Empower Federal Credit Union Business Online Banking Services Agreement

In this Online Banking Services Agreement, the words "we", "us", "our", "Credit Union" and "Empower" mean Empower Federal Credit Union and our successors and assigns. When we use the words "member," "you," or "your" we mean each person who uses any of the Business Online Banking Services (the "Services") described in this Agreement, or has a membership or another relationship with Empower Federal Credit Union, and any person authorized to use such access.

You hereby expressly acknowledge and agree that Your use of Empower's Business Online Banking Services (as defined below) shall be governed by this Online Banking Services Agreement and You understand and agree to all the following terms and conditions by enrolling in the Online Banking Services described below and/or by returning an executed version of this Agreement.

1.1. Definitions. For the purposes of this Agreement and all services provided under this Agreement, the following definitions apply:

Access Code(s) refers to the Member/User Identification number (User ID), Password and any other means of access to Our Online Banking or Mobile Banking services.

ACH Rules refers to all applicable rules or regulations issued by the National Automated Clearing House Association ("NACHA"), the Electronic Payments Network, and any applicable state or federal laws.

Account(s) refers to all eligible enrolled accounts of the member that are linked and are accessible through Business Online Banking.

Agreement means this Business Online Banking Services Agreement.

Business Day refers to Monday through Friday, excluding federal holidays and any other day on which the Credit Union is not open for business.

Business Online Banking Guide(s) or Guide refers to the Business Online Banking Reference Guide, and all other related Business Online Banking guides, help or support text or similar documents (whether in hard copy or in electronic format, including without limitation PDF issued by Us to You from time to time for use with the Services, including without limitation the terms or instructions that appear on a web page when You use a Service, as such terms or instructions may be amended from time to time.)

Dual Authorization refers to approval by two (2) Users, (Master User and/or additional Sub Users) that may be required in order to release transactions initiated or requested using the ACH service, the Wire Transfer service, the Bill Pay service, and the Internal Transfer service to the Credit Union for processing. Dual Authorization requires that all Accounts linked through a single Business Online Banking portfolio share the same Master User and also share at least one additional Sub User.

EFT refers to electronic funds transfers that are electronically initiated transactions through Online Banking or Mobile Banking involving Your share Accounts and Bill Pay transfers made through Bill Pay Services.

Funds Transfer Agent refers to correspondents, agents, subagents, funds transfer and communications systems We use to process a funds transfer requested using the ACH, Bill or Wire Transfer services.

Instruction refers to any request or instruction that We receive through Business Online Banking in accordance with the agreed Security Procedures.

Master User refers to the individual(s) designated by You to have complete authority on Your behalf over (a) any and all information, transactions and other services that may be initiated via Business Online Banking and (b) adding and removing other authorized Sub User(s) and setting up and/or modifying the authority of such Sub User(s) as governed in this Agreement.

Online Banking or Service(s) refers to Empower's Business Online Banking Services.

Password refers to any confidential Password, phrase, code and/or number, or any other identification whether issued to the Master User or any Sub User by the Credit Union or adopted by the Master User or any Sub User (including any Business Online Banking Id, User ID and/or Login ID) that may be used to access the Website and/or Business Online Banking and/or the Services and/or to effect instructions under the agreed Security Procedures.

Security Procedures refers to the combination of Member controls over which Account(s) and Services are accessible through Business Online Banking, Member controls over which individuals are authorized Master Users, Member controls over authorization requirements for Account access, Master User controls over additional Sub Users, and Passwords, and other authentication requirements set forth in this Agreement, the Guides, and on the Website (as such requirements may change from time to time).

Settlement Date refers to the requested payment date (which must be a Business Day) for a funds transfer initiated using the ACH Service (as indicated in the Instructions received by the Credit Union for the transaction).

Sub User(s) refers to person(s) the Master User, whom You designate pursuant to Section 1.2 below, may designate as additional Sub Users of a Service in accordance with the procedures set out in the Business Online Banking guides. Such Sub Users and the Master User are sometimes referred to as "Users" in this Agreement. An individual Sub User(s) authorities and limits must be established by Your Master User. All Sub User(s) must be specifically identified and authorized natural persons (individuals).

Website refers to https://www.empowerfcu.com and any other Services-related web pages of the Credit Union.

1.2 Eligibility for Business Online Banking. By completing and submitting the Credit Union's Online Banking Services Agreement ("Agreement") or by logging into and using a Service, You (a) agree to be bound by the Guides and by the terms of this Agreement as amended from time to time pursuant to Section 13 below, and (b) represent to the Credit Union that You are an Authorized Person as defined in this Agreement and/or as shown in the most current Authorization Designation on file at the Credit Union.

Empower Federal Credit Union requires a duly-authorized Account representative of a Business or non-retail account to designate a Master User. This Master User may be granted all rights and privileges associated with Online Banking use, or may be limited, at the discretion of Empower. Once established, any transaction or other order received under the Login ID and Password of that Master User will be considered authorized and may be acted on by Empower Federal Credit Union. **It is the responsibility of the account owner(s) to monitor any and all actions of the Master User. It is also the responsibility of the account owner(s) to notify Empower Federal Credit Union immediately if the designated Master User is no longer a signer on the account, and therefore no longer authorized by the account holders to transact business within Online Banking.** Empower Federal Credit Union assumes no liability or fault for transactions or payments authorized under a Master User's Login ID and Password unless We have been notified and have had a reasonable time to act in removing or restricting the access of that Master User.

The Master User may have the ability to establish Login IDs and Passwords for other members of the Business as the Master User deems appropriate. The Master User may assign rights and privileges of each User up to and including all rights and privileges that are accessible by the Master User. Empower Federal Credit Union assumes and has no liability or responsibility for monitoring the authorization of these Sub Users, and We may act on any transaction or order entered into Online Banking by any of those Sub Users, within the rights and privileges assigned to them by the Master User.

A Master User may be able to view, print, and download electronic Account statements and certain Account transaction information on Your behalf by electronic means using the E Docs Widget in Business Online Banking. You authorize the Credit Union to execute all Instructions received by the Credit Union from any of Your Sub Users under the Security Procedures contained in the Business Online Banking Guides.

Dual Authorization may be established for Your Accounts in connection with Your use of the ACH Service and/or the Wire Transfer Service. Dual Authorization will not apply to the number of signatures required on checks or drafts written against Your checking account(s). Notwithstanding the foregoing, the Credit Union reserves the right, at the Credit Union's discretion, to require Dual Authorization as a condition of using the ACH, Wire Transfer, and/or Internal Transfer Services, and as a condition for using any other Business Online Banking Service.

1.3 Acknowledgement. You acknowledge and agree that limitations on Account access can only be controlled by the Master User, not the Credit Union. The Credit Union will not be liable to You or any third-party for any loss, damage, or expense arising from access to an Account by any User.

You agree to indemnify, defend and keep the Credit Union harmless against all actions, claims or demands arising from or relating to any action of any Master User or Sub User. Your obligations under this section 1.3 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).

1.4 Governance. This Agreement is governed by the laws of the State of New York and applicable federal law. If any provision of this Agreement is held to be unenforceable, such provision shall be modified only to the extent necessary to make it enforceable; additionally, all remaining provisions shall remain in full force and effect. Any claim, controversy or dispute arising under or related to this Agreement shall be governed by and interpreted in accordance with federal law and, to the extent not preempted or inconsistent therewith, by the laws of the state of New York. The parties acknowledge that this Agreement has been reviewed, negotiated, and entered into by sophisticated business entities and the rule of construction of contract language against the drafting party is hereby waived.

1.5 Representations; Compliance with Applicable Laws and Regulations. You represent and warrant to us that: (1) if you are not a natural person: you are duly organized, validly existing, and in good standing under the laws of your state of organization, and you have the full power and authority to carry on your business as now conducted and are duly qualified to do business and in good standing in each jurisdiction where qualification is necessary for your business, and you have not commenced any dissolution or reorganization proceedings; (2) if you conduct business under an assumed or fictitious business or professional name, you have properly filed the assumed name certificates as required by law to the appropriate governmental filing office for your jurisdiction; and (3) you have obtained all necessary consents to enter into this Agreement and make it legally binding. You must comply with all applicable state and federal laws and regulations at all times you use our Services. Without limiting the generality of the foregoing, you acknowledge and agree that you will not use any of the Services or any of your Accounts with us to process any restricted transactions as defined in Federal Reserve Regulation GG (Prohibition on Funding of Unlawful Internet Gambling). This restriction includes, but is not limited to, the use of any Service or account to process any transaction in which any credit, electronic funds transfer (e.g. ACH or Wire Transfers), check, draft or other instruments are knowingly accepted in connection with the participation in unlawful Internet gambling.

2. Master User; Requirements for Use

2.1. The Master User may be permitted to take the following actions using the Services (to the extent a Business has qualified for a specific Service):

a. Set up and/or change Sub Users, define which Accounts and Services Sub Users may access, and set transaction limits if applicable, within which Sub User(s) may initiate and authorize funds transfers using the Bill Pay, ACH, Wire Transfer and/or other Services. These limits can be amended by the Master User up to the maximum limits established by the Credit Union. The Master User and Sub User(s), to the extent authorized by the Master User, will be able to view and access each Account and each applicable Service in any manner and for any purpose available through Business Online Banking (whether now available or available at some time in the future), subject to the limitations and restrictions of this Agreement. All daily and other transaction limits (whether per member, per Account, per Sub User(s), or per Master User) are subject to approval and limits established by the Credit Union, and the Credit Union reserves the right to modify all such daily and other

transaction limits from time to time at the Credit Union's discretion, without advance notice.
b. Authorize changes initiated by another Sub User under applicable Dual Authorization rules.
c. View and change the permissions of the Sub User(s) created.
d. Download transaction information to certain spreadsheet-compatible formats for use in connection with certain commercially available third-party accounting software.
e. Create and change beneficiary, payee and/or participant lists for Bill Pay, ACH and Wire Transfers.
f. Access information about additional Credit Union products and services that may be of interest to You.
g. Obtain an audit trail of confirmed actions taken by Sub User(s).

2.2 Requirements for Use. To use Business Online Banking, You must have at least one Empower Federal Credit Union account, access to the Internet, recommended Internet browser software as described in the section of this Agreement titled "Hardware and Software Requirements", and a valid email address.

2.3 Credit Information. We may investigate Your credit record and obtain any credit report We consider necessary or appropriate in connection with any aspect of Our Dealings with You and Your Account(s) with respect to all Services described in this Agreement (including, but not limited to, considering whether to cancel or suspend Your right to use Business Online Banking and investigating any dispute concerning any funds transfer request through Business Online Banking). All information gathered or obtained from You in connection with Business Online Banking Services will be managed under the Credit Union's Privacy Policy available on Our website. We may use monitoring processes, automated or otherwise, to detect any use of Business Online Banking by any Member that violates the terms of this Agreement or applicable law.

3. Accounts

3.1. Each of Your Accounts at the Credit Union will continue to be subject to all other agreements otherwise governing them, except where it is specifically noted to the contrary in this Agreement. Additionally, Your Accounts and the Services will be subject to the Credit Union's rules, procedures and policies applicable to Your Accounts; the rules and regulations of any Funds Transfer Agent used by the Credit Union in connection with the Services, and applicable state and federal laws and regulations.

3.2. You may ask the Credit Union to add new eligible deposit accounts or remove existing accounts from applicable Services by contacting the Call Center on Business Days between the hours of 7:30am and 6:00pm ET and Saturdays between the hours of 9:00am to 1:00pm ET, or by sending Us a Secure Message from within Business Online Banking.

4. Security Procedures and Instructions.

4.1. Upon successful completion of Business Online Banking set-up, the Master User may then designate additional Sub User(s) for the applicable Services. All Master Users are required to establish Login IDs and new Passwords for each Sub User(s) before accessing Business Online Banking. **It is Your Master User's responsibility to require that these Passwords be kept confidential and be used only by authorized persons. You agree that use of a Password is a commercially reasonable method of providing security against unauthorized electronic transactions.**

4.2. You authorize the Credit Union to act on Instructions received under Your login credentials (Passwords and enhanced login security information) through Business Online Banking. For security purposes it is recommended that the Master User and all Sub User(s) memorize their Passwords and not write them down. **You are responsible for keeping Your Password and Account information confidential.**

4.3. Your Sub User(s) agree to comply with the terms of this Agreement, the Guides, and any other reasonable instructions or recommendations We may issue to You regarding Business Online Banking security, including without limitation the security recommendations contained in the Guides. You agree that it is Your sole responsibility to set up, maintain and regularly review security arrangements concerning access to, and use of, the Services, information stored on Your computing and communications systems, Your and any of Your Sub Users' control of Passwords and other security devices and access to Business Online Banking.

4.4. **You confirm that You have accessed the Security Procedures for Business Online Banking and have determined that these features, in combination with Your own security measures, are commercially reasonable for Your Account(s).** You acknowledge that the primary purpose of the Security Procedures for Business Online Banking is to verify the authenticity of Instructions We receive through or in connection with the Services, and whether such instructions are submitted by Your Sub User(s) or otherwise on our behalf. The Security Procedures do not detect and are not intended to detect errors in the content of any Instructions, and You acknowledge that no procedures for the detection of errors in the content of Instructions has been agreed upon by You or Us. **You acknowledge that You are solely responsible for the content, accuracy, and completeness of all Instructions.**

4.5. You must ensure that your Sub User(s) keep their Login ID and Password secure and secret at all times and take steps to prevent unauthorized use of their Login ID, Password, and any other security device or measure provided to them. Your Login ID, Password and security credentials act as Your signature. You must notify Us **immediately** if You (including any Sub User(s)) know of or suspect any loss or theft of security credentials, or any use or attempted use of security credentials by an unauthorized person.

4.6. You agree to regularly obtain and review the audit trail of confirmed actions taken by Sub User(s) and to regularly review all Account transactions that have been requested using the Services. You must notify Us **immediately** if You (including any Sub User(s)) know of or suspect any unauthorized access to Business Online Banking, the Website or the Call Center, or of any unauthorized transaction or Instruction. You also agree to cooperate with Us in connection with Our review or investigation of any claim of an unauthorized or erroneous funds transfer initiated using Business Online Banking, and You agree that We may review Your records in connection with any such review or investigation and in connection with any security-related audit or review of Your compliance with the requirements of this Agreement. **Your obligations under this Section 4.6 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

4.7. The Services are accessed through the Internet, which is a public system over which We have no control. It is therefore Your duty to make sure that any computer or other device used to access the Services is free from and adequately protected against acquiring computer viruses and other destructive or disruptive components.

4.8. You agree that You are solely responsible for the performance and protection of any browser used in connection with Business Online Banking including the prompt adoption by You of all security patches and other security measures issued or recommended from time to time by the suppliers of such browsers.

4.9. **If any Instruction identifies an intermediary bank, the beneficiary's or payee's bank, or the beneficiary or payee by name and an account number or other identifying number, We and Our Funds Transfer Agent may act solely on the basis of that number (even if that number identifies a different bank, beneficiary or payee).** We and Our Funds Transfer Agent have no duty to detect any inconsistencies between names and identifying numbers contained in any Instructions. If an Instruction does not designate an intermediary bank where appropriate, We may select an intermediary bank and You agree that We shall have no liability with respect to such selection. We are not responsible for any error or delay on the part of any intermediary bank, or any beneficiary's or payee's bank in accepting, processing and/or transmitting your Instructions, unless the error or delay is the direct result of Our own gross negligence or willful wrongdoing. In addition, if You specify an intermediary bank (whether by name or identifying number), You agree that You shall bear all risk of loss if that intermediary bank fails to properly process and transmit Your Instructions.

4.10. Instructions requesting cancellation or amendment of an already-transmitted Instruction must be transmitted to Us using the same level of Security Procedures as used for the original Instruction. If You ask Us to cancel or modify any already-transmitted Instruction, We will make all reasonable efforts to comply with Your request. However, except to the extent specifically provided in this Agreement, We have no obligation to cancel or amend a requested funds transfer after Instructions for such transfer have been transmitted to Us for processing. In no event will We be liable for any failure to cancel or modify an Instruction if such a request is not received at a time or under circumstances that give Us a reasonable opportunity to act on Your request (including, for example, any request received after We have already started processing the Instruction).

4.11. We will not be obligated to execute any Instruction if:
a. It is not in accordance with any term or condition applicable to the Account or the Services;
b. We believe it may not be authorized by You;
c. It involves funds subject to a hold, dispute, restriction or legal process We believe prevents their withdrawal;
d. It would exceed Your collected and available balance in the Account on the day the transfer is scheduled to be made or on the day We begin processing the requested transfer or Instruction;
e. It would result in exceeding any limit established by Us or by You;
f. It would violate any applicable provision of any risk control program of any federal or state law or regulatory authority;
g. It is not in accordance with Our applicable policies, procedures or practices;
h. We have reasonable cause not to honor for Our or Your protection; or
i. This Agreement or the applicable Service for the applicable Account has been terminated by You or by Us.
We shall have no liability to You or to any third-party for the rejection of any funds transfer requested using Business Online Banking.

4.12. Transactions may not be executed by Us immediately when an Instruction is received. Some transactions may take time to process and certain Instructions may only be processed during normal banking hours on Business Days even though Business Online Banking is online and may be accessible outside such hours. We are not responsible for delays in processing caused by circumstances beyond Our control, including but not limited to errors You cause through Your inputting and/or releasing of funds transfers requested using Business Online Banking, or errors caused by machine or transmission facility malfunctions, or the action or inaction of any network, financial institution, or other third-party (including without limitation, any Funds Transfer Agent). To the fullest extent permitted by law, Our Funds Transfer Agent shall be deemed to be Your Agents and We shall not be under any liability for any errors, negligence, suspension, or default of any of them, all such risks shall be borne by You.

4.13. We may require additional security or verification procedures to be completed before initiating or finalizing any transaction requested through Business Online Banking. We may choose not to honor or accept any request initiated through Business Online Banking, even when the Login ID and Password are successfully entered into Business Online Banking. If We do not act on (reject) or delay acting on an Instruction, We shall attempt to notify You of this as soon as is reasonably possible after We have received the Instruction for processing, to the extent permitted by law. Unless otherwise provided in this Agreement, We may in Our sole discretion choose to notify You by telephone, first-class mail, or electronic message (through the Message Center or directed to any email address We have on file for Your participation in Business Online Banking). We may direct such notices to your Master User, in Our sole discretion. We shall have no liability to You that we do not give you notice or we give notice at a later or earlier time than that provided for herein. If We reject an Instruction because of insufficient available funds in Your Account, We will generally notify You no later than the requested Settlement Date for such requested funds transfer (as applicable).

4.14. As part of Our processing of funds transfer Instructions We receive from the Master User or Sub User(s) pursuant to this Agreement, We may in Our sole discretion place an administrative hold on, and set-off against, funds in Your Account(s) sufficient to cover any and all funds transfers requested through Business Online Banking by The Master User or Sub User(s), together with any and all fees associated with the funds transfer, whether or not such fees are then due. Such administrative hold and set-off shall be effective at the time the Credit Union exercises this option even though evidence of the hold or set-off is not entered in the records of the Credit Union until a later time.

4.15. Notwithstanding Section 4.14 above, You agree that We may choose in Our sole discretion to withdraw funds from Your Account(s) sufficient to cover any and all funds transfers requested using the ACH Service two Business Days immediately preceding the requested Settlement Date to facilitate the prefunding of Your requested ACH funds transfers.

4.16. You agree that funds transfer Instructions submitted using the ACH or Bill Pay Service may be transmitted through the Automated Clearing House (ACH) network and that payment to a payee relating to such Instructions is provisional until the payee's financial institution has received final settlement with respect thereto through a

Federal Reserve Bank or otherwise has received payment as provided for in Section 4A-403(1) of Article 4A of the Uniform Commercial Code. If the payee's financial institution does not receive such final settlement or other payment, the payee's financial institution shall be entitled to a refund from the payee in the amount of such provisional payment, and You will not be considered to have paid the payee in such a case.

4.17. You agree that if a funds transfer You request is rejected by any intermediary or receiving financial institution (for example, because of erroneous or incomplete information in Your Instructions, or for any other reason), we have no obligation to attempt to correct or re-initiate Your funds transfer instructions, or to notify You of the intermediary or receiving financial institution's rejection.

4.18. Unless otherwise instructed, We will credit the applicable Account for any funds transfer requested using Business Online Banking that is rejected or returned.

4.19 Monitoring Communications. In the regular course of business of the Credit Union or any agent of the Credit Union (including without limitation any Funds Transfer Agent), We or Our agent may, for security and quality control purposes, monitor and record telephone calls, electronic messages or other communications to or between any of the employees and other agents of the Credit Union or Our agent and You (including Your Sub Users and anyone else requesting or purporting to request on Your behalf), including, but not limited to, any Instructions to the Credit Union. **This section 4.19 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

4.20 Third-Party Links. When you leave Empower Federal Credit Union's website and enter an external website that is not hosted by Empower Federal Credit Union You will no longer be subject to, or under the protection of, the privacy and security policies of Empower Federal Credit Union's website. Empower Federal Credit Union is not liable for information, content or transactions, nor does it guarantee the services provided at other sites. This service is provided by one of Our reliable partners, however, We encourage You to read and evaluate the privacy and security policies on the site You are entering, which may be different from those of Empower Federal Credit Union.

4.21 Hyperlinks. The Credit Union may elect to display one or more hyperlinks on the Online Banking Service website from time to time. A hyperlink is any highlighted words or phrases in a document that allow Members to click through to another section of the same document or to another document or website on the Internet. A hyperlink may allow Members to click through to a third-party website over which the Credit Union has no control. The Credit Union disclaims any responsibility for the content, products and services provided at linked third-party websites. The Credit Union is not liable for any failure of the products or services advertised on third-party websites. Members should be aware that third-party websites may have privacy policies that differ from the Credit Union; it is the Member's responsibility to review privacy policies at the linked third-party websites to determine whether those policies are acceptable to Member. Linked third-party websites may provide less security than the Credit Union's website.

5. Service Interruptions

5.1 Service Availability. At certain times the Services may not be available due to system maintenance or circumstances beyond Our control. During such times, or if for any other reason You are not able to access the Services online, You may call the Call Center at 800-462-5000 during Business Days between the hours of 7:30am to 6:00pm ET, and Saturdays between the hours of 9:00am to 1:00pm ET for assistance with Services.

5.2 Force Majeure. We will not be liable for delay in performing or failure to perform any obligations under this Agreement that is caused by circumstances beyond Our reasonable control, including but not limited to, the failure, malfunction, or unavailability of telecommunications, data communications and computer systems and services, war, acts of terrorism, civil unrest, government action, strikes, lock-outs or other industrial action or trade disputes (whether involving either party's employees or those of a third-party). Any delay or failure of this kind will not be deemed to be a breach of the Agreement and the time for performance of the affected obligation will be extended by a period that is reasonable under the circumstances.

6. E Statements; Other Account Transaction Information; Hardware and Software Requirements

6.1 Your Email Address. You agree that You have and will have access at all times to a valid email address, for as long as You have any Account enrolled in any Service. **It is Your sole responsibility to advise Us immediately of any changes or updates to Your designated email address within Your Business Online Banking account by accessing the Message Center, or by contacting a Member Services Representative.** Any and all notices We send to the email address We have on file for Your participation in Business Online Banking shall be deemed to have been delivered to You personally, whether actually received or not.

6.2 Hardware and Software Requirements.

General requirements. You agree that You have and will continue to have access at all times to a personal computer capable of supporting at Your cost: a 128-bit or higher browser encryption, Internet access, and Business Online Banking, for as long as You have any Account enrolled in the Service.

If Our method of electronic delivery of Account statements changes so as to require additional software, upgrades, plug-ins or additional security features in Your hardware or software, We will notify You of such changes (by posting notice of such changes on the Website or by other means) and ask You to confirm for Us that Your hardware and software have been upgraded to the required standards. You understand that access to electronic Account statements through Business Online Banking and receiving email notices from Us may cause You to incur certain costs associated with email, electronic access, downloading, online time and subscription costs associated with Internet and telecommunications service providers, paper and printing costs, and equipment or software upgrades if necessary.

7. Business Member Responsibilities

7.1. You agree that the security procedures We have established for the use of Business Online Banking are commercially reasonable.

7.2. We have no liability to business members for the failure to process transactions for any reason.

7.3. If you are a business member and You have reason to believe that Your Password or any other security code has been lost or stolen, or that an unauthorized person has used or attempted to use Business Online Banking without Your permission, You must notify Us within 24 hours. As a business member, You are fully responsible for any online transactions (including, without limitation, any advances under the overdraft protection feature of Your account, if any). You agree to reimburse Us immediately for any loss, claim or damage that We sustain as a result of either authorized or unauthorized use of Business Online Banking. We shall have no liability for any loss, claim or damage that You sustain as a result of the use of Business Online Banking. This true even if the use of Business Online Banking is unauthorized and even if You notified Us of the unauthorized use within 24 hours. Once We have been notified of a loss, theft or unauthorized use of a Password and We have had a reasonable opportunity to act on that notice, however, You will not be responsible for further transactions initiated with that Password unless We can prove that You could have avoided the unauthorized access.

7.4. Other existing agreements and contracts You may have with Us cover certain features and functionality available through Business Online Banking. For example, the terms and conditions of any “Wire Transfer Agreement” and “Empower Federal Credit Union ACH Origination Agreement” remain in-force and prevail in instances where those Agreements and this Agreement conflict.

8. Fees

8.1. You agree to pay the fees (if any) We charge for the Services as disclosed to You from time to time. We may make changes to (and add new) fees from time to time. These fees are in addition to any charges for particular banking or other services We might provide for Your Accounts under the other agreements that apply to Your Accounts.

8.2. In general We will debit Business Online Banking fees from Your Business Checking Account. Notwithstanding the foregoing, You agree that We may debit any fees and other amounts You owe Us from any funds belonging to You in Our possession or control, regardless of whether such funds are or have been deposited into an Account.

8.3. You understand and agree that fees may be billed to You separately by Your Internet and/or telephone service providers, Your equipment, hardware and software providers, and other third parties with whom You have separately and independently contracted to provide You with computer, Internet, email and other services.

8.4 Costs and Expenses. You agree to pay each cost and expense (including, but not limited to the services of an attorney that We, any of Our employees, officers, correspondents, or Funds Transfer Agent may hire for advice, litigation or any other purpose, and reasonable attorneys' fees and disbursements) incurred by, imposed on, or asserted against Us in enforcing any of Your obligations under this Agreement.

8.5. **The provisions of this Section 8 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

9. Our Liability to You

9.1. Our liability to You is explained in the agreements, notices and disclosures provided to You from time to time for Your Accounts. This section applies only to the extent not otherwise provided for. Under no circumstances will We have any liability to You for failing to provide You access to Your accounts through the Services. We will only be liable for material losses incurred by You to the extent such losses directly result from Our gross negligence or intentional misconduct in providing and performing the Services.

9.2. **To the fullest extent allowed by law, Our liability to You for erroneously executing any funds transfer Instruction will be limited to returning any improperly transmitted funds to the applicable Account and directing to the proper recipient any payment or transfer that was previously misdirected or not completed. IN NO EVENT WILL WE BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, OR INDIRECT LOSS OR DAMAGE WHETHER OR NOT ANY CLAIM FOR SUCH DAMAGES IS BASED ON TORT OR CONTRACT OR WE KNEW OR SHOULD HAVE KNOWN THE LIKELIHOOD OF SUCH DAMAGES.**

9.3 Our Liability for Failure to Make a Transfer. If We do not complete a transfer under any Service, including a wire transfer, ACH payment order, bill payment, internal transfer or other transfer, to or from Your Account on time or in the correct amount, according to Our Agreement(s) with You, when You have properly instructed Us to do so, we may be liable to You for Your losses or damages caused as a result, subject to the indemnification and limitation of liability contained in section 10 below. We will NOT, however, be liable in certain circumstances including the following: (1) if, through no fault of Ours, You do not have sufficient collected and available funds in Your Account to make a transfer; (2) if a legal order directs us to prohibit withdrawals from the Account; (3) if your account is closed, or if it has been frozen; (4) if the transfer would cause your balance to go over the credit limit of an established line of credit or the credit limit for any credit arrangement set up to cover overdrafts; (5) if you or any Authorized Person commits any fraud or violates any law or regulation; (6) if any electronic terminal, telecommunication device, or any part of the Business Online Banking Services are not working properly and you did not receive a confirmation of your transfer; (7) if you have not provided us with complete and correct payment information for the transfer, payment or bill payment service, including, without limitation, the name, address, your payee-assigned account number, payment date, and payment amount for the payee; (8) if you have not properly followed the on-screen instructions, help screens or other user guides for Business Online Banking; (9) if circumstances beyond our control (such as fire, flood, interruption in telephone service or other communication lines) prevent the transfer, despite reasonable precautions that we have taken; or (10) if we have placed a hold on your account for any reason, including, without limitation, for reasonable concerns over fraudulent activity in or against your account or for reasonable concerns over the authority of a requestor to make such a transfer.

9.4. You agree that We shall have no liability whatsoever for any loss or liability due to (a) any equipment, software, or associated User documentation that any party other than Us produces at any time for us in connection with Business Online Banking or the Services (including without limitation equipment, software and associated User documentation produced by third-parties assisting Us in providing the Services) or (b) any services through which You access Business Online Banking or the Services that are not controlled by Us.

9.5 Disclaimer of Warranties. THE SERVICES ARE PROVIDED BY THE CREDIT UNION "AS IS," "AS AVAILABLE," AND, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, WITHOUT ANY WARRANTY OF ANY KIND. WITHOUT LIMITING THE PRECEDING SENTENCE, THE CREDIT UNION DOES NOT MAKE, EXCEPT TO THE MINIMUM EXTENT REQUIRED BY APPLICABLE LAW TO THE EXTENT THAT THE REQUIREMENT IS NOT MODIFIED BY THIS AGREEMENT, AND THE CREDIT UNION EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, ANY EXPRESS, IMPLIED, STATUTORY OR OTHER WARRANTY OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICUALR PURPOSE) CONCERNING THE SERVICES.

9.6. Any interest/dividends for which the Credit Union is liable under applicable law (to the extent applicable law does not permit such liability to be disclaimed under this Agreement) as a direct or indirect result of any action taken or not taken by the Credit Union with respect to any Instruction transmitted to the Credit Union by You or any User shall be calculated by using a rate equal to the average federal funds rate at the Federal Reserve Bank of New York for the period for which the Credit Union is liable under applicable law for such interest/dividends.

9.7. **The provisions of this Section 9 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

10. Indemnity

10.1. You agree to indemnify, defend, and hold Us harmless from all losses, liability, claims, demands, judgements, and expenses arising out of or in any way connected with any Account, any enrolled Loan account, or any Service. This indemnification is provided without regard to whether Our claim for indemnification is due to the use of the Service by You or on Your behalf (including by any User).

10.2. You agree to keep Us indemnified against all actions, proceedings, costs, loss and damage of any kind that We, or any of Our employees, officers, correspondents, agents, subagents, or independent contractors may suffer as a result of Our or their acting on Instructions in accordance with this Agreement, or as a result of Your failure to comply with Your duties under this Agreement.

10.3. **The provisions of this Section 10 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

11. Termination

11.1. Unless otherwise required by applicable law, We may terminate this Agreement and/or Your access to any or all of the Services as to any or all of Your accounts and as to any or all of Your enrolled Loan Accounts, in whole or in part, at any time without advance notice. Access to Business Online Banking may be reinstated by Us, at Our sole discretion, at any time. If reinstated, the then-current terms of this Agreement will apply.

11.2. If you wish to cancel any of Your services, call the Call Center at 800-462-5000 on Business Days between 7:30am and 6:00pm ET, and Saturdays between the hours of 9:00am to 1:00pm ET.

11.3. Termination of Your participation in Business Online Banking (or any applicable Service) will not affect any other agreement affecting Your Accounts or Loans with Us, or any of Your or Our rights or obligations under this Agreement as of the effective date of termination, and also will not affect any Business Online Banking Instruction that both (a) has been submitted to and received by Us for processing, and (b) is in process as of the effective date of termination. Termination of any one Service by You or by Us will not terminate the other Services for which You are enrolled, unless You or We specifically indicate otherwise.

12. Miscellaneous

12.1 Proprietary Information; Confidentiality. All programs, software, specifications, systems designs, applications, routines, sub-routines, techniques, enhancements, documentation, manuals, ideas, formulas and pricing used, developed or provided by Us or otherwise in connection with the Services constitutes "Confidential Information". All Confidential Information, together with any trademarks, trade names, service marks and copyrights are proprietary property and remain the sole property and Confidential Information of the rightful owner (whether Us or a third-party), and You shall have no ownership interest in them. You agree to disclose the Confidential Information to Your employees and agents only on a need-to-know basis, and You agree not to disclose the Confirmation Information to anyone else without Our prior written consent, except as required by law or as permitted by this Agreement. You agree to keep confidential and require Your Authorized Person(s), other employees and agent(s) to keep confidential all Confidential Information. When Your right to use or license the Confidential Information terminates, You must either (i) represent to Us in writing that all Confidential Information in Your custody or control is destroyed, or (ii) return all Confidential Information to Us, together with any reproductions or extracts of the Confidential Information, including any Confidential Information You have provided to Your agents and any extracts thereof in their possession.

12.2. Copyright in the pages, screens, information (other than information about Your Accounts and financial affairs) and all material in their arrangement included in the Services and in the Website (together, the "Information") is owned by or licensed to Us unless otherwise noted. You may imprint, copy, download, or temporarily store extracts from the Information for Your own information or when You use the Services. You may not alter or otherwise make any changes to any information that you print or download including, without limitation, removing any identifying marks or legends from such Information. Any other use is prohibited unless You first request and obtain Our written permission.

12.3. Where product demonstrations, calculator tools and other similar facilities ("Tools") are provided to Master and Sub Users in connection with the Website, such Tools are not provided as part of the Services and are provided subject to the terms and conditions, exclusions and disclaimers relevant to such Tools as provided.

12.4. In this Agreement, unless the context specifically requires otherwise, the plural includes the singular, the singular includes the plural, and any headings and captions are for convenience of reference only and have no substantive effect. Further, the lack of any headings or captions does not have any substantive effect.

12.5. Any notice required to be provided to You in writing in connection with any of the Services or any of Your Accounts may be sent to You electronically through the Message Center or to your email address We have on file for Your participation in Business Online Banking (as selected and confirmed and validated by You on enrollment), or by any other means permitted by applicable law or this Agreement (including, where applicable, by posting on the Website), at Our option.

12.6. **The provisions of this Section 12 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

13. Changes to the Terms of this Agreement. Except as otherwise required by law, rule, regulation or specific provisions of this Agreement, We may change the terms of this Agreement without prior notice to You from time to time and at any time. When changes are made, We will update this Agreement at the Website. The Website will be updated on or before the effective date, unless an immediate change is necessary for security reasons or a change in a law, rule or regulation requires the change. In that case, this Agreement will be updated as soon as possible after the change. **You agree that any required notice of a change to the terms of this Agreement may be posted to the Website (including without limitation in the form of a "banner" message), or by any other means permitted by applicable law (including without limitation by electronic message), at Our option. You agree to be bound by the terms of this Agreement and the Guides, as amended from time to time and posted on the Website.**

14. Assignment. We may assign Our rights under this Agreement without notice to a third-party now or in the future. You agree that We may also assign certain of Our rights and responsibilities under this Agreement without notice to independent third parties (including without limitation Funds Transfer Agents). You agree that You may not assign any of Your rights or responsibilities under this Agreement to any third-party without obtaining Our prior written consent (which may be withheld in Our sole discretion).

15. Applicable Law; Jury Trial Waiver.

15.1. This Agreement is governed by applicable federal law (including without limitation the Federal Credit Union Act) and the applicable laws of the state of New York without regard to the law of any other jurisdiction. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If, however, any such provision shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law, or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any such provision being prohibited or invalid. You consent to the exclusive jurisdiction and venue in the federal and state courts located in the state of New York.

15.2. **WAIVER OF TRIAL BY JURY. YOU (ON YOUR BEHALF AND ON BEHALF OF EACH OF YOUR SUB USERS) AND WE EACH KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE EACH RIGHT YOU (INCLUDING YOUR SUB USERS) AND WE HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR OTHERWISE RELATING TO (a) THIS AGREEMENT OR ANY SERVICE, INSTRUCTION OR REQUEST TRANMITTED TO US BY YOU (INCLUDING YOUR SUB USERS) OR ON YOUR BEHALF, (b) ANY TRANSACTION ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT OR ANY SUCH SERVICE, INSTRUCTION, OR REQUEST OR (c) ANY NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS AGREEMENT.**

15.3. **The provisions of this Section 15 shall survive termination of this Agreement and termination of Your participation in Business Online Banking (or any applicable Service).**

16. The Services

16.1. Business Online Banking includes the following Services (certain Services, such as the ACH, Bill Pay, and Wire Transfer Services, may require that You apply separately and/or be approved by the Credit Union for the Service). The various parts of Section 16 apply to You only if you actually use the Service described in that part and/or you sign the agreement for that Service.

16.2 Bill Pay Service. Includes the ability to pay eligible payees located within the United States, through the Bill Pay Service. You can pay bills from the account designated at the time of setup to the following entities:

Business payees: any business, payee or professional that generates a bill or invoice for products or services provided to You on Your behalf and that has an address We can verify.

Individual payees: any individual, family member, or friend to whom you make payments for non-business purposes.

If you would like to enroll in the Bill Pay Service, you will need to review and sign the Bill Pay Agreement.

16.3 ACH Service. Includes the ability to transfer funds to and from eligible payees and/or recipients located within the United States pursuant to ACH Rules. We offer ACH transactions through Business Online Banking to eligible Members who sign our ACH Origination Agreement. An eligible Account is required and You must also meet Our credit and other eligibility requirements for the ACH Service.

The ACH Service enables You to initiate domestic (U.S.) transactions for settlement through the ACH Service in Business Online Banking. You will set up Instructions for ACH transactions online and We will process them electronically through the ACH. You warrant to Us that each person (You and any other applicable party) have properly authorized each ACH transaction, that each ACH transaction is properly payable from the designated Account, and that all applicable authorizations remain operative at the time you create and process this Instruction and on the scheduled Settlement Date.

By using the ACH Service to request funds transfers, You agree to be bound by and comply with applicable U.S. laws and regulations, including those promulgated by the Office of Foreign Assets Control and the U.S. Department of Treasury's Financial Crimes Enforcement Network, and all applicable ACH Rules. You also agree to be bound by and comply with the "Empower Federal Credit Union ACH Origination Agreement". In the event of inconsistency between a provision of this Agreement and the "Empower Federal Credit Union ACH Origination Agreement", the provisions of the "Empower Federal Credit Union ACH Origination Agreement" shall prevail.

<u>16.4 Wire Transfer Service</u>. Includes the ability to transfer funds in United States dollars from Accounts to eligible payees located within the United States using Wire Transfer Services available through the Federal Reserve Banks (for example, Fedwire Funds Service) or other Wire Transfer Service(s) selected or agreed-to by the Credit Union.

You may use the Business Online Banking Wire Transfer Service to create, view, modify and delete U.S Dollar Wire Transfer transactions within Your approved limits and designated eligible Accounts. An eligible Empower Federal Credit Union Account is required. We may impose limits on the dollar amount of an individual Wire transaction and on the total dollar amount of all Wire transactions to be processed on any given Business Day from Your eligible Account, and We may change these limits from time to time without advance notice. Your Master User may also impose limits on the total dollar amount of Wire transactions that may be initiated on any given Business Day by an individual Sub User. Wire transactions also may not exceed the amount of the collected balance available in the designated eligible Account at the time of initiation of the Wire transaction. Without limiting the generality of the foregoing, You understand that Wire Transfer Services involve transmission of domestic wires using the Federal Reserve Bank's FedWire System and will be subject to the Federal Reserve Board's Regulation J (12 CFR 210), subpart B.

You may not use the Wire Transfer Service for any foreign currency (non-U.S. Dollar) Wire transactions. We will debit the eligible Account on the Settlement Date.

We may reject any requested Wire transaction if You have insufficient available funds in the Account on the Settlement Date or for any other reason. If We reject a Wire transaction, We shall use reasonable efforts to notify You as soon as is reasonably possible on or after the Business Day on which such Wire transactions would otherwise have been executed by Us.

We will process all Wire transactions submitted through the Wire Transfer Service before 3:00pm ET on that Business Day. Wire transactions submitted after 4:00pm ET on a Business Day, or on a day that is not a Business Day, will be processed on the next Business Day.

<u>16.5 Check Stop Payment</u>. You may use Business Online Banking to initiate an electronic Stop Payment request for any check written on Your Accounts, including those issued via the Bill Pay Service.

<u>Fees</u>. A fee will be deducted from Your Business checking account for each Stop Payment request. Fees for Stop Payment orders are set forth in the Business Fee Schedule.

<u>Expiration</u>. You agree that any Stop Payment request shall be null and void after six (6) months from the date of the order, or such earlier time as communicated by Us to You. We are not required to notify you when a Stop Payment order expires.

<u>Required Information</u>. To be binding, the Stop Payment order must accurately describe the check or draft, including the exact account number and the check or draft number. If You fail to provide Us with complete information or if the information You provide is incorrect, You agree that We shall not be responsible for any

failure to stop payment on such item. You understand that if the Stop Payment request comes too late for Us to have a reasonable time to act on it prior to paying, settling for, posting, or becoming accountable for the check described in the request, then Your Stop Payment request shall be of no effect.

Claims. You agree not to make a claim against Us if the check is paid through inadvertence, accident, oversight, or if We are required to pay such check by a holder in due course or, if by reason of such payment, other items drawn on Your Account(s) are returned for insufficient funds. If We recredit Your account after paying a check or draft over a valid or timely Stop Payment order, You agree to sign a statement describing the dispute with the payee, to assign to Us all of Your rights against the payee or other holders of the check or draft, and to assist Us in any legal action.

Limits. Limits for Stop Payment orders are set forth in the Business Fee Schedule.

16.6 Internal Transfer Service. Includes the ability to transfer funds between eligible Accounts and certain specifically approved and enrolled Loan Accounts with the Credit Union. You can authorize one-time or recurring transfers between Your eligible Accounts and/or certain of Your specifically approved and enrolled Loan Accounts with the Credit Union.

Limits on Amounts and Frequency of Business Online Banking Transactions. Transactions initiated through Business Online Banking may be limited in number or dollar amount. The Credit Union reserves the right to limit the amount or number of any type of transaction for any member at any time. The Credit Union may limit the amount and/or the number of transactions for any specific member group or entity as the Credit Union deems appropriate in its sole and exclusive discretion. Additional information regarding limitations on the amount of transfers can be found in the applicable Account Agreement. Any transaction limitation that is disclosed in these documents, in other areas, or is part of the Fee Schedule may be applied to any and all transactions initiated in Business Online Banking. The Credit Union may amend, change, or abolish transaction limits of any kind at any time. The Credit Union will use commercially reasonable efforts to give prior notice of such changes, but is not bound to do so except where governed by applicable law. All transactions are subject, in addition to any limitation on dollar amount or amount of transactions, to internal review by the Credit Union from time to time, including but not limited to the review of factors such as the sending account, receiving account, the amount of the specific transaction, the aggregate amounts of other transactions processed or ordered by the member, fraud screening, and other factors that the Credit Union deems applicable and appropriate. If the Credit Union determines that there are risks associated with the transaction, the Credit Union may delay or cancel the transaction. The Credit Union may request additional information regarding the transaction before it is finalized or any funds are released. In addition, if a hold has been placed on the deposits made to an Account from which Member wishes to transfer funds, Member cannot transfer the portion of the funds held until the hold has expired.

Limits on Savings and Money Market Account Transactions. By regulation, certain restrictions apply to the number of Internet transfers from savings Accounts (including Money Market Accounts) processed in a statement cycle. Transfers from savings Accounts to another Account or to third parties by preauthorized, automatic, telephone or computer transfer or by check, draft, debit card, or similar order to third parties are limited to six (6) per monthly statement cycle.

Loan Payments and Transfers. You may view certain summary account information for an enrolled Loan account of Yours at the Credit Union, and authorize payments to the enrolled Loan account from an eligible account using Business Online Banking. You may also use Business Online Banking to request a loan advance from certain eligible types of loan Accounts at the Credit Union. All payments and transfers to (or from) an enrolled Loan account at the Credit Union are subject to the terms of the applicable agreement governing the Loan account.

Transaction Cut Off times. If the status of any transfer or transaction in Online Banking is “Processed” or “In Process”, the transaction cannot be canceled via Business Online Banking or by request to the Credit Union. It is Member’s responsibility to arrange with the recipient or external financial institution for the re-credit or re-deposit of any funds transferred at the Member’s request through Business Online Banking outside of the timeframes noted above. The Credit Union will use commercially reasonable efforts to process Member's transactions that are initiated through Business Online Banking as set forth herein.

16.7 Mobile Check Deposit. Includes the ability to make deposits to Your business checking or savings Accounts from home or other remote locations by using your mobile device (smartphone or tablet) to scan checks and deliver images and associated deposit information to Empower Federal Credit Union. If Mobile Check Deposit is made available to You, You must agree to be bound by the terms of service for Mobile Check Deposit service by accepting the User Agreement. Mobile Check Deposit is available as an additional service to members in good standing who use the Online Banking Mobile App.

16.8 Merchant Remote Deposit Capture Service (MRDCS). We also offer Merchant remote deposit capture services via a check scanner. This service tailored to businesses with higher check volume allows you to make deposits to your business checking account anytime at your convenience via a secure, easy-to-use web application. These Services are governed by a separate agreement. Please contact us at 800-462-5000 for more information.

16.9 Secure messaging and Secure Form Services. Includes the ability to send secure electronic messages from You to the Credit Union and from the Credit Union to You (only in response to a Secure Message received by the Credit Union from You) concerning the Services and/or Your Accounts or Loan Accounts with the Credit Union. Electronic messages sent through the Secure Messaging Service are contained with the Service. In additional, there are request forms for Business Accounts that can be submitted securely.