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## **MEMBERSHIP AND ACCOUNT AGREEMENT**

This Agreement covers the rights and responsibilities concerning your Accounts and the rights and responsibilities of The Summit Federal Credit Union. In this Agreement, the words “you” and “yours” mean anyone who signs a Membership Enrollment Application or account change form. The words “The Summit,” “Credit Union,” “we,” “us,” and “our” mean The Summit Federal Credit Union. The word “account” means any one or more share or other accounts you have with the Credit Union.

Your account type(s) and ownership features are designated on your Membership Enrollment Application. By signing a Membership Enrollment Application, each of you, jointly and severally, agree to the terms and conditions in this Agreement and Membership Enrollment Application, Funds Availability Policy, Truth-in-Savings Account Disclosure (as included in the Rate and Fee Schedule), and any disclosures accompanying this Agreement, and the Credit Union’s Bylaws and policies, and any amendments to these documents from time to time which collectively govern your Membership and Accounts.

### **Arbitration and Class Action Waiver**

Please note that this Agreement contains a binding Arbitration and Class Action Waiver provision which affects your rights with respect to any claims or disputes by or against The Summit Federal Credit Union. Please closely review the Arbitration and Class Action Waiver provision within this Agreement (Section 38). You may opt out by following the specified process within the specified timeframe.

### **Our Promise to our Members**

As a member of The Summit Federal Credit Union, here is what you can expect from us:

- We promise to provide quality service and competitive prices
- We promise to treat your records and transactions like our own
- We promise to be respectful and courteous
- We promise timely response to requests, inquiries, or suggestions

### **Member Conduct Policy**

The Summit Federal Credit Union has adopted the following policy that applies to member conduct. This policy protects The Summit’s members, visitors, employees and property from individuals who are or may be threatening or abusive. The policy speaks to ensure that all parties’ rights are protected. Unacceptable member conduct or behavior may include but is not limited to:

- Abusive, vulgar or intimidating language
- Threats, intimidation or acts of violence
- Harassment of any type, including sexual harassment

- Damage to or interference with The Summit’s property or systems
- Unlawful acts
- Other abusive or disruptive behavior
- Abusive contact of any sort
- Injury or threatened injury to any member, visitor or employee (kicking, fighting or other harm)
- Possession, sale, use or being under the influence of an unlawful or unauthorized substance while on The Summit’s property

The following sanctions may be imposed against a member who has engaged in misconduct:

- Denial of any and all member privileges with the exception of maintaining a regular share account and the right to vote at annual meetings. Privileges are defined as The Summit products, services, loans, access devices, branch service, etc. other than maintenance of regular share savings account
- Preclusion from any personal contact with The Summit FCU employees including access to Credit Union premises or member service center
- Any other action deemed necessary that is not expressly precluded by the Federal Credit Union Act, the National Credit Union Administration and New York State’s Workplace Violence Protection Law

### **1. Membership Eligibility**

To be eligible for membership at The Summit Federal Credit Union (The Summit) you must be an individual or entity qualifying within The Summit’s field of membership and must satisfy the membership qualifications as required by The Summit’s Bylaws. You authorize us to verify financial information, and employment history about you by any means allowed by law, including obtaining a credit report or credit score from any consumer-reporting agency to verify your eligibility for any accounts and services we offer or you request. You specifically authorize and acknowledge that we may also use any credit reports or credit scores we obtain to determine your eligibility for accounts, products or services we may offer you or for which you may qualify. Members with an unacceptable credit record or history of “account abuse” shall not be eligible to open or maintain an account. The USA Patriot Act requires us to maintain records of the identification verification. Confidentiality of the information maintained by The Summit will be protected as required under our Privacy Policy.

### **2. Individual Accounts**

An individual account is an account owned by one depositor including any individual, corporation, partnership, trust, or other organization qualified for membership at The Summit. If the account is an individual account, the interest of a deceased individual owner will pass, subject to applicable law, to the decedent's estate or Totten Trust/Payable on Death (“POD”) beneficiary, subject to other provision of this Agreement governing our protection for honoring transfer and withdrawal requests of an owner or owner’s agent prior to notice of an owner’s death, and to any security interest or pledge granted by the account owner, and subject to our statutory lien rights.

### **3. Joint Accounts**

An account owned by two or more persons is a joint account.

#### **a. Rights of Survivorship**

If your account is a joint account, the account is owned as a joint account with rights of survivorship. Upon the death of one of the joint account owners, that person's interest will become the property of the surviving joint account owners. A surviving owner’s interest is subject to the Credit Union’s statutory lien for the deceased owner’s obligations, and to any security interest or pledge granted by a deceased owner, even if a surviving owner did not

consent to it.

**b. Rights of Joint Account Owners**

Any joint account owner is authorized and deemed to act for the other owner(s) and The Summit may accept orders and instructions regarding the account and requests for future services from any other account owners. Each account owner guarantees the signature of the other owners. Any account owner may withdraw all funds in the account, stop payment on items drawn on an account, withdraw, or pledge all or any part of the shares of any account, including funds representing a membership share, without the consent of the other account owner(s) and The Summit shall have no duty to notify any other joint account owner(s). If The Summit receives written notice of a dispute between account owners or receives inconsistent instructions from them, The Summit may suspend or terminate the account, require a court order to act, or require that all joint account owners agree in writing to any transaction concerning the account.

**c. Joint Account Owner Liability**

If any item deposited in a joint account is returned unpaid or an account is overdrawn, or if we do not receive final payment on any transaction, each of the multiple account owners is jointly and severally liable to The Summit for the amount of the returned item, overdraft or unpaid amount and any charges, regardless of who created the overdraft, deposit or cashed the item or benefited from the transaction. If any account owner is indebted to The Summit, The Summit may enforce its rights against any account of the indebted owner, including all funds in the joint account, regardless of who contributed the funds to the joint account.

**4. Payable on Death (POD)/Totten Trust Beneficiaries**

A POD/Totten Trust designation is an instruction to The Summit that a designated account is an account payable to the owner or owners during their lifetimes, and upon the death of the last account owner, payable to any named and surviving POD/Totten Trust beneficiary designated on your Membership Enrollment Application. After the death of the last account owner, accounts payable to more than one POD/Totten Trust beneficiary are owned jointly by such beneficiaries without right of survivorship. Any POD/Totten Trust beneficiary designation shall not apply to Individual Retirement Account (IRA) or Health Savings Accounts (HSA), which shall be governed by a separate beneficiary designation. The Summit shall at no time have any obligation to notify any beneficiary of the existence of any account or vesting of the beneficiary's interest in any account, except as otherwise provided by law.

**5. Accounts for Minors**

For any account established by or for a minor, The Summit reserves the right to require the minor account owner to have a joint account owner who is at least eighteen (18) years of age who shall be jointly and severally liable to The Summit for any returned item, overdraft or unpaid charges or amounts on such account. For a joint account, all funds in the account shall be owned as a joint account with rights of survivorship unless otherwise indicated on the Membership Enrollment Application. The Summit may make payments of funds directly to the minor without regard to his or her minority. The Summit has no duty to inquire about the use or purpose of any transaction by the minor or joint account owner. Unless a parent or guardian is an account owner, the parent or guardian shall not have any account access rights. The minor account owner's tax identification number must be shown on the Membership Enrollment Application. The Summit shall not change the account status when the minor reaches age eighteen (18), unless authorized in writing.

**6. Uniform Transfers to Minors Account**

An account established as an Uniform Transfers to Minors Account (UTMA) is an individual custodial account

established by a member as a custodian on behalf of a minor (a person under eighteen (18) years of age or as otherwise indicated by applicable law). The custodian shall open the minor's account in the name of the minor, include the minor's social security number, and must sign his or her own name on the Membership Enrollment Application. The minor must be in The Summit's field of membership. The custodian shall control and transact on the account for the exclusive right and benefit of the minor and, barring a court order otherwise, is the only party entitled to make deposits to, withdrawals from, or close the account. The Summit will not be responsible for or inquire about the custodian's transactions on behalf of the minor. If a custodian resigns and appoints a successor custodian, The Summit will require the parties to sign a Membership Enrollment Application to reflect the change of authority. In the event of the custodian's death, The Summit may place an administrative hold on the account until it receives instructions from any person authorized by law to withdraw funds or a court order authorizing such withdrawal.

## **7. Agency Designation on an Account**

An agency designation, including but not limited to an agent appointed on forms we provide or a Representative Payee, on an account is an instruction to us that the owner authorizes another person to make transactions as agent for the account owner regarding the accounts designated. An agent has no ownership interest in the account(s) or Credit Union voting rights. We have no duty to inquire about the use or purpose of any transaction made by the agent.

An attorney-in-fact under a power of attorney may also be authorized to make transactions as agent for any account owner. The power of attorney documents should address the powers of the attorney-in-fact and we may request any documents we need to determine whether any attorney-in-fact has been provided the appropriate authorization.

## **8. Deposit Requirements**

Funds may be deposited to any account in any manner approved by the Credit Union in accordance with the requirements set forth on the Truth in Savings Account Disclosure. All accounts are non-assignable and non-negotiable to third parties.

You agree not to deposit any substitute check or similar item that you have created, or for which no financial institution has provided any substitute check warranties and indemnity. If you do so, you agree to indemnify the Credit Union for all losses the Credit Union incurs in connection with the substitute check or item.

### **a. Share Certificate Accounts**

Share certificates are subject to the terms of this Agreement, the Rate and Fee Schedule and Share Certificate Rate Schedule and Agreement for each account the terms of which are incorporated herein by reference.

### **b. Endorsements**

You authorize the Credit Union, in its discretion, to accept transfers, checks and other items for deposit into any of your accounts, whether or not they are endorsed by all payees. You authorize the Credit Union to supply missing endorsements if the Credit Union chooses to supply such endorsements. The Credit Union reserves the right to verify all endorsements on third party checks presented for deposit either in person or by comparison with the member signature on file. If a check or other item that is payable to two (2) or more persons is ambiguous as to whether it is payable to either or both, we may process the check or item as though it is payable to either person. We may require insurance, government and certain other checks to be endorsed as set forth on the back of the check, and/or the Credit Union may require endorsement as set forth on the check. Endorsements must be placed in the space on the back of the check between the top edge and 1-1/2 inches from the top edge. The Credit Union may accept checks with endorsements outside this space. However, if any such endorsement or other markings you or

any prior endorser make on the check cause any delay or error in processing the item for payment, you will be responsible for any loss incurred by the Credit Union due to the delay or error.

**c. Collection of Items**

The Credit Union shall not be responsible for deposits made by mail or at an unstaffed facility until the Credit Union actually receives them. In handling items for deposit or collection, the Credit Union only acts as your agent and assumes no responsibility beyond the exercise of ordinary care. The Credit Union will not be liable for default or negligence of any correspondent or for loss in transit, and each correspondent will only be liable for its own negligence. The Credit Union reserves the right to send any item for collection.

**d. Restrictive Legends**

Some checks contain restrictive legends or similar limitations on the front of the item. Examples of restrictive legends include “two signatures required,” “void after 60 days” or “not valid over \$500.” We are not liable for payment of any check contrary to a restrictive legend or other limitation contained in or on the item unless we have specifically agreed in writing to the restrictions or limitations.

**e. Final Settlement**

All items or Automated Clearing House (ACH) transfers credited to your account are provisional and subject to our receipt of final settlement. If final settlement is not received, we reserve the right to charge your account for the amount of those items or ACH transfers and impose a return charge on your account. After we have received final payment, we refer to these deposits as collected items. If we may incur a fee to collect any item, we may charge such fee to your account. The Summit reserves the right to refuse or to return any or all items or fund transfers. The Summit shall have the right to charge back against your account all previously deposited items or other items endorsed by you that are returned to The Summit unpaid, regardless of whether the amount of the item has been available for your use.

**f. Direct Deposits**

The Summit offers direct deposit options allowing you to preauthorize deposits (i.e., payroll checks, Social Security or retirement checks, or other government checks) or preauthorize transfers from other accounts at The Summit. The Summit reserves the right to require you to authorize any direct deposits to your accounts in writing. If you wish to cancel or change the direct deposit or direct deposit transfer option, you must notify The Summit at least thirty (30) days prior. Upon a bankruptcy filing, unless you cancel the authorization we will continue applying direct deposits. If your account is overdrawn, you authorize us to deduct the amount your account is overdrawn from any deposit, including deposits of government payments or benefits (including but not limited to Social Security). If The Summit is required to reimburse the U.S. government for any benefit payment directly deposited into your account for any reason, you agree that we may deduct the amount returned from any of your accounts, unless prohibited by law.

**g. Crediting of Deposits**

Deposits made on Sundays and Credit Union holidays will be credited to your account on the next business day. Deposits received at unstaffed facilities, such as night depositories or drop box, will be credited on the day funds are removed and processed by the Credit Union and are subject to adjustment based on our verification of the items deposited. Items drawn from an institution located outside the United States are handled on a collection basis only. Amounts will be credited to your account when we receive final payment. You waive any notice of nonpayment, dishonor, or protest regarding any items purchased or received by the Credit Union for credit to your account or for collection.

## **9. Account Access**

### **a. Authorized Signature**

In order to access any account, the Credit Union must have an authorized signature of yours on a Membership Enrollment Application. The Credit Union is authorized to recognize your signature, but will not be liable for refusing to honor any item or instruction of yours if we believe in good faith that the signature on such item or instruction is not genuine. If you open your account electronically and/or do not provide us with a physical signature, you agree that we may, without liability, accept as genuine any signature that appears to be yours, unless you have provided a proper stop payment order in accordance with this Agreement. If you give your account number or account information to a third person, you authorize us to honor transactions initiated by the third person even if you did not specifically authorize a particular transaction.

### **b. Access Options**

You may withdraw or transfer funds from your accounts in any manner we permit (i.e. ATM, in person, by mail, automatic transfer, or telephone, as applicable.) We may return as unpaid any check drawn on a form we do not provide, and you are responsible for any loss we incur handling such a check. We have the right to review and approve any form of power of attorney and may restrict account withdrawals or transfers. We are under no obligation to honor any power of attorney and may refuse to accept a power of attorney for reasonable cause. You agree that we may require any attorney-in-fact to sign an acknowledgment affidavit stating that the power of attorney is in full force and effective.

### **c. Credit Union Examination**

The Credit Union may disregard information on any check other than the signature of the drawer and amount of the item and any magnetic encoded information. You agree the Credit Union does not fail to exercise ordinary care in paying an item solely because its procedures do not provide for sight examination of items.

## **10. ACH & Wire Transfers**

If offered, you may initiate or receive credits or debits to your account via wire transfer or Automated Clearing House (ACH) transfer. You agree that if you receive funds by a wire or ACH transfer, The Summit is not required to notify you at the time the funds are received. Instead, the transfer will be shown on a periodic statement. You may contact us to determine whether a payment has been received. Electronic direct deposits made by ACH transfer will be made available for withdrawal by the settlement date the deposited funds were received. You agree that if The Summit does not receive final settlement for a transfer, we will reverse the provisional credit to your account, or you will repay the amount to The Summit. When you initiate a wire transfer, you may identify either the recipient or any financial institution by name and by account or identifying number. The Summit and other institutions may rely solely on the account or other identifying number you give as the proper identification number, even if it identifies a 3<sup>rd</sup> party or institution. We are not liable for errors, delays, interruptions, or transmission failures caused by third parties or circumstances beyond our control including mechanical, electronic or equipment failure. Terms and Conditions for international wire transfers will be provided at the time of the transfer transaction. Domestic wire transfers are governed by the Uniform Commercial Code Section 4A, and if the transfer is cleared through the Federal Reserve, those are governed by the Federal Reserve's Regulation J. International wire transfers are governed by the Consumer Financial Protection Bureau's Regulation E. ACH transactions are governed by the rules of the National Automated Clearing House Association. You agree that the authorized transfer to or from your account will comply with all applicable federal and state laws or regulations including Office of Foreign Assets Control (OFAC) regulations. Cut-off times may apply to the receipt, execution and processing of funds transfers, payment orders,

cancellations and amendments and if received after a cut-off time, may be treated as having been received on the next business day. Information regarding cut-off times is available upon request. We may need to suspend processing of a transaction for greater scrutiny or verification in accordance with applicable law, and this action may affect settlement or availability of the transaction. We may refuse requests to amend or cancel a payment order that we believe will expose The Summit to liability or loss. Any request to amend or cancel a payment order that we accept will be processed within a reasonable time after it is received. You agree to hold The Summit harmless from and indemnify The Summit for all losses and expenses resulting from any actual or attempted amendment or cancellation of a payment order. We may require you to follow a security procedure to execute a payment order or certain electronic funds transfer transactions. We will notify you of any such security procedures and you explicitly agree that our security procedures are commercially reasonable.

## **11. Account Rates and Fees**

The Credit Union's payment of dividends on any account is subject to the account rates and fees, earnings, payment and balance requirements as set forth on the applicable Rate and Fee Schedule. You agree the Credit Union may impose fees and charges for the deposit account services provided by the Credit Union. A current Rate and Fee Schedule has been provided to you separately. You agree the Credit Union may change the Rate and Fee Schedule from time to time and you will be notified of such changes as required by law.

## **12. Current Balance and Available Balance**

Your checking account has two kinds of balances: the "Current Balance" and the "Available Balance". Many of the transactions that affect these balances are beyond the Credit Union's control as they are requirements of the payment networks that your transactions are processed through via the merchants with whom you choose to do business. The method in which you use your debit card, PIN Based or Signature-based, may also affect the amount and length of any authorization hold. Also, we may place holds on various deposits as explained in the Funds Availability Policy. As a result, your account records may show a difference in your Current Balance and Available Balance. You can check your Current Balance and Available Balance at an ATM, by phone, online, or at a branch.

**To determine whether a transaction will exceed the available balance in your account (resulting in an overdraft), The Summit reviews the available balance at the time the transaction is posted to your account (not when the transaction was authorized).** This is important as certain transactions, including Signature-based Debit Card transactions, may be authorized for payment (via an authorization hold); however, those transactions may still result in an overdraft if the transaction exceeds the account's available balance when the transaction posts to the account. See section 12(e) below for an example and additional information.

### **a. PIN Based Debit Card Transactions**

These are transactions where you use your debit card and enter your PIN number at the time of the sale. We pay these transactions as they are transmitted to us. Most are transmitted immediately; others may be delayed for one or more days.

### **b. Signature-based Debit Card Transactions**

These are transactions where you make a purchase with your debit card and you do not enter your PIN but you are instead asked to sign for (or otherwise conduct) the purchase. In these situations, the merchant may seek prior authorization for the transaction. When that happens, a temporary hold may be placed against the available funds in your account. We refer to this temporary hold as an "authorization hold", and the amount of the authorization hold will be subtracted from your Available Balance. Authorizations are deducted from your Available Balance (but not your Current Balance) as they are received by the Credit Union throughout each day. At some point after you conduct the

transaction, it is processed by the merchant and submitted to the Credit Union for posting to your account. This may happen sometimes hours or days after you conduct the transaction depending on the merchant and its processing company. These payment requests are presented in real time throughout the day and are posted to your account as they are received. Please note, the amount of the authorization hold may differ from the actual payment because the final transaction amount may not yet be known to the merchant when the authorization request is submitted.

**Example:** If you use your card at a restaurant an authorization hold will be placed in the amount of the bill presented to you, but later when the transaction is presented and then posts, it will include any tip that you may have added to the bill. This may also be the case when you swipe your card at gas stations, hotels and other merchants. We cannot control how much a merchant asks us to authorize or when a merchant presents a transaction for payment.

**The fact that The Summit put an authorization hold on your available balance does not mean the funds are set aside and made available to pay the specific transaction authorized. The hold is simply a reduction in your available balance based on the fact that The Summit has authorized a transaction and is therefore obligated to pay the transaction when posted.**

#### **c. Current Balance**

The Current Balance is the total amount of funds in your account(s). It reflects payment transactions that have “posted” to your account, but not payment transactions that have been authorized and are pending. It may also reflect the full amount of all deposits, even though some portion of a deposit may be on hold and may not be available to you. Thus, while the term “Current” may sound as though the number you see is an up-to-date display of what is in your account that you can spend, that is not always the case. Any holds (including authorization holds) for purchase transactions, payments and fees that have not yet posted will not appear in your Current Balance.

**Example:** If you have a \$50 Current Balance, but you just wrote a check for \$40, your Current Balance is \$50. It does not reflect the pending check transaction. So, at that point, your Current Balance will show \$50 but you have already spent \$40.

#### **d. Available Balance**

The Available Balance takes into account items such as holds placed on deposits and pending transactions (such as signature-based debit card purchases) that the Credit Union has authorized but that have not yet posted to your account. The Available Balance may not reflect all your outstanding checks and automatic bill payments that you have authorized, or other outstanding transactions that have not been paid from your account. In addition, your Available Balance may not reflect all of your debit card transactions. You should only make transactions against the Available Balance, as these are the only funds you may access for transactions.

**Example:** Assume you have a Current Balance of \$50 and an Available Balance of \$50. If you were to conduct a Signature-based debit card transaction at a grocery store to buy groceries for \$20, then the merchant could ask the Credit Union to pre-authorize the payment. In that case, an “authorization hold” may be placed on your account for \$20. Your Current Balance would still show \$50 because this transaction has not yet posted, but your Available Balance would be \$30, because you have committed to pay the grocery store \$20. When the grocery store submits the transaction to The Summit for payment (which could be a few days later), the Credit Union will post the transaction to your account and your Current Balance will be reduced by \$20.

#### **e. Available Balance at Posting; Additional Information**

As indicated above, for overdraft purposes, The Summit determines whether or not a transaction will exceed the account’s available balance by reviewing the available balance at the time of posting when the merchant submits the



transaction to The Summit for payment (and not when the transaction was authorized). While The Summit may review the available balance at the time of authorization to determine whether to pay a transaction and The Summit may place an authorization hold on funds, The Summit determines whether or not an overdraft will occur (and whether an overdraft fee will be charged) by reviewing the available balance at the time the transaction is posted to the account.

**Example:** Assume you have a Current Balance of \$100 and an Available Balance of \$100. If you conduct a Signature-based debit card transaction at a grocery store to buy groceries for \$60, then the merchant could ask the Credit Union to pre-authorize the payment. In that case, an “authorization hold” may be placed on your account for \$60. Your Current Balance is still \$100 because the transaction has not yet posted. Your Available Balance would be \$40 because it is reduced by the amount of the authorization hold (\$60). Before the grocery store transaction is presented to the Credit Union for posting, a check that you had written for \$50 posts to your account. Because your Available Balance was \$40 (you had committed to paying the grocery store \$60), your account would be overdrawn by \$10 when the \$50 check posts. In this case, The Summit may pay the \$50 check, but you will be charged an overdraft fee. The overdraft fee will be deducted from your account, further reducing the Current Balance and the Available Balance. Assuming the current overdraft fee was \$35, your Current Balance after the \$50 check posts (but before the \$60 grocery store transaction posts) would be \$15 (which is \$100 minus the \$50 check and minus the \$35 overdraft fee). And, your Available Balance after the \$50 check posts (but before the \$60 grocery store transaction posts) would be **negative \$45 (-\$45)** which is determined by reducing the Available Balance by \$50 for the posting of the check and also \$35 for the overdraft fee. Remember, the Available Balance was \$40 (the beginning Available Balance of \$100 minus the \$60 authorization hold for the grocery store transaction) and, thus, the further reductions by \$50 and by \$35 resulted in an Available Balance negative \$45 (-\$45). **Additionally, when the merchant presents the \$60 grocery store transaction to The Summit and the transaction is posted to your account, the Available Balance (negative \$45) is insufficient because of the intervening check and you will be charged an overdraft fee for the grocery store transaction as well, even though your Available Balance was sufficient to pay the transaction when it was authorized.**

It is very important to understand that you may still overdraft your account even though the available balance appears to show there are sufficient funds to cover a transaction that you want to make. This is because your available balance may not reflect all the outstanding checks and bill payments that you have authorized, or other outstanding transactions that have not been authorized or paid from your account. In the example above, the outstanding check will not be reflected in your available balance until it is presented to The Summit and posted to your account.

In addition, your available balance may not reflect all of your debit card transactions. For example, if a merchant obtains the Credit Union’s prior authorization but does not submit a the debit card transaction for payment within three (3) business days of authorization (or for up to thirty (30) business days for certain types of debit card transactions), the Credit Union must release the authorization hold on the transaction. If the authorization hold is released, then your available balance will not reflect this pending transaction until it is presented to The Summit for payment and posted to your account.

Debit card transactions can be recurring or nonrecurring. Recurring transactions are where you use your debit card to set up a recurring monthly or periodic payment, such as a gym membership or insurance payment. Nonrecurring transactions are one-time or everyday transactions that are authorized each time you use your debit card. Using your debit card at a restaurant or a grocery store are examples of one-time or everyday (nonrecurring) debit card transactions.

### 13. Transaction Limitations

#### a. Withdrawal Restrictions

The Credit Union will permit a withdrawal only if the available balance in your account is sufficient to cover the full

amount of the withdrawal or you have an established optional overdraft protection privileges. Checks or other transfer or payment orders, which exceed the available balance in your account, will be subject to a fee, set forth in the Rate and Fee Schedule. If the available balance is sufficient to cover some but not all of your withdrawal orders, the Credit Union may allow those withdrawals. You agree that the Credit Union may charge an Insufficient Funds Fee for returning items presented against your account that would exceed your available balance. You further agree the Credit Union may charge an Insufficient Funds Fee each time an item is presented for payment even if the same item is presented for payment multiple times. For example, if you wrote a check to a merchant who submitted the payment to us and we returned the item (resulting in an Insufficient Funds Fee), the merchant may re-present the check for payment again (or may convert the check into an ACH debit and submit the item for payment). If the second and any subsequent presentments are returned unpaid, we may charge an Insufficient Funds Fee for each time we return the item. You understand this means you could be charged multiple Insufficient Funds Fees for one check that you wrote as that check could be presented (including as an ACH debit) and returned more than once. Similarly, if you authorize a merchant (or other individual or entity) to electronically debit your account, such as an ACH debit, you understand there could be multiple submissions of the electronic request which could result in multiple Insufficient Funds Fees. You agree that the Credit Union does not determine whether and when an item will be presented for payment. Rather, the Credit Union determines whether or not the available balance is sufficient to pay a presented item.

The Credit Union may also refuse to allow a withdrawal in other cases, for example: any dispute between the owners about the account (unless a court has ordered the Credit Union to allow the withdrawal); a legal garnishment or attachment is served; the account secures an obligation to the Credit Union; any required documentation has not been presented; or you fail to repay a Credit Union loan on time. You will be advised of the reasons for refusal, within a reasonable time, if such action is taken. The Credit Union reserves the right to require members to give notice in writing of any intended withdrawals from any account of seven (7) to 60 days, as required by law, before such withdrawal.

#### **b. Transfer Limitations**

For savings and money market accounts, you may make up to six (6) preauthorized, automatic, telephonic, audio response or overdraft transfers to another account of yours or to a third party during any calendar month. A preauthorized transfer includes any arrangement with the Credit Union to pay a third party from the member's account upon oral or written orders, including orders received through the automated clearing house (ACH). There is no limit on the number of transactions you may make in the following manner: (i) transfers to any loan account with the Credit Union; (ii) transfers to another Credit Union account or withdrawals (checks mailed directly to you) when such transfer or withdrawal is initiated in person, by mail or at an ATM. If a transfer request would exceed the transfer limitations set forth above in any statement period, the Credit Union may refuse or reverse the transfer, may impose a fee for each excessive transaction, and your account will be subject to suspension or closure by the Credit Union.

#### **14. Order of Payments**

Checks, drafts, items and other transactions may not be processed in the order that you make them or in the order that we receive them. The order in which we process drafts, checks and items and execute other transactions on your account may affect the total amount of overdraft and insufficient funds fees that may be charged to your account. There are many ways transactions are presented for payment by merchants and we are not necessarily in control of when transactions are received. We may receive multiple deposit or withdrawal transactions on your account in many different forms throughout each business day. This means you may be charged more than one fee if multiple transactions overdraw (or attempt to overdraw) your account. You agree we may charge an Insufficient Funds fee each time an item is presented for payment even if the same item is presented for payment multiple times. Please contact us if you have questions about how we pay drafts and checks and process transfers and withdrawals.

**a. Why this is Important to You:**

The order in which items are paid is important if the available balance in your account is insufficient to pay all of the items that are presented. The order in which the payments are presented may cause your larger, and perhaps more important, items to not be paid first (such as your rent or mortgage payment), but may reduce the amount of Overdraft or Insufficient Funds fees you have to pay if your available balance is insufficient to pay all of the items. If an item is presented that exceeds the available balance in your account, we may, at our sole discretion, pay the item (creating an Overdraft) or return the item (Insufficient Funds). The amounts of the Overdraft and Insufficient Funds fees are disclosed within the Rate and Fee Schedule. We encourage you to make careful records and practice good account management. This will help you to avoid writing checks or conducting transactions that exceed your available balance and, thus, avoid incurring the resulting fees.

**b. Payment Order of Items**

The order in which items are presented may affect the fees assessed to your account. Most transactions are posted when you conduct them. The following transactions are generally posted real time or very near real time:

- Transactions you conduct at a Summit Branch or through our Member Service Center
- Transactions you conduct at shared branching locations
- Your ATM deposits\* and withdrawals
- PIN Based Debit Card Transactions
- Transfers you conduct using our automated phone system (“Quik Tran”)
- Transfers you conduct using our Online Banking or Mobile Banking platforms

For signature-based debit card transactions (see Section 12(b) for additional information), a merchant will usually seek prior authorization for a transaction. When that happens, an authorization hold is placed on your account. However, the subsequent posting (also referred to as “settlement”) of the transaction may lag hours or days based on when the merchant presents the transaction to the Credit Union for posting. We post settlement transactions at the time the Credit Union receives them.

*\*Note that funds availability rules apply and funds deposited on a real time basis may not be made available immediately. For example, checks you deposit may be subject to uncollected funds holds. See our Funds Availability Policy for details.*

For ACH entries and checks, which are received in batch files, the Credit Union posts the transactions in the order in which they are received.

**15. Overdrafts**

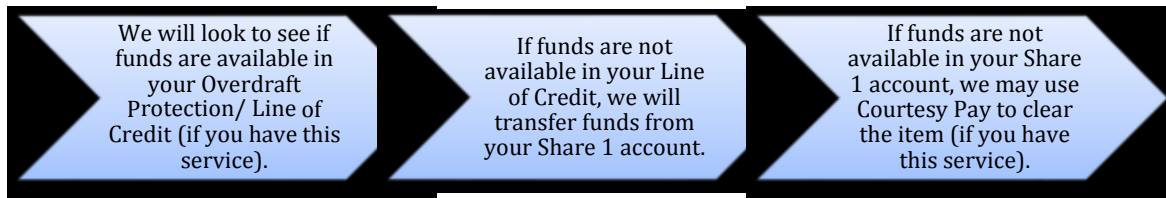
**a. Payment of Overdrafts**

If, on any day, the available balance in your account is insufficient to pay the full amount of a check, transaction or other item posted to your account plus any applicable fee (“overdraft”), we may pay or return the overdraft. We do not have to notify you if the available balance in your account is insufficient to pay a check, transaction or item. Your account may be subject to a charge for each overdraft regardless of whether we pay or return the check, transaction, or item. For ATM and one-time debit card transactions, you must opt-in to Courtesy Pay Select privileges in order for the transaction amount to be covered under the plan. Without your consent, the Credit Union may not authorize and pay an overdraft resulting from these types of transactions. Services and fees for overdrafts are shown in the Courtesy Pay Select Opt-In Form used to capture the member’s opt-in choice for overdraft

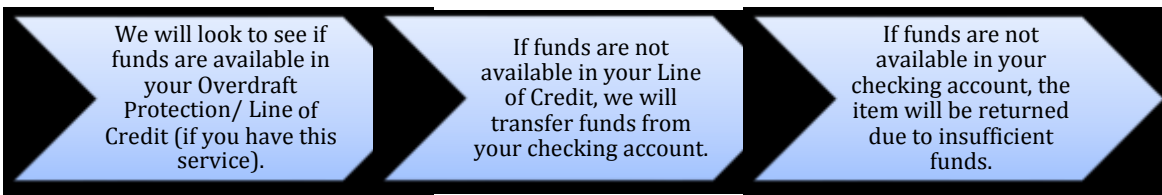
protection and the Rate and Fee Schedule. Except as otherwise agreed in writing, if we exercise our right to use our discretion to pay an overdraft, we do not agree to pay overdrafts in the future and may discontinue covering overdrafts at any time without notice. If we pay an overdraft or impose a fee that overdraws your account, you agree to pay the overdrawn amount in accordance with your optional overdraft protection privileges.

Accounts with an Overdraft Protection/Line of Credit are protected separately, as disclosed in the Overdraft Line of Credit Agreement and Disclosure. For accounts without an Overdraft Line of Credit, if the available balance is insufficient to pay the withdrawal, a transfer will be made from your available balance in your Primary Savings account for the amount necessary (when added to the amount available in your checking account and transferred under this Agreement) to pay the withdrawal and a transfer fee as set forth in the current Rate and Fee Schedule. However, no transfer from the savings account will be made if during the current month you have exceeded your transfer limitations or if the transfer would leave less than par value in your savings account. Refer to Section 13(b) and also the Electronic Fund Transfers Agreement and Disclosure for more information regarding transfer limitations.

If the available balance in your checking account, under this Agreement, is insufficient to pay the entire withdrawal we will look to see if funds are available in your Overdraft Protection/Line of Credit (if you have this service). If funds are not available in your Line of Credit, or you do not have one, a transfer will be made from your Primary Savings account. If the available balance in your Primary Savings account is insufficient and you are eligible for the Courtesy Pay service, the transaction may be covered under the Courtesy Pay program. Please refer to the Courtesy Pay (15b.) section below for more information regarding Courtesy Pay.



If you or anyone authorized on your account requests to make a withdrawal from your Primary Savings account in excess of the available balance in that account, we will look to see if funds are available in your Overdraft Protection/Line of Credit (if you have this service). If funds are not available in your Line of Credit, or you do not have one, a transfer will be made from your checking account and a transfer fee as set forth on the Rate and Fee Schedule. If the available balance in your checking account is insufficient, the item will be returned due to insufficient funds and an Insufficient Funds fee will be applied according to the Rate and Fee Schedule.



#### **b. Courtesy Pay & Courtesy Pay Select**

Courtesy Pay is a discretionary overdraft service offered to members in good standing as defined by The Summit. This non-contractual service represents a purely discretionary courtesy or privilege that The Summit may provide to its account owners from time to time, and which may be withdrawn or withheld by The Summit at any time without prior notice, reason or cause. Courtesy Pay allows The Summit to provide a higher level of service to our account owners by

helping to protect your account and reputation when an inadvertent overdraft occurs. Courtesy Pay is not a loan and is only intended as short-term coverage for unanticipated, occasional overdraft situations on your account. The Summit is not obligated to pay any item(s) presented for payment if a checking account does not contain sufficient collected funds (as determined by a review of the available balance in the account). With Courtesy Pay, The Summit may pay items including checks and ACH/Pre-authorized drafts and/or electronic transactions presented for payment that exceed the available balance in your checking account. The Summit may pay such items up to a limit as determined by The Summit, based on the member's checking account relationship including but not limited to how long the account has been opened, as well as dollar amount and frequency of periodic deposits made to the account consistent with past practices. Any and all applicable Overdraft Courtesy Pay fees, may be included in the overdraft limit as stated in this section. You are not charged for using Courtesy Pay unless an item is presented that exceeds the account's available balance. Whether we pay or return an item, your account may be assessed a fee, either as a Courtesy Pay fee or an Insufficient Funds fee but you will not be charged both fees. Applicable fees are set forth in our Rate and Fee Schedule.

If you would like The Summit to pay ATM withdrawals and one-time (point-of-sale) debit card transactions as a part of this discretionary program, you must opt into Courtesy Pay Select to receive coverage of these transactions. We strongly recommend that you first check your available balance before making an ATM withdrawal or debit card purchase. The Summit offers a variety of convenient options to check your available balance at no charge including: Summit owned ATM, Quik Tran, Online/Mobile Banking or by speaking with a Summit member service representative. The ATM receipt will show the amount withdrawn. It may not indicate your withdrawal has taken your account negative or accessed Courtesy Pay Select and/or other overdraft protection funds, or charged a fee. Should you conduct any transaction using your debit card that will overdraw your account, The Summit may honor that request by drawing on your Courtesy Pay Select limit and/or any other overdraft protection you may have with the credit union. The total of the discretionary Courtesy Pay Select (negative) balance, including any and all fees and charges, is due and payable upon demand. You will continue to be liable, jointly and severally, for all such amounts. It is anticipated that you will make a deposit immediately to cover an overdrawn balance. If your account remains in an overdraft status, we may suspend the payment of items that exceed the account's available balance until your account is once again in good standing. If your account remains in a negative balance for an extended period of time, this may result in a closed account status.

Using Courtesy Pay may be more costly than other overdraft payment options we may offer. You have the option to opt out of Courtesy Pay by writing us at The Summit Federal Credit Union, Canal Ponds Business Park, 100 Marina Drive, Rochester, NY 14626; or calling us at (800) 836-7328; or by opting out of only ATM and one-time Debit Card transactions related coverage (Courtesy Pay Select) by making the selection after logging into your Online Banking; or by obtaining, completing, and returning the appropriate Overdraft Opt out forms as found on our website. Certain accounts do not qualify for this privilege.

### **c. Credit Union Options and Your Overdraft Liability**

If the funds available under sections (a) and (b) of this section 15 do not allow us to honor the withdrawal request in full, the Credit Union will not be required to honor the withdrawal request in part. The Credit Union's determination of an account's insufficient available balance may be made at any time between presentation and the Credit Union's end-of-day processing with only one review of the account required. We do not have to notify you if the available balance in your account is insufficient to cover drafts, checks, transactions, fees or other posted items. Whether the item is paid or returned, your account may be subject to a charge as set forth in the Rate and Fee Schedule. If we elect to cover a withdrawal in whole or in part even though the funds available under sections (a) and (b) are insufficient to cover the withdrawal in full, you agree to repay the overdrawn amount to us immediately on our request. Except as otherwise agreed in writing, by covering one or more overdrafts, we do not agree to cover overdrafts in the future and may discontinue covering overdrafts at any time without notice. We reserve the right to pursue collection of previously dishonored items at any time, including giving a payor bank extra time beyond any

end-of-day processing deadline limits.

**d. Health Savings Accounts**

Overdraft protection and Courtesy Pay services referred to in sections (a) and (b) above shall not be provided on Health Savings Accounts (HSA).

**16. Post-Dated and Stale-Dated Items**

You agree not to issue any check or draft that is postdated. If you do issue a check or draft that is payable on a future date and we pay it before that date, you agree that we shall have no liability to you for payment. You agree not to deposit checks, drafts or other items before they are properly payable. We are not obligated to pay any check or draft drawn on your account that is presented more than six (6) months past its date. However, we have no obligation or liability to you or any other party to the instrument or in the chain of the collection process if we do so.

**17. Stop Payment Orders**

**a. Stop Payment Request Member Check**

You may ask The Summit to stop payment on any check drawn upon your account. You may request a stop payment by telephone, by mail, by online request through Online Banking or in person. You must state the account number, date, the exact amount, check number, payee and reason for the stop payment. The stop payment will be effective if The Summit receives the order with a reasonable period for The Summit to act upon the order. If the stop payment is not received in time for The Summit to act upon the order, The Summit will not be liable to you or to any other party for payment of the item. If we re-credit your account after paying a check over a valid and timely stop payment order, you agree to sign a statement describing the dispute with the payee, to transfer all of your rights against the payee or other holders of the check to The Summit, and to assist The Summit in legal action taken against the person.

**b. Duration of Order**

An oral stop payment is valid for 14 calendar days. In order to have this timeframe extended, you must confirm an oral stop payment in writing no later than 14 calendar days after the order has been accepted by us. If you do not confirm the order in writing within that time, it will cease to be effective.

Written stop payment orders, including an oral stop payment confirmed in writing, for member checks are effective for six (6) months and may be renewed for additional six (6) month periods by requesting that the stop payment order be renewed within a period during which the stop payment order is effective. Your request for renewal will be accepted if The Summit receives the request within a reasonable period of time to extend the stop payment order before it expires. We are not required to notify you when a stop payment order expires.

**c. Fees**

Fees for stop payment orders are set forth on the Rate and Fee Schedule.

**d. Liability**

You should be aware that while payment of the item may be stopped, you may remain liable to any person, including The Summit, who is a holder of the item despite the stop payment order. You agree to indemnify and hold The Summit harmless from all costs, including attorney fees, damages or claims related to The Summit's action in refusing payment of an item, including any claims of any joint account owner, payee or endorsee in failing to stop payment of an item as a result of incorrect information provided by you.

#### **e. Stop Payment- Official Check**

Payment on any official check or any other check, or payment guaranteed by us may be stopped only according to the provisions of Section 4-403 of the Uniform Commercial Code as enacted by the state of New York. For more information regarding the process to stop payment on an official check, please contact us at (800) 836-7328.

#### **18. Credit Union Liability**

If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you and the instructions you transmit, we will be liable for your actual losses or damages not to exceed the amount of the transaction, except as otherwise provided by law. However, The Summit will not be liable: (1) if, through no fault of ours, the available balance in your account is insufficient to complete a transaction, your account is closed or the transaction amount would exceed your credit limit on your line of credit; (2) if your computer fails, malfunctions or The Summit's Online Banking Service was not properly working and such problem should have been apparent when you attempted such a transaction; (3) if circumstances beyond our control (such as fire, flood, telecommunication outages, postal strikes, equipment or power failure) prevent making the transaction; (4) if the funds in your account are subject to legal process or other claim; (5) if your account is frozen; (6) if the error was caused by a system beyond The Summit's control such as your internet service provider; (7) if you have not given The Summit complete, correct and current instructions so The Summit can make a transfer or issue a check; or (8) if there are other exceptions as established by The Summit. Additionally, we will not be liable for consequential damages, except liability for wrongful dishonor. We will not be responsible for any loss or damages suffered by you as a result of systems or software used by you to interface with our systems or software in order to initiate or process transactions, whether such transactions are initiated or processed directly with our systems or through a third party service provider.

You grant us the right, in making payments of deposited funds, to rely exclusively on the form of the account and the terms of this Agreement. Any conflict regarding what you and our employees say or write will be resolved by reference to this Agreement.

#### **19. Checks Presented for Payment**

The Summit may refuse to accept any check or draft drawn on your account that is presented for payment in person. Such refusal shall not constitute a wrongful dishonor of the check or draft and we shall have no liability for refusing payment. You agree that we may charge a fee to any person or entity presenting a check drawn on your account for cashing.

#### **20. Credit Union Lien and Security Interest**

Unless prohibited by law, you pledge and grant as security for all obligations you may have now or in the future, except obligations secured by your principal residence, all shares and dividends and all deposits and interest, if any, in all accounts you have with us now and in the future. If you pledge a specific dollar amount in your account for a loan, we will freeze the funds in your account(s) to the extent of the outstanding balance of the loan or, if greater, the amount of the pledge if the loan is a revolving loan. Otherwise, funds in your pledged account(s) may be withdrawn unless you are in default. Federal law gives us a lien on all shares and dividends and all deposits and interest, if any, in accounts you have with us now and in the future. Except as limited by federal law, the statutory lien gives us the right to apply the balance of all your accounts to any obligation on which you are in default. After you are in default, we may exercise our statutory lien rights without further notice to you.

Your pledge and our statutory lien rights will allow us to apply the funds in your account to what you owe when you are in default, except as limited by state or federal law. If we do not apply the funds in your account(s) to satisfy

your obligation, we may place an administrative freeze on your account(s) in order to protect our statutory lien rights and may apply the funds in your account(s) to the amount you owe us at a later time. The statutory lien and your pledge does not apply to any Individual Retirement Account or any other account that would lose special tax treatment under state or federal law if given as security. By not enforcing our right to apply funds in your account to your obligations that are in default, we do not waive our right to enforce these rights at a later time.

## **21. Legal Process**

If any legal action, such as a levy, garnishment or attachment, is brought against your account, the Credit Union may refuse to pay out any money from your account until the dispute is resolved. If the Credit Union incurs any expenses or attorney fees in responding to legal process, the Credit Union may charge a legal process fee as set forth on the Rate and Fee Schedule. Such expenses may be charged against your account without prior notice to you, unless prohibited by law. Any legal process against your account is subject to the Credit Union's lien and security interest.

## **22. Account Information**

Upon request, we will give you the name and address of each consumer reporting agency from which we obtain a credit report regarding your account. We agree not to disclose account information to third parties except when: (1) it is necessary to complete a transaction; (2) the third party seeks to verify the existence or condition of your account in accordance with applicable law; (3) such disclosure complies with the law or a government agency or court order; (4) such disclosure is consistent with our Privacy Notice; or (5) you give us written permission.

## **23. Notices**

### **a. Name or Address Changes**

It is your responsibility to notify the Credit Union of a change of address (including email address) or name change. The Credit Union is only required to attempt to communicate with you at the most recent address you have provided to the Credit Union. The Credit Union will accept notices of change of address and any other notice from you to the Credit Union only if provided in writing, in person, through online banking or by notice of forwarding address from the U.S. Post Office. If the Credit Union attempts to locate you, the Credit Union may impose a service fee as included in the Rate and Fee Schedule.

### **b. Notice of Amendments**

Except as otherwise prohibited by applicable law, the terms of this Agreement are subject to change at any time. The Credit Union will notify you of any changes in account terms, rates, or fees as required by law. Changes in account ownership, such as adding or removing a joint account owner, must be submitted in writing and validated by The Summit. We reserve the right to waive any term in this Agreement. Any such waiver shall not affect the Credit Union's right to enforce any right in the future.

### **c. Effect of Notice**

Any written notice you give to the Credit Union is effective when it is actually received by the Credit Union. Any written notice the Credit Union gives to you is effective when it is deposited in the U.S. Mail, postage prepaid and addressed to you at your statement mailing address. Written notice the Credit Union gives to you is also effective if provided to an electronic address you have provided to us. Notice to any one account owner is considered notice to all owners of the account.

## **24. Taxpayer Identification Number and Back-up Withholding**



Your failure to furnish a correct Taxpayer Identification Number (TIN) or meet other requirements may result in backup withholding. If your account is subject to backup withholding, we must withhold and pay to the Internal Revenue Service (IRS) a percentage of dividends, interest and certain other payments. If you fail to provide your TIN, we may suspend opening your account.

## **25. Statements**

### **a. Contents**

The Credit Union provides a statement for your account. You will receive a periodic statement of all transactions and activity on your account during the statement period. We may provide a periodic statement with information on all or some of your accounts. If a periodic statement is provided, you agree that only one statement is necessary for a joint account. For checking accounts, you understand that when paid, your original check (or any substitute check) becomes property of the Credit Union and may not be returned to you. If you request us to provide you with an original check or sufficient copy, you agree that we may provide an electronic image of the original check or sufficient copy.

### **b. Examination**

You are responsible for promptly examining each statement upon receiving it and reporting any irregularities to us. If you fail to report any irregularities such as forged, altered, unauthorized, unsigned or otherwise fraudulent items drawn on your account, erroneous payments or transactions or other discrepancies reflected on your statement within thirty-three (33) days of the mailing date of the statement (or the notification date for electronically provided statements), we will not be responsible for your loss. We also will not be liable for any items that are forged or altered in a manner not detectable by a reasonable person, including the unauthorized use of a facsimile signature machine.

For electronic funds transfer discrepancies, please review the Billing Rights section of your Electronic Funds Transfer Agreement and Disclosure.

### **c. Notice to Credit Union**

You agree that the Credit Union's retention of drafts does not alter or waive your responsibility to examine your statements or the time limit for notifying us of any errors. The statement will be considered correct for all purposes and we will not be liable for any payment made or charge to your account unless you notify us in writing within the above time limit for notifying us of any errors. If you fail to receive a periodic statement, you agree to notify us within fourteen (14) days of the time you regularly receive a statement.

## **26. Inactive Accounts**

If your account falls below any applicable minimum balance and you have not made any transactions over a period specified in the Rate and Fee Schedule during which we have been unable to contact you by regular mail, we may classify your account as inactive or dormant. Unless prohibited by applicable law, we may charge a service fee set forth on the Rate and Fee Schedule for processing your inactive account. If we impose a fee, we will notify you, as required by law, at your last known address. You authorize us to transfer funds from another account of yours to cover any service fees, if applicable. To the extent allowed by law, we reserve the right to transfer the account funds to an account payable and to suspend any further account statements. If a deposit or withdrawal has not been made on the account and we have had no other sufficient contact with you within the period specified by state law, the account will be presumed to be abandoned. Funds in abandoned accounts will be reported and remitted in accordance with state law. Once funds have been turned over to the state, we have no further liability to you for such funds and if you choose to reclaim such funds, you must apply to the appropriate state agency.

## **27. Special Account Instructions**

You may request that we facilitate certain trust, will or court-ordered account arrangements. However, because we do not give legal advice, we cannot counsel you as to which account arrangement most appropriately meets the specific requirements of your trust, will or court order. If you ask us to follow any instructions that we believe might expose us to claims, lawsuits, expenses, liabilities or damages, whether directly or indirectly, we may refuse to follow your instructions or may require you to indemnify us or post a bond or provide us with other protection. We may require account changes requested by you or any account owner, such as adding or closing an account or service, be evidenced by a signed Account Change form and accepted by us.

## **28. Termination of Account**

The Credit Union may terminate your account at any time without notice to you or may require you to close your account and apply for a new account if: (1) there is a change in owners or authorized signers; (2) there has been a forgery or fraud reported or committed involving your account; (3) there is a dispute as to the ownership of the funds in the account; (4) any account checks are lost or stolen; (5) there are excessive returned unpaid items not covered by optional overdraft protection privileges; (6) there has been any misrepresentation or any other abuse of your accounts; or (7) you fail to satisfy any of the terms and conditions of the account or Credit Union Bylaws and policies. You may terminate your account at any time by notifying the Credit Union in writing. We reserve the right to require the consent of all owners to terminate a joint account. The Credit Union is not responsible for payment of any check, withdrawal or other item once your account is terminated; however, if the Credit Union pays a check after termination, you agree to reimburse the Credit Union for the payment.

## **29. Termination of Membership**

You may terminate your membership at the Credit Union after giving written notice of your intent to withdraw from membership. You may be denied services or expelled from membership for any reason allowed by applicable law, for causing a loss to the Credit Union, which includes but is not limited to causing the Credit Union to suffer an actual or potential loss intentionally or otherwise perpetrating real or potential fraud on the Credit Union; or excessive expense, causing damage to the Credit Union and its property, or engaging in any abusive or threatening conduct to the Credit Union, employees or members. Please see the Member Conduct Policy for additional information on our expectations for member conduct and examples of services that may be denied for misconduct.

## **30. Death of Account Owner**

The Credit Union may require the survivor or other claimant to the account to produce certain documents before releasing the funds in the account. You agree that the Credit Union can require that anyone who claims funds in your account after your death indemnifies the Credit Union for any losses resulting from honoring that claim. The Credit Union may continue to honor all transfers, withdrawals, deposits and other transactions on the account until the Credit Union learns of an account owner's death. Once the Credit Union learns of an account owner's death, the Credit Union may pay checks or honor other payments or transfer orders authorized by the deceased account owner for a period of ten (10) days unless the Credit Union receives instructions from any person claiming an interest in the account to stop payment on the checks or other items.

## **31. Unlawful Internet Gambling and Other Illegal Activities**

You agree that you are not engaged in unlawful Internet gambling or any other illegal activity. You agree that you will not use any of your accounts, access devices or services for unlawful Internet gambling or other illegal activities. We may terminate your account relationship if you engage in unlawful Internet gambling or other illegal activities. You represent that you are not engaged in a marijuana business or money service business. You agree that

you will not use any of your accounts, access devices or services for a marijuana business or money service business. The Credit Union may decline to accept, process or pay any transaction that we believe to be illegal or unenforceable (regarding your obligation to pay us or otherwise) under applicable law, or which is otherwise limited or prohibited, including but not limited to any transaction involving or relating to any gambling activity. You further agree to indemnify and hold us harmless from any suits, liability, damages or adverse action of any kind that results directly or indirectly from your illegal use of your account and/or access devices.

### **32. Severability**

In the event that any section of this Agreement or any portion thereof is held by a court to be invalid or unenforceable for any reason, the other paragraphs and portions of this Agreement shall not be invalid or unenforceable and will continue in full force and effect.

### **33. 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. 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 applicable law, to payment by the other party of its reasonable fees and costs, including fees on any appeal, bankruptcy proceedings and any post-judgment collection actions, if applicable.

### **34. Governing Law**

This Agreement is governed by the Bylaws of The Summit, federal laws and regulations, the laws and regulations of the State of New York and local clearinghouse rules, as amended from time to time. Any disputes regarding this Agreement shall be subject to the jurisdiction of the court of the county in which the Credit Union is located.

### **35. Monitoring Phone Calls**

In the regular course of our business, we may monitor and record phone conversations made or received by our employees. You agree that we will have such right with respect to all phone conversations between you and our employees, whether initiated by you or any of our employees. We monitor and record conversations and communications for quality control, fraud prevention, and training purposes. For payment authorizations you provide by telephone, we may require you confirm such instructions in writing.

### **36. Consent to Call and Text**

By providing us your telephone number, including any wireless telephone number, you agree that we and our agents may contact you by telephone or text message in order to service your account or collect any amounts owed to us. You expressly consent that we may contact you using prerecorded or artificial voice messages as well as by using an automatic dialing system. You may withdraw your consent to be contacted at any telephone number that you have provided to us. You may do so by any reasonable method. Your consent explicitly allows us to contact you using an auto dialer to deliver any messages about suspected or actual fraud on your account, data security breaches, identity theft or any other messages that we deem necessary to service your account. You understand and agree that your consent does not extend to advertising or telemarketing calls or texts to any wireless telephone number. You may have the opportunity to provide your separate written consent to advertising or telemarketing calls or texts.

### **37. Negative Information Notices**

We may report information about your loan or share accounts to credit bureaus. Late payments, missed payments or other defaults on your accounts may be reflected in your credit report.

### **38. Arbitration and Class Action Waiver**

**Please review this provision carefully; it affects your legal rights. Arbitration of a dispute will result in the loss of any right to participate in a class action lawsuit related to the claim arbitrated.**

#### **a. Arbitration Procedures**

- 1. Electing Arbitration.** Except if you opt out as provided below, you or we may elect to arbitrate any claim or dispute between you and us arising from or related in any way to this Agreement or any account, product or service you have or have had with us. This arbitration provision applies regardless of whether the claim or dispute is based in contract, tort or otherwise. If arbitration is elected, any claim or dispute will be resolved by individual (not class-wide) binding arbitration instead of a lawsuit or other resolution in court. This arbitration provision does not apply to any individual action brought in small claims court (or your state court equivalent). Any arbitration hearing will be within 50 miles of your residence at the time the arbitration is commenced, unless otherwise mutually agreed.
- 2. Arbitration Costs.** We will reimburse the amount of filing, case management, administration and arbitrator fees you are required to pay. Notwithstanding the foregoing, we will not reimburse you for any fees if the arbitrators determine that your claim or dispute was frivolous or baseless. Each party will be responsible for its own fees, including attorneys' fees in any arbitration, except that the arbitrator is permitted to award attorneys' fees to the prevailing party under applicable law or agreement.
- 3. Arbitrators and Arbitration Rules.** The party electing arbitration must choose between one of two organizations: the American Arbitration Association ("AAA"); or Judicial Arbitration and Mediation Services ("JAMS"). The rules and codes of procedure of the chosen organization in effect when arbitration is elected will apply. Arbitration will be conducted by a panel of three arbitrators. Each party will select an arbitrator within ten days of the filing of the arbitration, with such selected arbitrators selecting the third arbitrator, who will serve as chair of the panel, within twenty days of their appointment. The arbitrators are bound by the terms of this Agreement and each will be a retired judge or attorney with experience in financial institutions.
- 4. Effect of Arbitration Award.** The arbitrators' decision and award will be final and binding on all parties, except for any right to appeal provided by the Federal Arbitration Act, and may be entered in any court, state or federal, having jurisdiction. Any relief available in a court of law can be awarded by the arbitrators.

#### **b. Federal Arbitration Act**

This Agreement is considered a transaction in interstate commerce. As such, the Federal Arbitration Act (Title 9 of the US Code) governs the interpretation and enforcement of this arbitration provision. Any issue concerning the validity or enforcement of this arbitration provision, or whether it applies to any specific claim or dispute will be determined by the arbitrators.

#### **c. CLASS ACTION WAIVER**

Unless prohibited by applicable law, arbitration will be solely brought in your individual capacity and be solely between you and us. Neither you nor we have the right to participate in a class action in court or arbitration, either as a class representative or class member. No arbitration between you and us may be joined or consolidated with any other arbitration. Under no circumstances shall there be any class action in arbitration. You and The Summit Federal Credit Union acknowledge the Class Action Waiver is material and essential to the arbitration of any claims or disputes and is non-severable from this arbitration provision. If the Class Action Waiver is limited, voided or found unenforceable, then this arbitration provision (except for this sentence) shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver.

**d. General**

- 1. Severability; Survival.** Except as provided in the Class Action Waiver above, if any term of this arbitration provision is found unenforceable for any reason, it shall be severed and the remaining terms shall be enforced without regard to the invalid or unenforceable provisions. This arbitration provision shall survive termination of the Agreement.
- 2. Available Relief.** This arbitration provision does not preclude you from informing any federal, state or local agency or entity of your dispute. Such agency or entity may be able to seek relief on your behalf. Nothing in this arbitration provision limits your or our right, whether before, during or after the pendency of any arbitration proceeding, to exercise any self-help remedies, such as set-off, or repossession and sale of collateral, or to obtain injunctive relief or interpleader relief. The exercise of these rights will not constitute a waiver of the right to submit any dispute to arbitration.
- 3. Exclusion.** To remove any doubt, this arbitration provision does not apply to: (i) any consumer credit transaction secured by a dwelling (including a home equity line of credit secured by your principal dwelling); or (ii) to any consumer credit obtained while you were a covered borrower as defined by the Military Lending Act.

**e. RIGHT TO OPT OUT**

**YOU MAY OPT OUT OF THIS ARBITRATION AND THE CLASS ACTION WAIVER PROVISION BY SENDING A WRITTEN REQUEST TO US AT THE SUMMIT FEDERAL CREDIT UNION, ATTN: OPERATIONS MANAGER, CANAL PONDS BUSINESS PARK, 100 MARINA DRIVE, ROCHESTER, NY 14626. YOUR WRITTEN NOTICE MUST INCLUDE YOUR NAME, ADDRESS, ACCOUNT NUMBER, AND INDICATE YOUR CHOICE TO OPT OUT OF THIS ARBITRATION AND CLASS ACTION WAIVER PROVISION. NOTICE MUST BE RECEIVED WITHIN SIXTY (60) DAYS AFTER THIS AGREEMENT WAS DELIVERED OR OTHERWISE MADE AVAILABLE TO YOU. IF YOU FAIL TO OPT OUT WITHIN THIS SIXTY (60) DAY PERIOD, YOU WILL BE DEEMED TO HAVE PROVIDED YOUR CONSENT TO THE RESOLUTION OF CLAIMS OR DISPUTES THROUGH BINDING ARBITRATION. OPTING OUT OF ARBITRATION WILL NOT TERMINATE OR EFFECT ANY OTHER RIGHTS YOU OR WE HAVE UNDER THIS AGREEMENT. IF YOU OPT OUT, YOU MUST OPT OUT OF ALL TERMS OF THIS ARBITRATION AND CLASS ACTION WAIVER PROVISION. YOU MAY NOT OPT OUT OF ONLY CERTAIN TERMS.**