible for any deficiencies after all accounts have been exhausted. 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 for any item imaged using the service arising from the Credit Union's printing of any substitute check from those images.

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

- i. 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;
- ii. That all checks deposited through the Service are made payable to you and not payable to another party and then endorsed to you;
- iii. That all checks deposited through the Service are made payable to you or another party who is a joint owner on the intended deposit account;
- iv. That all signatures on each check are authentic and authorized;
- v. That each check has not been altered, or that you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check is drawn.

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.

**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. 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.

**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 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.

### **3. Credit Union's Obligations.**

**3.1 Financial Data.** We will review and process your electronic file through batch processing one time per day. 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 both to preserve the confidentiality of the user number, password, test key, or other



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code or identifier and to prevent the use of the service by unauthorized persons (and in this connection 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) 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.

**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 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.

**3.3 Exception Items.** When we review and process your electronic file, 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. 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 may nevertheless be returned to the Credit Union because, among other reasons, the electronic image is deemed illegible by a paying bank. The Credit Union's failure to identify an Exception Item shall not preclude or limit your obligations to the Credit Union.

**3.4 Account Information.** We will provide you with daily transaction history via the Internet and the Online Banking service detailing items processed, return items, and deposit adjustments.

**3.5 Retention of Check Images.** Credit Union will retain any substitute checks it generates for seven (7) years for credit union use only. You agree and accept to be assessed applicable photocopy and research fees if copies are requested.

**4. 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 the Credit Union upon thirty (30) days written notice to you, the Member.

### **5. Disclaimer of Warranties.**

YOU, THE 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). YOU FURTHER ACKNOWLEDGES THAT THERE ARE CERTAIN SECURITY, CORRUPTION, TRANSMISSION ERROR AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET



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AND/OR TELECOMMUNICATION LINES OR CIRCUITS. YOU HEREBY ASSUME ALL RISKS RELATING TO THE FOREGOING.

**6. Credit Union's Liabilities.**

**6.1 Direct Damages.** THE CREDIT UNION'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY YOU 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 YOU IN CONNECTION WITH ANY MATTER.

**6.2 Your Duty to Report Errors.** You will notify the Credit Union of any errors or omissions, as promptly as practicable, and in any event within one (1) business day after the earliest of discovery of the error or omission; or the date the discovery should have occurred through the exercise of reasonable care. 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's 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 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's 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:

- i. 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;
- ii. The ownership of funds involving a transaction is in question;
- iii. We suspect a breach of the security procedures;
- iv. We suspect that your account has been used for illegal or fraudulent purposes; or
- v. 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 you fail to report timely any error or discrepancy reflected in an account statement prepared by Credit Union, or if you fail 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's liability for damages, losses, and other compensation owing to you will be limited as set forth above.



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**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 Credit Union's reasonable control.

**8. Termination of Service.** 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. Upon termination of this Service, you will promptly remit all unpaid monies due under this Agreement. This Agreement will remain in effect after Service termination until all outstanding liabilities through the utilization of this service are resolved.

**9. Modification of Services.** Credit Union reserves the right to modify the Service from time to time without prior notice to you, 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.

**10. 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 Hawaii as applied to contracts entered into solely between residents of, and to be performed entirely in, the State of Hawaii. 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 Hawaii 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.