

## Digital Banking Terms and Conditions

These Digital Banking Terms and Conditions ("Agreement") describe your rights and obligations as a user of the Credit Union Digital Banking services (the "Service(s)") offered by Educational Systems FCU (the "Credit Union"). It also describes the rights and obligations of the Credit Union.

This Agreement is a supplement to other information and disclosure documents governing your account at Educational Systems FCU that can be found at <https://esfcu.org/disclosures>. This Agreement for the Service is not intended to replace any such agreements that govern your accounts at the Credit Union. Please read the Agreement carefully.

Your use of the Services constitutes your acceptance of this Agreement. By requesting and using one of these Services and electronically verifying the receipt of this agreement and disclosure, you agree to comply with the terms and conditions of this Agreement. If you are accepting this Agreement on behalf of a company or other business entity, you represent and warrant that you are authorized to do so and to bind the entity to the provisions hereof.

### Definitions

The following definitions apply in this Agreement.

1. "Digital Banking Service(s)" is the internet-based service(s) providing online access to your Credit Union Account(s) from either our website (currently available at: <https://www.esfcu.org>) or from a Mobile Device using our telephone or tablet applications.
2. "Password" is the customer-generated code selected by you for use during the sign-on.
3. "Account" means the Credit Union Account from which you will be conducting transactions using the Service. Educational Systems FCU has the right to determine which accounts may be connected to the service and/or the right to refuse the connection of certain accounts.
4. "We", "us", "our" or "the Credit Union" refers to the Credit Union which offers the Services and which holds the Accounts accessed by the Services.
5. "You" or "your" refers to the owner of the Account(s), authorized signer on the Account or someone who is specifically designated by the Account holder to have access to the Account.
6. "Mobile Banking" or "Mobile Banking App" refers to the system that allows members of the Credit Union to conduct a number of financial transactions through a Mobile Device.
7. "Mobile Device" refers to any handheld device used to access our Mobile Banking App using Apple or Android Apps or Mobile Web Browser. These devices typically are smart phones, tablets, etc.
8. "Mobile Banking Service(s)" refers those Digital Banking Services available through Mobile Banking.
9. "Communications" includes all notices, agreements, acknowledgements, receipts and other information related to your Accounts, including but not limited to disclosures we are required to send by law to you in writing and credit union marketing advertisements and communications.
10. "Transactions" means transactions that you may conduct in connection with your Accounts via the Services.
11. "Business Days" means Mondays through Fridays, except for Federal holidays which are excluded.
12. "Payee" means a person or business that you are paying.

### Description of the Digital Banking Services

Digital Banking Services currently allows you to do the following:

- Access to your Accounts, and view Account balances and statements. The Service maintains 12 months of Account activity online for your review.
- Pay bills online using Online Bill Pay services, provided that you have a checking Account open with us.
- View check images online. Check images are identified with a line under the check number.
- Obtain account details. The information displayed in Digital Banking is not an official disclosure. It does not replace your Credit Union statement, account or loan disclosures, and/or disclose all fees, charges, interest and/or amount due when displaying a loan payoff or negative balance payoff. For example, the actual payoff balance may be greater than the displayed balance due to the exclusion from the displayed mortgage loan payoff and/or loan payoff balance of interest and/or fees that may accrue through the date that you intend to pay off your loan.
- Initiate certain Transactions from your Account (and view Transaction information), and transfer funds among designated Accounts. Funds may be transferred between specified checking, savings and loan Accounts, and you may make one-time transfers or schedule future or recurring transfers.

**Note:** Because regulations require the Credit Union to limit preauthorized transfers (including Digital Banking transfers), the following limitations apply:

**Money Market Accounts** - Transfers from a Money Market Account to another Account or to third parties by preauthorized, automatic, telephone, or computer transfer are limited to six (6) per statement cycle.

Once you submit your request to enroll in Digital Banking, you may also enroll in Bill Pay and Online Statement services. You may access your Accounts 24 hours a day, seven (7) days a week. However, the availability of the Services may be suspended for brief periods of time for purposes of maintenance, updating and revising of software. To register for the Digital Banking system, you must have at least one Account with the Credit Union.

All Digital Banking transaction requests received after 8:00 p.m. Eastern Time (ET) on business days and all transactions which are requested on Saturdays, Sundays, or Federal holidays will be processed on the Credit Union's next business day.

#### **Additional Services: Changes in Terms**

Your use of the Services constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time, provided that we will notify you of any material change in accordance with the "Consent to Receive Electronic Communications" section below (unless you have opted out of electronic communications as provided for below). If you have elected to receive only paper notices (and otherwise at our option), we will mail notice of such material changes to you at the last address shown for the Account on the Financial Institution's records, by posting notice in branches of the Financial Institution, or as otherwise permitted by law. Such material changes (along with any non-material changes) may be disclosed by posting to the Digital Banking system log-in page. You will be prompted to accept or reject any material change to this Agreement the next time you use the Service after the Credit Union has made the change, provided that your rejection of such changes will constitute your termination of this Agreement and your access to the Services and Digital Banking system. Your acceptance of the revised terms and conditions along with the continued use of the Services will indicate your consent to be bound by the revised Agreement.

Further, the Credit Union reserves the right, in its sole discretion, to change, modify, add or remove portions from the Services at any time and with or without notice to you. Your continued use of the Services will indicate your acceptance of any such changes to the Services. All added services will be deemed Services under this Agreement.

Some of the Services have qualification requirements, and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue the Services, in whole or in part, or your use of the Services, in whole or in part, immediately and at any time without prior notice to you.

### **Schedule of Fees**

Except as provided for herein (or any other agreements between us pertaining to your Accounts), the Services are currently provided at no additional cost to members. This may change in the future, including where in connection with added services. Also, you are responsible for web access and/or data or text message charges that may be billed by your mobile carrier. Check with your mobile carrier for details on specific fees and charges that may be applicable.

### **Digital Banking Set-Up: Passwords**

When you apply for Digital Banking Services, you will select a Password to be used by you to access your Accounts and make transfers between Accounts through the Digital Banking system. It is very important that you select a Password you will remember and that does not contain information about you that could be easily compromised. You are responsible for keeping your Password and Digital Account information confidential.

You may change your password at any time while in the Digital Banking system. Your Password must have at least eight (8) characters including at least one (1) number, one (1) upper case letter, one (1) lower case letter and can have a special character.

If you are using Digital Banking in connection with business Accounts, you, as the owner of the business or otherwise authorized to accept this Agreement on behalf of the owner, acknowledge and assume the liability of providing Account access or user credentials (i.e. Username, password or other user authentication identifiers) to any employee(s) or other individuals having access to an Account(s) through the Digital Banking Services.

### **Online Statement Services**

You will receive an Online Statement for each of your checking and savings Accounts available through your Digital Banking access. The Account(s) will no longer receive paper statements. Online statements provide all of the information available on paper statements. Please review our Electronic Record and Signatures Disclosure and our eStatement Agreement and Disclosure. To view disclosures, visit <https://www.esfcu.org/Disclosures>.

### **Additional Services Descriptions**

#### **Card On/Off**

The Credit Union may provide Card On/Off functionality if available. This feature lets you take control of your Credit Union Visa Debit Card and/or Credit Card to protect against unauthorized use.

Examples:

- If you have misplaced your card, turn it to the Off position. If the card is found and you are certain that your account has not been jeopardized, turn it back On and continue to use your card.
- If you use your card infrequently, or are traveling without your card, turn it OFF. Then turn it On when you are ready to use it. Your mobile application shows you whether your card is On or Off.
- If you notice any charges that you did not authorize, immediately turn the card to the Off position. This will help stop future unauthorized transactions from posting to your account. Contact the Credit Union so we may review your account and replace your card.
- If you have lost your card, or your card has been stolen, immediately turn it to the Off position and contact the Credit Union for a replacement.

Turning your card Off does not allow any transactions to process including any scheduled or recurring transactions. This functionality does not replace the card holder's responsibility to review account activity regularly and report a lost or stolen card. The Credit Union does not warrant that this functionality will prevent unauthorized transactions in all situations. If the card is disabled at the time it's scheduled to be reissued, it won't be reissued until you enable it, which can be done through Digital Banking.

### **Bill Pay Services**

You may use our Bill Pay service to direct the Credit Union to make payments from your designated checking Account to the "Payees" you choose in accordance with this agreement. Bill Pay service is provided by a third-party vendor. The terms and conditions of this agreement are in addition to our Bill Pay Terms of Service and the other Account agreements, disclosures and other documents in effect from time to time governing your Account. Please review the Bill Pay Terms of Service for additional information.

### **External Transfer**

When you use Digital Banking to transfer funds from your Educational Systems FCU account to your account at another Financial Institution, funds will generally be available within two business days. The sending limit per business day for an External Transfer is \$50,000. We reserve the right to change from time to time the daily limit you are permitted to send using the External Transfer funds transfer features. Fees will not be charged for this service at Educational Systems Federal Credit Union. Fees may be charged at the receiver's Financial Institution. Requests for both External Transfers must be received by 4:00 PM EST for the transfer to be processed that day. If you set up a transfer and you decide to cancel it, you must do so before 2:00 PM EST the day of the scheduled transfer. If we make an error with the amount on an ACH External Transfer our liability shall be limited to correcting the error within a reasonable time frame in accordance with the NACHA Operating rules or other applicable regulation.

### **Accessing Credit Union Bank Accounts on your Mobile Device**

The Credit Union's Mobile App will be available for download to access Digital Banking with your mobile device. When a new version of the Mobile App is available, you will be notified of the update via an alert in the app store for your device. Simply update the Mobile App and continue using it. We reserve the right to modify the Mobile App and Digital Banking Services at any time, including Bill Pay and Mobile Deposit services. In the event of any modifications, you are responsible for making sure that you understand how to use the Mobile App as modified. By use of the modified services, you agree to the terms and conditions that apply to them. We will not be liable to you for any losses caused by your failure to properly use Digital Banking, the Mobile App or your Mobile Device.

The availability, timeliness, and proper functioning of the Mobile App and Digital Banking Services depends on many factors, including your Mobile Device, your Mobile Device location, wireless network availability and signal strength, and the proper functioning and configuration of hardware, and software. Neither we nor any of our service providers, warrants that the Mobile App, or Digital Banking Services will meet your requirements, operate without interruption or be error-free, and neither we nor our service providers, shall be liable for any loss or damage caused by any lack of availability or improper functioning of the Mobile App or Digital Banking Services, or for any actions taken in reliance thereon, for any reason, including service interruptions, inaccuracies, delays, loss of date or loss of personalized settings.

You agree, when you use the Mobile App and Digital Banking Services, you remain subject to any terms and conditions of your existing agreements with any unaffiliated service providers, including, but not limited to, your mobile service provider (i.e. AT&T, Verizon, etc.) and that this Agreement does not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of the Mobile App (such as data usage or text messaging charges imposed on you by your mobile service provider for your use of or interaction with Digital Banking Services, which may include downloading the software, receiving or sending Digital Banking text messages) or other use of your Mobile Device when using the software or other products and services provided by Digital Banking, and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your provider directly without involving us.

Neither we, nor any of our service providers, assume responsibility for the operation, security, functionality or availability of any related network, Mobile Device or mobile network which you utilize to access Digital Banking.

Neither we, nor our service providers, are liable for failures to perform our obligations under this Agreement resulting from fire, earthquake, flood, or any failure or delay of any transportation, power, computer or communications system or any other or similar cause beyond our control.

### **Your Digital Banking Responsibilities**

You represent that you are the legal owner of the Accounts and other financial information which may be accessed via Digital Banking. You represent and agree that all information you provide to use in connection with Digital Banking is accurate, current and complete and that you have the right to provide such information to us for the purpose of using Digital Banking Services. Each person who is referenced on the Credit Union's records as the Account holder or any individual specifically designated by the Account holder to have access to the Account is jointly and individually liable for all transactions initiated through the Services, including overdrafts, even if the Account holder did not participate in the event that resulted in the transaction.

In addition to this Agreement, you and the Credit Union agree to be bound by and comply with the requirements of the agreements applicable to each of your Accounts. Your use of the Services is your acknowledgment that you have received these agreements and intend to be bound by them. You should review your other Account disclosures including the charges that may be imposed for electronic funds transfers or the right to make transfers listed in the fee schedules accompanying those disclosures.

The terms of this Agreement, applicable fees, and service charges may be changed or amended by Credit Union from time to time. Further, the Credit Union may revise or update the Digital Banking program from time to time. In the event of a change to this agreement or a change to the program or services, you will receive a notice sent to your email address, or a notice will be mailed to you via U.S. mail or the notice may be posted on our website. If the Credit Union sends a notice of the change via email or posts it on our website, you will be deemed to have received it three (3) days after it is sent or posted. If we send a notice via U.S. mail, you will be deemed to have received it five (5) days after it is sent. The revised terms and conditions shall be effective at the earliest date allowed by applicable law. We reserve the right to terminate this Agreement and your use of Digital Banking and the Services in whole or in part at any time without prior notice. Your continued use of Digital Banking and the Services, after revised terms and conditions have been given to you, constitutes your acceptance of the revised terms and conditions.

This Agreement will become effective on the date you access your Account through Digital Banking or the date a change to the agreement is received by you and shall remain in full force and effect until termination by either party. If we terminate this Agreement or your use of the Services for any other reason, we will promptly notify you.

You agree to monitor your Account and important Account information through your Digital Banking Service, periodic statements for your Account, if applicable, and important notices about your Account delivered by us electronically or by mail, in addition to any services or information you may receive through Digital Banking. You agree to keep informed of any changes to Digital Banking by regularly visiting our website.

You agree to comply with all applicable laws, rules and regulations in connection with Digital Banking. We make no representation that any content or use of Digital Banking is available for use in locations outside of the United States. Accessing Digital Banking from locations outside of the United States is at your own risk, and you are responsible for compliance with local laws.

### **Security Procedures**

You represent that you have considered the security procedures of the Digital Banking Services and find that the security procedures are commercially reasonable for verifying that a Bill Payment, transfer or other communication purporting to have been issued by you is, in fact, yours. In reaching this determination, you have considered the size, type and frequency of Bill Payments, Transfers or other communications that you anticipate issuing to the Credit Union.

You agree not to misrepresent your identity or your Account information. You agree to keep your personal information (email address, etc.) up to date and accurate. You represent that you are an authorized user of the Mobile Device you will use to access Digital Banking Services, and that you are authorized to download and install the software App on your Mobile Device.

You agree to take every precaution to ensure the safety, security and integrity of your Account and transactions when using Digital Banking. You agree not to leave your Device unattended while logged in to Digital Banking and to log off

immediately at the completion of each access by you. You agree not to provide your password or other access information to any other person. If you do, we will not be liable for any resulting damage to you. You agree not to use any personally identifiable information when creating shortcuts to your Account. You agree not to give or make available your Digital Banking password or other means to access your Account to any unauthorized individuals. You agree to keep your Device secure and to logout of your Digital Banking session when not in use. If you permit other persons to use your Device or other means to access your Device, you are responsible for any transactions they authorize. If you believe that your Device or other means to access your Account have been lost or stolen, or that someone may attempt to use Digital Banking to access your Accounts without your consent, you must notify us in accordance with the notification requirements set forth in the Credit Union's Electronic Funds Transfer Disclosure. In addition, you will lock your Device or take other steps necessary to stop unauthorized use of your Accounts accessed through Digital Banking. You must also notify us if you change your Mobile phone number.

## **Ownership of Digital Banking**

### **Ownership & License**

You agree that Educational Systems Federal Credit Union or its licensors or other designees retains all ownership and proprietary rights in the Services and the Digital Banking platform, including in all associated content, technology and website(s). Your use of the Services is subject to and conditioned upon your complete compliance with this Agreement and your failure to do so is grounds for us to terminate this Agreement. Without limiting the restriction of the foregoing, you may not use the Services (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to our business interest, or (iii) to our actual or potential economic disadvantage in any aspect. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide the Services.

### **Indemnification**

You agree to indemnify, defend and hold harmless the Credit Union and its affiliates, officers, directors, employees, consultants, agents, service providers and licensors harmless from any and all claims, liability, damages and/or costs (including but not limited to reasonable attorneys' fees) arising from (a) a third party claim, dispute, action, or allegation of infringement, misuse, or misappropriation based on information, data, files, or otherwise in connection with the Services; (b) your violation of any law or rights of a third party; or (c) your use, or use by a third party, of the Services.

### **No Warranties: Limits on Liability**

**Disclaimer of Warranties.** YOU AGREE YOUR USE OF THE SERVICES, DIGITAL BANKING, AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OR NON-PERFORMANCE OF DIGITAL BANKING (INCLUDING ANY SOFTWARE OR THEIR MATERIALS SUPPLIED IN CONNECTION WITH DIGITAL BANKING) SHALL BE FOR US TO USE COMMERCIALY REASONABLE EFFORTS TO PERFORM AN ADJUSTMENT OR REPAIR OF THE DIGITAL BANKING SERVICE. Some jurisdictions do not allow the exclusion of certain warranties, so the above exclusions may not apply to you. You may also have other legal rights, which vary by state. In addition, see Electronic Funds Transfer Disclosure section for limits of liability provisions for transfers made using Digital Banking, which section applies only to the extent not consistent with this limitation of liability provision.

### **Limitation of Liability**

YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES RESULTING FROM THE USE OR THE INABILITY TO USE

THE SERVICES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF THIS SERVICES, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF. THE AGGREGATE LIABILITY OF CREDIT UNION, OR ANY OF ITS OFFICERS, DIRECTORS, SUBSIDIARIES, AFFILIATES, AGENTS, LICENSORS, OR THIRD PARTY SERVICE PROVIDERS UNDER THIS AGREEMENT SHALL NOT EXCEED ONE THOUSAND DOLLARS. Because some states do not allow the exclusion or limitation of liability for consequential damages, the above limitations may not apply to you.

### **Termination**

You may terminate this Agreement at any time by notifying us in writing and stopping your use of your card and any access code. You must return all cards to the Credit Union. You also agree to notify any participating merchants that authority to make bill payment transfers has been revoked. We may also terminate this Agreement at any time by notifying you orally or in writing. If we terminate this Agreement, we may notify any participating merchants making preauthorized debits or credits to any of your accounts that this Agreement has been terminated and that we will not accept any further preauthorized transaction instructions. We may also program our computer not to accept your card or access code for any EFT service. Whether you or the Credit Union terminates this Agreement, the termination shall not affect your obligations under this Agreement for any electronic transactions made prior to termination.

### **Additional Provisions**

You may not assign this Agreement. This Agreement shall be governed by the laws of the State of Maryland without giving effect to any choice of law or conflict of law rules that would cause the application of the laws of any jurisdiction other than the State of Maryland. Subject to the terms of the Arbitration and Class Action Waiver Agreement set forth below in this Agreement, any lawsuit regarding this Agreement or the Services provided pursuant to this Agreement shall be brought in a court of competent jurisdiction in the State of Maryland in which the Credit Union is located, to the exclusion of any other courts in any other jurisdiction. You hereby submit to the personal jurisdiction of the State of Maryland. WE EACH AGREE TO WAIVE ALL RIGHTS TO A JURY TRIAL AND TO SUBMIT TO BINDING ARBITRATION IN CONNECTION WITH DISPUTES BROUGHT UNDER THIS AGREEMENT, EXCEPT AND TO THE EXTENT DESCRIBED BELOW. We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law. Notices to you under this Agreement shall be sent to the email address that you have provided in connection with your setup of Digital Banking if you have consented to electronic communications as provided for below. If you have elected to receive only paper notices, and otherwise at our option, we will mail notice of such material changes to you at the last address shown for the Account on the Financial Institution's records, or as otherwise permitted by law.

### **ARBITRATION AND WAIVER OF CLASS ACTION**

**YOU MAY OPT-OUT OF THIS ARBITRATION AGREEMENT, SEE SECTION 11 BELOW.**

**You and we agree to attempt to informally settle any disputes arising out of, affecting, or relating to this Agreement, the Services provided pursuant to this Agreement and your relationship with us as a result of this Agreement. If that cannot be done, you and we agree that any claim or dispute between us ("Claim") that is filed or initiated after the Effective Date (defined below) of this Arbitration and Waiver of Class Action provision ("Arbitration Agreement"), even if the Claim arose prior to the Effective Date of this Arbitration Agreement, that arises out of or relates to this Agreement, your use of the Services provided pursuant to this Agreement or your relationship with us as a result of this Agreement shall, at the election of either you or us, be resolved by BINDING ARBITRATION administered by the American Arbitration Association ("AAA") in accordance with its applicable rules and procedures for consumer disputes ("Rules"), whether such Claim is in contract, tort, statute, or otherwise; provided that if the AAA is unavailable or unwilling to serve as administrator of any arbitration, a substitute administrator shall be selected by either (a) mutual agreement of the parties, or (b) if you and we cannot agree, by a court at the request of either party. The Rules can be obtained on the AAA website free of**

charge at [www.adr.org](http://www.adr.org); or by writing or calling: American Arbitration Association, 335 Madison Avenue, Floor 10, New York, New York 10017, 800-778-7879. If a substitute arbitration administrator is appointed, we will ensure that you have contact information for such substitute administrator so that you may obtain any applicable rules and forms. Either you or we may elect to resolve a particular Claim through arbitration, even if one of us has already initiated litigation related to the Claim, by: (a) making written demand for arbitration upon the other party, (b) initiating arbitration against the other party, or (c) filing a motion to compel arbitration in court. **AS A RESULT, IF EITHER YOU OR WE ELECT TO RESOLVE A PARTICULAR CLAIM THROUGH ARBITRATION, THE OTHER PARTY WILL GIVE UP THE RIGHT TO GO TO COURT TO ASSERT OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT (EXCEPT CLAIMS THAT ARE LESS THAN OR EQUAL TO THE JURISDICTIONAL LIMIT OF SMALL CLAIMS COURT ARE NOT SUBJECT TO ARBITRATION SO LONG AS THE CLAIMS ARE BROUGHT AND REMAIN IN SMALL CLAIMS COURT).** Seeking relief in small claims court does not waive your or our arbitration rights for other related or unrelated Claims. This Arbitration Agreement will be interpreted and enforced in accordance with the Federal Arbitration Act in Title 9 of the U.S. Code to the fullest extent possible, notwithstanding any state law to the contrary, regardless of the origin or nature of the Claim. You acknowledge that this Arbitration Agreement does not prevent you from submitting any issue relating to your accounts for review or consideration by a federal, state, or local governmental agency or entity, nor does it prevent such agency or entity from seeking relief on your behalf.

**By consenting to BINDING ARBITRATION, you understand and agree with the following terms:**

- 1. Scope.** This Arbitration Agreement is applicable to any disputes arising out of, affecting, or relating to this Agreement, the Services provided pursuant to this Agreement and your relationship with us as a result of this Agreement.
- 2. Selection of Arbitrator.** If either you or we elect to resolve a Claim through binding arbitration, your rights will be determined by a neutral arbitrator and NOT a judge or jury, in accordance with all applicable laws and Rules. The neutral arbitrator will be selected in accordance with the Rules, and must have experience and knowledge in financial transactions. In the event of a conflict between the Rules and this Arbitration Agreement, this Arbitration Agreement will supersede the conflicting Rules only to the extent of the inconsistency.
- 3. Effective Date.** This Arbitration Agreement is effective upon the 61st day after we provide this Arbitration Agreement to you ("Effective Date"), unless you opt-out in accordance with the requirements of the RIGHT TO OPT-OUT provision below.
- 4. Claims Arising Prior to Effective Date.** THIS ARBITRATION AGREEMENT APPLIES TO ALL CLAIMS THAT ARE FILED OR INITIATED AFTER THE EFFECTIVE DATE, EVEN IF THE CLAIM ARISES OUT OF, AFFECTS, OR RELATES TO CONDUCT THAT OCCURRED PRIOR TO THE EFFECTIVE DATE. If a Claim is filed or initiated prior to the Effective Date, this Arbitration Agreement will not apply to such Claim. FURTHER, WE RESERVE THE RIGHT TO SEEK INJUNCTIVE OR OTHER EQUITABLE RELIEF IN ANY COURT OF COMPETENT JURISDICTION WHERE WE BELIEVE IT APPROPRIATE TO PROTECT OUR RIGHTS.
- 5. Arbitration Proceedings.** Arbitration proceedings provide you a fair hearing, but the arbitration procedures are simpler and more limited than rules applicable in court. Discovery will be available for non-privileged information to the fullest extent permitted under the Rules. Any defenses that would apply to a Claim if it was brought in a court of law will apply in any arbitration proceeding between us, including defenses based on the expiration of the applicable statute of limitations or otherwise relating to the timeliness of the initiation of the Claim, and the commencement of an arbitration proceeding under this Arbitration Agreement will be deemed the commencement of an action for such purposes. Arbitration decisions are as enforceable as any court order and are subject to very limited review by a court and cannot be appealed. The Arbitrator shall be entitled to award the same remedies that a Maryland court can award. Any determination as to whether this Arbitration Agreement is valid or enforceable in part or in its entirety will be made solely by the arbitrator, including without limitation any issues relating to whether a Claim is subject to arbitration; provided, however, the enforceability of the Class Action Waiver shall be determined by the Court. Judgment upon the award rendered by the arbitrator ruling can be entered in any court of competent jurisdiction.

6. **Class Action Waiver.** ANY ARBITRATION OF A CLAIM WILL BE ON AN INDIVIDUAL BASIS. YOU UNDERSTAND AND AGREE THAT, TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, YOU WAIVE THE RIGHT TO HAVE ANY CLAIM BROUGHT, HEARD, ADMINISTERED, RESOLVED, OR ARBITRATED AS A CLASS, CONSOLIDATED, COLLECTIVE, OR REPRESENTATIVE ACTION, AND AN ARBITRATOR SHALL NOT HAVE ANY AUTHORITY TO HEAR OR ARBITRATE ANY CLASS, CONSOLIDATED, COLLECTIVE, OR REPRESENTATIVE ACTION, OR TO AWARDED RELIEF TO OR FOR THE BENEFIT OF ANYONE BUT THE INDIVIDUAL PARTIES IN ARBITRATION.
7. **Location.** The place of arbitration shall be within 50 miles of your residence at the time the arbitration is commenced or at another place that both you and we agree (or by telephone).
8. **Costs; Attorney's Fees.** After we receive notice at our address provided below that you have started an arbitration, we will reimburse you promptly for the filing fee you paid. If you are not able to pay the filing fee, we will pay it after we receive your written request at our address provided below. We will pay the remaining costs of arbitration and the arbitrator's fees. You and we will pay our respective attorney's fees and witness and experts' expenses, except as otherwise provided by law or this Arbitration Agreement. If a law gives you the right to recover any of these fees from us, these rights apply in the arbitration. If the arbitrator issues an award in our favor, you don't need to reimburse us for any fees we paid to the arbitration administrator or for which we are responsible.
9. **Severability.** In the event that the Class Action Waiver in this Arbitration Agreement is found to be unenforceable for any reason in relation to a Claim involving class action allegations, the remainder of this Arbitration Agreement will be unenforceable. If any provision in this Arbitration Agreement, other than the Class Action Waiver, is found to be unenforceable, the remaining provisions will remain enforceable.
10. **Survival.** This Arbitration Agreement will survive termination of this Agreement.
11. **Right of Opt-Out.** You have the right to opt-out of this Arbitration Agreement, provided that you notify us of your intent to opt-out within 60 days after we provide you this Arbitration Agreement. Your opt-out is only effective if you notify us in writing and by certified mail, return receipt required at the address noted at the end of this Agreement, within such 60 day time period. If you fail to opt-out within this 60 day time period, you will be deemed to have provided your consent to the resolution of your Claims through binding arbitration. In the event you opt-out of this Arbitration Agreement, such opt-out will not affect other terms and conditions of this Agreement.

**Litigation Class Action Waiver.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, FOR ANY MATTERS NOT SUBMITTED TO ARBITRATION, YOU AGREE THAT ANY LITIGATION ARISING OUT OF THE Digital Banking Terms and Conditions, RELATING TO THE ACCOUNT, OR ANY OTHER DISPUTE OR CONTROVERSY BETWEEN YOU AND US OR ANY OF THE Credit Union's EMPLOYEES, OFFICERS, DIRECTORS, PARENTS, CONTROLLING PERSONS, SUBSIDIARIES, AFFILIATES, SUCCESSORS, AND ASSIGNS WILL PROCEED ON AN INDIVIDUAL BASIS AND WILL NOT PROCEED AS PART OF A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE ACTION AND You HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE ANY RIGHT TO PROCEED IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE ACTION OR TO SERVE AS A CLASS REPRESENTATIVE.

#### **Entire Agreement**

This Agreement, as it may be amended from time to time, together with any other disclosures or documents provided to you about the Services and Accounts, contains the entire agreement between you and the Credit Union and supersedes any other or oral communications and previous agreements, if any, with regard to Digital Banking and the Services.

#### **Consent to Receive Electronic Communications**

From time to time, Educational Systems Federal Credit Union (we, us or Company) may be required by law to provide you with certain written notices or disclosures. Described below are the terms and conditions for delivering such notices and disclosures electronically. Please read the information below carefully and thoroughly.

### **1. Requesting a paper copy**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send you through the DocuSign system, during and immediately after the signing session.

To request delivery of paper copies of the notices and disclosures previously provided by us electronically, you must send us an email to [online@esfcu.org](mailto:online@esfcu.org). In the body of the email include the following:

- Email Address
- Full name
- US Postal address
- Telephone number

### **2. Withdrawing your consent**

If you receive notices and disclosures from us electronically, you may withdraw your consent at any time and choose to receive required notices and disclosures in paper format. To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- Decline to sign a document from within the electronic session, and, where directed, select the checkbox indicating you wish to withdraw your consent, or
- Send us an email to [online@esfcu.org](mailto:online@esfcu.org). In the body of the request please include your:
  - Email Address
  - Full name
  - US Postal address
  - Telephone number

### **3. What happens if I want to receive paper disclosures?**

If you elect to receive required notices and disclosures only in paper format, it will increase the time required to complete certain transactions and to deliver services because we will have to send the required notices or disclosures to you in paper format and wait for your acknowledgment of receipt. To indicate that you wish to receive only paper notices and disclosures, you must withdraw your consent to receive notices and disclosures from us electronically. Please see section two above for details.

### **4. All notices and disclosures will be sent to you electronically**

Provided that you have consented to receive electronic communications, we will deliver all required notices, disclosures, authorizations, acknowledgements, and other documents electronically through the DocuSign system, in accordance with the procedures described herein. To minimize the possibility of you inadvertently not receiving any notice or disclosure, we prefer to deliver all of the required notices and disclosures by the same method and to a single address provided by you. Consequently, you would be able to receive all disclosures and notices either electronically or in paper format. If you are not comfortable with this, please contact us as described below in Section 5. In addition, please review Section 3 that describes the delays associated with electing not to receive notices and disclosures electronically from us.

### **5. How to contact Educational Systems FCU**

To notify us of any changes to your contact information and preferences, request paper copies of certain information and to withdraw your prior consent to receiving notices and disclosures electronically, please email us at [online@esfcu.org](mailto:online@esfcu.org).

### **6. How to advise Educational Systems FCU of your new email address**

To inform us of a change in your email address you can update it in Digital Banking, visit one of our branch locations or mail to address referenced at the end of this Agreement.

### **7. Required Systems and Software**

To access, view and sign copies of electronic disclosures and notices, please ensure that you comply with the following hardware and software requirements\*:

- **Operating Systems:** Windows 10, Mac OS Version 10.15 Catalina.
- **Browsers:** Latest release versions of Microsoft Edge; Mozilla Firefox 74.0 or above; Safari 13.0 or above and Google Chrome Version 81.0.4044.92.
- **PDF Reader:** Acrobat or similar software may be required to view and print PDF files. You can download the Adobe Reader application at <http://get.adobe.com/reader>.
- **Screen Resolution:** 800 x 600 minimum
- **Enabled Security Settings:** Allow per-session cookies

### **Use of Electronic Mail (Email)**

If you need to report an unauthorized transaction from one of your Accounts, you should not rely on sending the notice to us by email. Email transmissions through public or general email are not secure. We advise you not to send us or ask for sensitive or confidential information such as Account numbers, passwords, Account information, etc. via any general or public email system

If you send us an email message, we will be deemed to have received it on the following business day.

### **Lost, Stolen or Compromised Information**

If you believe your Account information has been lost, stolen or compromised, contact the Credit Union, toll-free at 800.356.6660 as soon as possible. In addition, log in to your Account and change password information. For general, operational questions, please use the contact information listed at the end of this Agreement.

### **Additional Terms Applicable to Mobile Deposit**

This describes your ability to deposit checks remotely using a compatible mobile device to transmit the check image for transaction processing at Educational Systems Federal Credit Union. The Digital Banking Terms and Conditions set forth above are incorporated by reference and made a part of these Terms Applicable to Mobile Deposit. Please contact us if you have any questions regarding this service.

### **Limitations of Mobile Deposit**

When using Mobile Deposit, you may experience technical or other difficulties. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. Some of the services provided through Mobile Deposit have qualification requirements, and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue Mobile Deposit, in whole or in part, or your use of Mobile Deposit, in whole or in part, immediately and at any time without prior notice to you.

### **Eligible Items**

You agree to deposit only checks ("Item" or "Items") as that term is defined in Federal Reserve Board Regulation CC ("Reg CC"). You agree that you will not use Mobile Deposit to deposit any Items from your mobile device as indicated below:

- Items payable or negotiated to any person or entity other than you.
- Items that have already been paid or negotiated.
- Items containing obvious alteration to any of the fields on the front of the check or items, or which you know or suspect, or should have known or suspected, are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn.
- Items not payable in United States currency.
- Items dated more than six (6) months prior to the date of deposit.
- Items prohibited or otherwise not acceptable under the terms of your deposit agreement.
- Checks drawn on financial institutions located outside the United States.

**1. Using the Mobile Deposit Service** - You can deposit a check using an Apple iPhone running iOS 13.4.1.0 or later and an Android Smartphone running version 10.0 and up. In addition, you will need a wireless internet connection for this service. Our Mobile Deposit is not supported on the Apple iPad, iPod touch or Android tablet devices.

**2. Check Endorsement** - You must properly endorse your check before capturing the image for Mobile Deposit. To properly endorse your check, you must include your signature, the words "for Mobile Deposit only at Educational Systems FCU" and your Educational Systems FCU account number on the back of the check. If your check is not properly endorsed, your deposit may be rejected or placed on extended hold and, at the Credit Union's discretion, you may be required to provide the original check for deposit. You should securely store any original checks you deposit for five (5) business days in order to provide back-up support if there are imaging or other issues with the check. After this time and after you have verified that your deposit has posted, we recommend that you shred the original check or destroy it by another secure method to prevent accidental or unauthorized attempts to re-deposit the payment.

**3. Limits and Usage** - You can deposit your checks individually with no limit to the number of deposits per day. However, there is a \$5,000 daily deposit limit. Deposits need to be submitted before 5:00 pm, Monday through Friday, to be considered deposited on the same day, excluding Credit Union holidays. Deposits are not posted on Credit Union holidays, Saturdays or Sundays. Once you submit your deposit, it will begin going through the deposit process and cannot be canceled.

**4. Deposits and Funds Availability Schedule** - Checks deposited through Mobile Deposit follow our standard Funds Availability Policy. It typically takes two (2) business days for the funds to post to your account. Once the deposit has posted, the first \$200 of the deposit will be available and the Funds Availability Policy begins. If it is a check drawn on Educational Systems FCU, it will be processed through the Federal Reserve Bank and held under our standard Funds Availability Policy. Funds will show as pending until posted to the account. Third party, stale-dated checks and checks that appear to be altered may require an extended hold. In those cases, you will be notified by letter the next business day after the funds post to your account. Please remember that you may only deposit a check one (1) time.

**5. Image Restrictions** - We will not be responsible for checks rejected due to image capture issues. For best results, you must ensure the image of the entire check is within the four (4) corners of the box, the information on the back of the check is legible, the check is properly endorsed and it is zoomed in or out as necessary.

**6. Third Party Checks** - We reserve the right to reject any third party check image transmitted to us for deposit through Mobile Deposit. Any third party check we accept for deposit must be clearly and legibly endorsed by all payees, and we may delay the availability of funds in accordance with this disclosure if there are issues with the image and/or clarity of the endorsements.

**7. Fees** - There is no fee for Mobile Deposit. However, wireless service provider charges may apply.

**8. Termination** - Educational Systems Federal Credit Union reserves the right to suspend or terminate your use of Mobile Deposit without prior notice.

**9. Cooperation with Investigations** - You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request and without further cost, any originals or copies of items deposited through the Service in your possession and your records relating to such items and transmissions.

#### **Additional Terms Applicable to Shared Access Feature**

The Credit Union may permit functionality described as Shared Access where you have granted access to another user to view and/or transact on your account from within their Digital Banking session. When you use the Shared Access feature, you are granting another user the ability to transfer funds into or from your account, view statements, and pay bills using funds from your account. If you wish to cancel this authorization and remove access from your account, you can do so any time by navigating to the Shared Access feature and removing access. These access changes are immediate, and you would need to setup access again for future use. The Credit Union assumes no liability for access to, transactions through, or privacy obligations or claims related to your use of the Shared Access feature functionality, including access to another party, and the Credit Union is not responsible for any failure or discontinuation of this functionality.

**Additional Terms Applicable to Linking Accounts Feature**

The Credit Union may permit functionality described as Linking Accounts where you have the ability to transfer funds from your account into the account (Access Account) of another user. You do not have access rights to view the Access Account balance, and you may not transfer funds from the Access Account. The holder of the Access Account will receive an initial notice confirming that the Linking Account feature is accessed between your account and the Access Account. If you wish to cancel this authorization and remove access from your account, you can do so any time by navigating to the Linking Accounts feature and removing access. These access changes are immediate, and you would need to re-setup access for future use. CHANGING YOUR PASSWORD WILL NOT REMOVE THIS FUNCTIONALITY. The Credit Union assumes no liability for access to, transactions through, or privacy obligations or claims related to your use of Linking Account, and the Credit Union is not responsible for any failure or discontinuation of this functionality.

**How to Contact Us.** Unless expressly directed otherwise in this Agreement, you may communicate with us by the following methods:

**Telephone: 301.779.8500 or toll-free at 800.356.6660**

**Facsimile: 301.985.4661**

**Email: Using the address shown on our website, currently, [online@esfcu.org](mailto:online@esfcu.org)**

**Mail: Educational Systems FCU, PO Box 179, Greenbelt, MD 20768-0179**