

## **Business Digital Banking Agreement and Disclosure**

*(Effective as of September 01, 2022)*

This Agreement provides terms and conditions for Online Banking Services (“Service(s)”) provided by Credit Union. Services herein also includes the data systems we use to provide the Services. This Agreement, along with the Fee Schedule and any other account agreements disclosures provided to you in connection with your accounts (collectively “Disclosures”), is a legal contract between Business (“you,” “your,” or “user”) and the Credit Union and sets out the terms and conditions of your use of the Service(s). Please read this Agreement carefully and keep a copy for your records because it contains important information and guidelines for using the Service(s).

The Business and the Credit Union agree as follows:

### **1. Non-Consumer Transactions**

You are or intend to become a business member of the Credit Union. As a business member, You agree to use our Service(s) for non-consumer transactions only. A “non-consumer transaction” means the use of the Service(s) for any purpose that is not a consumer transaction. For example, you agree not to use Services to deposit personal funds or pay personal obligations. In addition, a non-consumer transaction includes, to the extent allowed by law, any transaction not covered by federal consumer protection laws and regulations.

### **2. Applicable Agreements**

Your access to and use of the Credit Union’s online services shall be governed by this Agreement, other agreements and disclosures provided to you when you opened this account (including the Schedule(s), all of which are incorporated herein by reference), as amended from time to time, between the Credit Union and you. In the event of conflict between this Agreement and any other Agreement with the Credit Union, this Agreement shall prevail, unless otherwise provided herein.

In the event performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future law, regulation or government policy to which the Credit Union is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such law, regulation or policy, and the Credit Union shall incur no liability to the Business as a result of such violation or amendment. No course of dealing between the Credit Union and the Business will constitute a modification of this Agreement or constitute an agreement between the Credit Union and the Business regardless of whatever practices and procedures the Credit Union and the Business may use.

### **3. Services**

- a. Available Services - You may use the following Services, as available, in addition to others we agree to provide:
- View current balance information on your Credit Union accounts;
  - View Credit Union account history;
  - Transfer funds between your accounts;
  - Make payments on Credit Union loans;
  - View posted check images;
  - Make stop payment requests;
  - Export history information in various formats; and
  - Order Bill Payments from Business’s checking account to Payees (refer to the Terms and Conditions of the Bill Payment Service available on the bill payment service module of Business Online Banking).

Transaction requests initiated through the Additional Service(s) that we receive for processing by the “cutoff” times on a business day are processed on that business day. Requests received after the cutoff time or on a non-business day may be deemed received as of the next business day and may be processed on that business day. Our business days are Monday through Friday, excluding Federal holidays. The “cutoff” time for internal transfers is 5:00 P.M. EST.

You may initiate stop payment requests online via Online Banking Services only for paper checks you have written (non-electronically) on your Accounts. The Service's ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. To be effective, the stop payment must identify the name of the payee, the check number, the amount, and the date of the check. The stop payment order will be honored for fourteen (14) days. When confirmed in writing, the stop payment order shall remain in effect for six (6) months, unless revoked or renewed in writing. The charge for each stop payment request will be the current charge for such service as set out in the Services and Fee Schedule.

- b. Additional Services - In addition to the services listed above, by executing this Agreement as well as a separate agreement, you may also use the following Service(s):
- Initiate Automated Clearing House (“ACH”) entries to United States financial institution accounts, if the ACH Origination Agreement has been completed and approved by us.
  - Initiate Remote Deposit Capture (“RDC”) deposits, if the Remote Deposit Capture Services Agreement has been completed and approved by us.
  - Initiate Wire Transfers, if the Wire Transfer Services Agreement has been completed and approved by us.
- c. New Services - The Credit Union may, from time to time, introduce new Services. We shall update this Agreement to notify you of the existence of these new services. By using these services when they become available, you agree to be bound by the terms and conditions in this Agreement and any updates thereto.

#### **4. Using your Business Online Service(s)**

To access your account(s) through Online Banking, you must have an eligible Credit Union account, access to the internet, and a valid email address. The Credit Union will provide you with instructions on how to use the Online Service(s). After a one-time registration process, you will log into the Service with your current access ID, PIN and a unique one-time-password (“token”) that our system will generate.

#### **5. Fees and Charges**

The Business agrees to pay the Credit Union for services provided under this Agreement in accordance with the schedule of charges on the UMassFive Fee Schedule for Business Membership set forth in Schedule A. The Credit Union may change its fees from time to time in its sole discretion upon advance notice to the Business.

#### **6. Your Responsibility when The User ID and Password are Used**

In your electronic communications with us, you must use your unique Access User ID, PIN and token to initiate a secure session with us. You may then use the tools provided by us within the Service.

When we commence your ability to access the Service, we will establish access for you using a temporary Password for your initial log on. After a one-time registration process, you will log into the Service with your current User ID, PIN and a unique one-time-password generated by the token.

We are entitled to act upon instructions we receive with respect to the Service under your User ID and Password, and you are liable for all transactions made or authorized with the use of your User ID and Password. We have no responsibility for establishing the identity of any person who uses your User ID and Password. You agree that if you give your User ID and Password to anyone or fail to safeguard its secrecy,

you do so at your own risk since anyone with your User ID and Password will have access to the Service and can access your accounts.

You agree to take appropriate steps to ensure that all User ID's and Passwords, and any other applicable security procedure issued to its agents, representatives, employees or officers are protected and kept confidential. You agree to notify the Credit Union in the event your use of the Service would necessitate or be better served by a level of security that exceeds that offered. If you fail to notify the Credit Union, you acknowledge and agree that the security aspects of the Service are appropriate for your needs and will provide you with a commercially reasonable degree of security against unauthorized use.

You agree to indemnify and release the Credit Union from any and all liability, and agree not to make any claim against the Credit Union or bring any action against the Credit Union, relating to its honoring or allowing any actions or transactions that were conducted under your User ID and Password or acting upon messages or authorizations provided to us using your User ID and Password.

You agree that we shall not be responsible for any loss, property damage or bodily injury arising out of or resulting from the failure of any person to provide you with access to the Service, whether caused by the equipment, software, the Credit Union, Internet Service Providers (ISP), Internet browsers, or the parties providing communication services to or from us to you. We are not liable for war, acts of government that may restrict or impair use of the Service, hurricanes, floods or other disasters, nor shall we be responsible for any direct, indirect, special or consequential, economic or other damages relating in any way to the foregoing.

By directing us, through the use of the Service, the Service used in conjunction with your User ID and Password, you authorize Credit Union to complete the transaction. Any requests or instructions we receive from you through the Service shall constitute writings with your signature as provided under all applicable law, and shall have the same force and effect as a writing signed by you. This includes, but is not limited to, inquiries, deposit transactions, items deposited, check images, changes to accounts or Service or any other communication you provide using your User ID and Password.

Your access to the Service will be blocked in the event your User ID, PIN or token is entered incorrectly on **three (3)** consecutive attempts. If this happens, please call us for assistance at (413) 256-5500 or Toll Free at (800) 852-5886.

## **7. Contact In Event Of Unauthorized Access**

If you believe that your User ID, PIN and/or token has been lost or stolen, or that someone has accessed the your online account without your permission, call us at (413) 256-5500 or Toll Free at (413) 256-5500.

## **8. Responsibility For Administrators**

The Service requires you to designate at least one Senior Administrator. You will provide us with your Senior Administrator's name in the User EServices Setup Form ("Setup Form"). The Senior Administrator will be responsible for maintaining your online settings and user security. In some instances, the Credit Union may administer Users of the Service(s) at your direction by completing the User EServices Setup Form, which is signed by an authorized signer of the Business. Until the Credit Union receives such notice and has had a reasonable opportunity to act on it, the Credit Union shall continue to rely on all information provided by any Users.

Access to your online accounts will be based on the identification of users and authority levels specified by you in your Setup Form. You must notify us if you terminate or change the Senior Administrator. You must also notify us if you add or delete accounts or functionalities.

It is your responsibility to understand the capabilities built into each Service to prevent unauthorized transactions, and to decide which account(s) and Service(s) to link to each User. When you designate Senior Administrator and User authorities, you should keep in mind the importance of the separation of duties as a means of protecting yourself against losses or damages.

If you wish to change your Senior Administrator, you will give notice to the Credit Union in writing. Upon receipt of notice, the Credit Union will substitute the new Senior Administrator for the previous Senior Administrator and will issue a new Senior Administrator User ID, PIN, and token. We will not take action based on your new request until we receive the properly executed required Setup Form and have a reasonable opportunity to act.

The Senior Administrator is responsible for setting up other users of the Services. The Service is available seven days a week, twenty-four hours a day, although some or all options may not be available occasionally due to emergency or scheduled system maintenance. We will attempt to post notices of any extended periods of non-availability through website screens or on your account page.

The Senior Administrator is responsible for assigning all persons ("Authorized Users") with a unique Access User ID, PIN and token, who will be a User and what (if any) limitations. The Senior Administrator is also responsible for adding, changing or deleting Users; add, change or delete access to accounts; and reset User IDs and PINs for Users. The Senior Administrator is the primary contact with Credit Union support staff for these functions. Finally, the Senior Administrator will have full access to your accounts at the Credit Union, as well as any new accounts you may open in the future which are designated to be accessed via the System.

The Credit Union will not control or oversee the Senior Administrator function. By executing this Agreement you agree to accept (and for the delegation of) the Senior Administrator function, you agree to this and all actions taken by the Senior Administrator, and all such persons who are your agent for purposes of use of the Services. You further agree to assume all risks associated with providing User ID's, PINs and tokens to your agents, representatives, employees or officers, and to limit the number of User ID's, PINs and tokens issued to only those who have a specific need to use the Service. You must establish authorization parameters for each person you authorize to use the Service on your behalf.

## **9. Physical And Electronic Security Procedures**

You agree to establish, maintain and update commercially reasonable policies, procedures, equipment and software that will safeguard the security and integrity of your computer system and information from unauthorized use, intrusion, takeover or theft, and prevent your access ID, PIN, and/or token from unauthorized discovery or use. You agree to protect the confidentiality of your account and account number, and your personal identification information, such as your driver's license number and social security number. You understand that personal identification information by itself, or together with information related to your account, may allow unauthorized access to your account. Your User ID and Password are intended to provide security against unauthorized entry and access to your accounts. Data transferred via the Services is encrypted in an effort to provide transmission securely. The Services utilize identification technology to verify that the sender and receiver of Service transmissions can be appropriately identified by each other. Notwithstanding our efforts to ensure that the Services are secure, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the Internet and potentially can be monitored and read by others. We cannot and do not warrant that all data transfers utilizing the Service, or mail transmitted to and from us, will not be monitored or read by others.

You bear all risk of fraudulent transfers and other losses arising from internal security breaches or from the interception of your communications prior to their receipt by us. We will not reimburse you in connection with internal security losses. You agree that we are authorized to execute, and it is commercially reasonable for us to execute, any instruction received by us through Business Online Banking Service(s).

You remain solely responsible at all times for your Internal Security Controls. Although we may employ various systems and procedures from time to time to help prevent losses to us, we assume no obligation for Internal Security Breaches or Internal Security Losses, provided we have acted in accordance with this Agreement and/or instructions that are received through Business Online Banking.

The Business is solely responsible for providing for and maintaining the physical, electronic, procedural, administrative, and technical security of data and systems in Business's possession or under Business's control. The Credit Union is not responsible for any computer viruses (including, without limitation, programs commonly referred to as "malware," "keystroke loggers," and/or "spyware"), problems or malfunctions resulting from any computer viruses, or any related problems that may be associated with the use of an online system or any ACH Origination services. Any material downloaded or otherwise obtained is obtained at the Business's own discretion and risk, and the Credit Union is not responsible for any damage to Business's computer or operating systems or for loss of data that results from the download of any such material, whether due to any computer virus or otherwise. The Business is solely responsible for maintaining and applying anti-virus software, security patches, firewalls, and other security measures with respect to the Business's operating systems, and for protecting, securing, and backing up any data and information stored in or on the Business's operating systems. The Credit Union is not responsible for any errors or failures resulting from defects in or malfunctions of any software installed on the Business's operating systems or accessed through an Internet connection.

The Business acknowledges and agrees that it is the Business's responsibility to protect itself and to be vigilant against e-mail fraud and other internet frauds and schemes (including, without limitation, fraud commonly referred to as "phishing" and "pharming"). The Business agrees to educate User(s), agents, and employees as to the risks of such fraud and to train such persons to avoid such risks. The Business acknowledges that Credit Union will never contact the Business by e-mail in order to ask for or to verify Account numbers, Security Devices, or any sensitive or confidential information. In the event the Business receives an e-mail or other electronic communication that the Business believes, or has reason to believe, is fraudulent, the Business agrees that neither Business nor its User(s), agents, and employees shall respond to the e-mail, provide any information to the e-mail sender, click on any links in the e-mail, or otherwise comply with any instructions in the e-mail. The Business agrees that the Credit Union is not responsible for any losses, injuries, or harm incurred by the Business as a result of any electronic, e-mail, or Internet fraud.

In the event of a breach of the Security Procedure, the Business agrees to assist the Credit Union in determining the manner and source of the breach. Such assistance shall include, but shall not be limited to, providing the Credit Union or the Credit Union's agent access to Business's hard drive, storage media and devices, systems and any other equipment or device that was used in breach of the Security Procedure. The Business further agrees to provide to the Credit Union any analysis of such equipment, device, or software or any report of such analysis performed by the Business, the Business's agents, law enforcement agencies, or any other third party. Failure of the Business to assist the Credit Union shall be an admission by the Business that the breach of the Security Procedure was caused by a person who obtained access to transmitting facilities of the Business or who obtained information facilitating the breach of the Security Procedure from the Business and not from a source controlled by the Credit Union.

## **10. Confidentiality**

We will disclose information to third parties about your account, the checks you deposit or the ACH Entries conducted:

- A. When it is necessary for completing transactions, or
- B. In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant, or
- C. In order to comply with government agency or court orders, or
- D. If you give us written permission.

In addition to the above paragraph regarding confidentiality, you understand information about your accounts or the deposit you make may automatically be disclosed to others. For example, tax laws require disclosure to the government of the amount of interest you earn, and some transactions, such as large currency and foreign transactions, must be reported to the government. We may also provide information about your accounts to persons or companies we believe would use the information for reasonable purposes, such as when a prospective creditor seeks to verify information you may have given in a credit application or a merchant calls to verify a check you have written. In addition, we routinely inform credit bureaus when accounts are closed because they were not handled properly. We may also seek information about you from others, such as the credit bureau, in connection with the opening or maintaining of your account or in connection with approving your access to the Services. You agree and hereby authorize all of these transfers of information.

## **11. Consent To Electronic Delivery Of Notices**

You agree that any notice or other type of communication provided to you pursuant to the terms of this Agreement, and any future disclosures required by law, including electronic fund transfer disclosures, may be made electronically by posting the notice on the Credit Union's website or by e-mail. You agree to notify us immediately of any change in your e-mail address.

## **12. Communications Between The Credit Union And You**

Unless this Agreement provides otherwise, you can communicate with us in any one of the following ways:

- E-mail\*:** info@umassfive.coop
- Telephone:** (800) 852-5886
- Fax:** (413) 253-0183
- Postal Mail:** UMassFive College Federal Credit Union PO Box 1060 Hadley MA 01035
- In Person:** By stopping into any of our branch locations.

*\*This is not a secure email address. Do not email confidential information.*

## **13. Contacting Credit Union Via Email**

Sending an e-mail through the System is one way to communicate with us. However, you agree and acknowledge that e-mail is not a secure method of communication. You should not send an electronic mail message if you need to communicate with us immediately. Do not use e-mail to send banking instructions or to request Services.

Do not send account information or transaction information via e-mail. If you e-mail us or ask us to reply to you via e-mail you agree to hold us harmless from any consequences, including financial loss, resulting from any unauthorized use or disclosure of your account or personal information resulting from e-mail. Also, if you send us an electronic e-mail, it will be deemed to have been received on the following business day. The Credit Union will have reasonable time to act on your e-mail. We are not required to act on any e-mail received and we are not responsible for misdirected or lost e-mails.

#### **14. Periodic Statements**

You agree that to the extent permitted by law, receipts, notices and disclosures associated with the Services may be provided to you by e-mail, facsimile or over the Internet, either as part of an online session or otherwise. Your transactions will be reflected on your monthly periodic account statement. You agree to notify us of any changes to your mailing or e-mail address. If you do not notify us, you will hold us harmless from any consequences, including financial loss, resulting from your failure to notify us of the change in your mailing or e-mail address.

The periodic statement issued by the Credit Union for the Business's Account will reflect entries credited and debited to the Business's Account. The Business agrees to notify the Credit Union within a reasonable time not to exceed thirty (30) calendar days after the Business receives a periodic statement of any discrepancy between the Business's records and the information in the periodic statement. If the Business fails to notify the Credit Union of any such discrepancy within thirty (30) calendar days after receipt of such periodic statement, the Business shall be precluded from asserting any claim against the Credit Union arising from such discrepancy.

#### **15. Headings**

The headings in this Agreement are for convenience or reference only and will not govern the interpretation of the provisions.

#### **16. Assignment**

You may not assign this Agreement to any other party. The Credit Union may assign this Agreement to any future, directly or indirectly, affiliated Business. The Credit Union may also assign or delegate certain rights and responsibilities under this Agreement to independent contractors or other third parties.

#### **17. No Waiver**

The Business shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Credit Union. No delay or omission on the part of the Credit Union in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

#### **18. Change in Terms**

The Credit Union may modify the terms and conditions, including fees and service charges, applicable to the Service(s) from time to time. We may send notice to you at the last email or postal address shown in our records for your account or the Service(s). The revised terms and conditions shall be effective at the earliest date allowed by applicable law. If an immediate change is necessary to maintain the security of an Account or our electronic system, prior notice may not be given. Any use of the Service(s) after the Credit Union provides you a notice of change will constitute your agreement to such changes(s).

#### **19. Authorization; Warranties**

Business promises, warrants and represents on the date hereof and on any date any Service is performed that (i) Business is duly organized, validly existing, and in good standing in the jurisdiction in which it is organized; (ii) there is no provision of any law, or any certificate of incorporation or by-laws, or any agreement of any kind, nature or description binding upon Business which prohibits Business from entering into or performing under this Agreement; (iii) the execution and performance of this Agreement has been duly authorized; and (iv) this Agreement is a binding obligation of Business.

The Senior Administrator warrants and represents on the date hereof and on each date any Service is performed that: (i) the Senior Administrator is an Authorized Representative of Business duly authorized to act on behalf of Business; (ii) Business has taken all action required by its organizational documents to

authorize the Senior Administrator to agree to and deliver this Agreement and to bind Business thereto; (iii) without limiting the generality of the foregoing, Administrator is duly authorized to give Credit Union direction regarding the withdrawal, disbursement, or other transfer of funds by wire or other electronic means; and (iv) Business has received a copy of the Agreement.

In the event Credit Union, in its sole discretion, hereafter allows the Senior Administrator's designation of other authorized users for the Service (each an "Authorized User"): (i) The Senior Administrator warrants and represents on any date any Service is performed at the request of such Authorized User that: (1) the Senior Administrator is duly authorized to designate officers, employees or agents of Business to act in the name of and on behalf of Business with regard to the Service; and (2) without limiting the generality of the foregoing, each such Authorized User designated by the Senior Administrator is duly authorized to give Credit Union direction regarding the withdrawal, disbursement, or other transfer of funds by wire or other electronic means; and (ii) Credit Union may rely on the authorization with respect to any Authorized User until the Credit Union's Customer Service Center has received notice from Business to delete such person as an Authorized User, and Credit Union has had a reasonable opportunity to act upon any such change in Authorized Users.

## **20. Liability**

In the performance of the Service(s) required by this Agreement, the Credit Union shall be entitled to rely solely on the information; representations and warranties provided by the Business pursuant to this Agreement and shall not be responsible for the accuracy or completeness of such information. Except as otherwise specifically provided by law, the Credit Union shall be responsible only for performing the services expressly provided for in this Agreement and shall be liable only in the event of loss due to its gross negligence or willful misconduct in performing those services. In no event shall the Credit Union have any liability for any consequential, special, incidental, punitive or indirect damages the Business may incur or suffer in connection with this Agreement whether or not the likelihood of such damages was known or contemplated by the Credit Union and regardless of the legal or equitable theory of liability the Business may assert. Without limiting the foregoing, the Credit Union shall not be liable for and shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communications facilities, equipment failure, war, acts of terror, emergency conditions or other conditions beyond the Credit Union's control.

## **21. Governing Law**

You agree that this Agreement is governed by the laws of the Commonwealth of Massachusetts excluding any application of conflicts of laws rules or principles. You agree that the sole jurisdiction and venue for any litigation arising from your use of our service shall be an appropriate federal or state court located in or near Hampshire County, Massachusetts.

## **22. Compliance With Applicable Law Including Ofac**

You agree to comply with all valid Applicable Law now in effect or hereafter promulgated by any properly constituted governmental authority having jurisdiction over you and your business. The term "Applicable Law" means all federal and state laws, rules administered by the Office of Foreign Assets Control of the U.S. Treasury Department, Uniform Commercial Code, and all other rules and regulations governing or related to this Agreement, the Additional Services listed in Section 3b. and the New Services indicated in Section 3c. of this Agreement.

## **23. Disputes**

In the event of a dispute regarding Service(s), you and the Credit Union agree to resolve the dispute by looking to this Agreement. You agree that this Agreement is the complete and exclusive statement of the agreement between you and the Credit Union which supersedes any proposal or prior agreement, oral or

written, and any other communications between you and the Credit Union relating to the subject matter of this Agreement. If there is a conflict on terms, the terms of this Agreement will prevail.

**24. Recording and use of Communications**

The Business and the Credit Union agree that all telephone conversations or data transmissions between them or their agents made in connection with this Agreement may be electronically recorded and retained by either party by use of any reasonable means. The Credit Union shall not be obligated to make such recordings.

**25. Termination**

The Credit Union may terminate this Agreement at any time for any reason, in its sole discretion, without liability. The Business may terminate this Agreement upon ten (10) days' written notice to the Credit Union except that the Business may terminate the Agreement immediately if the terms of the Agreement are materially breached by the Credit Union. The Business will remain responsible for all outstanding fees and charges incurred prior to the date of cancellation. Any termination of this Agreement shall not affect any of the Credit Union's rights and the Business's obligations with respect to Entries initiated by the Business prior to the effective time of such termination, or the payment of obligations of the Business with respect to services performed by the Credit Union prior to the effective time of such termination, or any other obligations that shall survive termination. The provisions of this Agreement that are necessary to give effect to the purposes of this Agreement shall survive its termination.

Within fifteen **(15) days** after termination of this Agreement, you will return or remove all copies of the System and any user guides in your possession or under your control, and will, upon request, certify in writing that you have returned or removed all such copies.

**26. Miscellaneous**

The Credit Union has the authority to mandate specific internal controls at your location(s), audit your operations or request additional information to evaluate and monitor the risk of the Service.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. In the event that any provision of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

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