

## Funds Transfer Agreement

### General

Welcome to Funds Transfer! - the next generation of online personal finance management. With our fully interactive online money movement service, you may transfer funds from any of your accounts at any financial institution to any other account held by you referred to in this agreement as "Accounts" - assuming, of course, that the transfer is permitted by your financial institution and by law.

Please take a few minutes to read this Funds Transfer Agreement (referred to throughout as the "Agreement"). Transfer of funds pursuant to this Agreement shall also be governed by the Master Account Agreement and Disclosures, including the Electronic Funds Transfer Agreement, and the Online Banking Access and Bill Pay Agreement (collectively, the "Additional Agreements"). Any reference to "Financial Institution" in this Agreement includes any directors, officers, employees, contractors, service providers, agents or licensees of Sunmark Credit Union. As used in this Agreement, the words "you" and "your" refer to you as the user of the Service; the words "we," "us," "our" and any other variation thereof refer to Sunmark Credit Union.

When you're ready, click the "**I Agree to accept these terms and conditions**" button (or take a similar action) to start enjoying the convenience and financial security of Funds Transfer!

### Acceptance of Terms

This Agreement and the Additional Agreements set out the terms and conditions (the "Terms") on which our service provider and Sunmark Credit Union will provide and you may use the Service and form part of a legally binding agreement between you and Sunmark Credit Union. When you click on the "**I agree to accept the terms and conditions**" button, you will complete an application to receive the Funds Transfer Service, and you agree to accept the Terms, including any amendments to this Agreement or any changes in the Terms. Your application may be accepted or declined by our service provider and/or Sunmark Credit Union based on specific criteria. **If you do not agree to all of the Terms, do not accept the Terms and do not use the Service.** If you do not accept and agree to all of the Terms, you will not be entitled to use the Service. Sunmark Credit Union reserves the right to change the Terms under which the Service is offered in its sole discretion at any time; however, Sunmark Credit Union will notify you of any material change to the Terms. In most cases, you will receive the notice online the next time you log in; however, Sunmark Credit Union reserves the right to notify you by email or by conventional mail, in its discretion. You agree that if you continue to use the Service after we notify you of any change, you thereby accept the changes to the Terms and agree to be bound by this Agreement, as amended. If you do not accept and agree to the changes to the Terms, you will not be entitled to use the Service. You can review, download and print the most current version of this Agreement by consulting with Sunmark Credit Union. If you do not agree to the changes, or if at any time you wish to discontinue your use of the Service, you can unsubscribe by contacting Sunmark Credit Union. Once your account with Sunmark Credit Union has terminated for any reason, you will have no further right or access to use the Funds Transfer Service. To use the Funds Transfer Service you must be at least eighteen (18) years old and be a resident of the United States.

### Information Authorization

By clicking on the "**I Agree to accept the terms and conditions**" button, you authorize us and our service providers to verify your identity and review your credit by obtaining information about your credit history from a consumer reporting agency. Sunmark Credit Union and our service provider will obtain and use your credit information only in accordance with the Fair Credit Reporting Act ("FCRA") and other applicable law. We reserve the right to deny you access to the Service if we cannot verify your identity or other necessary

information. We may approve or decline your application for the Service based upon our review of your consumer report, along with other information we deem relevant. If we deny your request to use the Service, you may obtain a free copy of the consumer report that we used from the consumer reporting agency that issued the report. You may view, download and print a summary of your rights under FCRA, including information on how to obtain a copy of your consumer report, at any time by contacting Sunmark Credit Union.

In addition to obtaining a consumer report, Sunmark Credit Union and our service provider reserve the right to obtain such additional information as we deem reasonably necessary to insure that you, or persons to whom you may transfer funds, are not using our Service in violation of law, including, but not limited to, laws and regulations designed to prevent "money laundering" or the transfer of funds to or from persons or organizations whose accounts are blocked under regulations of the Office of Foreign Asset Control (OFAC) of the United States Treasury Department.

Once you are approved for the Funds Transfer Service we may verify and validate your Accounts that you add to the Service from time to time. **You authorize us to validate the Accounts through the use of a test transfer, in which one or more low value payments will be both credited to and debited from the Account.** The test credit will always occur before the test debit and will always be of the same or lesser amount, so that the resulting balance in any of your Accounts will not be lower than the preceding balance based on the validation transactions.

Once the test transfer is complete, we may ask you to access your Account to tell us the amount of the test credit or test debit or any additional information reported by your financial institution with the test transfer. We may also verify Accounts through requiring the entry of information you ordinarily use to access the Account provider's web site, or by requiring you to submit proof of ownership of the Account.

### **Accounts**

You understand that in order to complete fund transfers, it is necessary for Sunmark Credit Union and our service provider to access the websites and databases of the financial institutions where you hold Accounts, as designated by you and on your behalf, to retrieve information and effect the fund transfers you request. **By using the Service, you represent and warrant to us that you have the right to authorize and permit us to access your Accounts to effect such funds transfers or for any other purpose authorized by this Agreement, and you assure us that by disclosing and authorizing us to use such information you are not violating any third party rights.** You warrant and represent that the information you are providing us with is true, current, correct, and complete. You hereby authorize and permit Sunmark Credit Union and our service provider to use information submitted by you to accomplish these purposes and to configure the Service to be compatible with the Accounts.

For as long as you are using the Service, you give to Sunmark Credit Union and our service provider a limited power of attorney and appoint Sunmark Credit Union and our service provider as your true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for you and in your name, place and stead, in any and all capacities, to access the Accounts, effect funds transfers as described above, with full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with effecting funds transfers, including verifying the content and authenticity of any funds transfer instruction for the purposes of security procedures applicable to Accounts, as fully to all intents and purposes as you might or could in person. Once Sunmark Credit Union and/or our service provider has actual knowledge that you wish to cease using the Funds Transfer Service as provided in this Agreement or as otherwise permitted in this Agreement and has a reasonable opportunity to act on such knowledge, this limited power of attorney is automatically revoked; provided, however, that any act done by Sunmark Credit Union and/or our service provider in good faith before it has actual knowledge of termination by you and has a reasonable opportunity to act on such knowledge shall be deemed to be

authorized by you.

You understand and agree that at all times your relationship with each Account provider is independent of Sunmark Credit Union and your use of the Funds Transfer Service. Sunmark Credit Union will not be responsible for any acts or omissions by the financial institution or other provider of any Account, including without limitation any modification, interruption or discontinuance of any Account by such provider.

YOU ACKNOWLEDGE AND AGREE THAT WHEN SUNMARK CREDIT UNION AND OUR SERVICE PROVIDER IS EFFECTING A FUNDS TRANSFER FROM OR TO ANY OF YOUR OR A RECIPIENT'S ACCOUNTS, SUNMARK CREDIT UNION AND OUR SERVICE PROVIDER IS ACTING AS YOUR AGENT, AND NOT AS THE AGENT OR ON BEHALF OF ANY THIRD PARTY. You agree that Sunmark Credit Union, its affiliates, service providers and partners shall be entitled to rely on the foregoing authorization, agency and power of attorney granted by you.

YOU AGREE THAT WE SHALL NOT BE LIABLE FOR ANY COSTS, FEES, LOSSES OR DAMAGES OF ANY KIND INCURRED AS A RESULT OF: (1) OUR ACCESS TO THE ACCOUNTS; (2) OUR DEBIT AND/OR CREDIT OR INABILITY TO DEBIT AND/OR CREDIT THE ACCOUNTS IN ACCORDANCE WITH YOUR FUNDS TRANSFER INSTRUCTIONS; (3) ANY INACCURACY, INCOMPLETENESS OR MISINFORMATION CONTAINED IN THE INFORMATION RETRIEVED FROM THE ACCOUNTS; (4) ANY CHARGES IMPOSED BY ANY PROVIDER OF ACCOUNTS AND (5) ANY FUNDS TRANSFER LIMITATIONS SET BY THE FINANCIAL INSTITUTIONS OR OTHER PROVIDERS OF THE ACCOUNTS.

Not all types of accounts are eligible for Funds Transfer Service. Be sure to check with Sunmark Credit Union for restrictions regarding transfers among your retirement (401k, IRA, etc.), savings, trusts, loans, custodial, business, corporate and other account types. We are not responsible for any costs or losses incurred from fund transfers that are not permitted under such restrictions by the provider of your Account or those imposed by applicable law.

## **Electronic Communications**

### **A. General Consent; Categories of Records.**

The Funds Transfer Service is an electronic, Internet based-service. Therefore, you understand and agree that this Agreement will be entered into electronically, and that the following categories of information ("Communications") may be provided by electronic means:

- This Agreement and any amendments, modifications or supplements to it.
- Your records of funds transfers and other transactions through the Service, including without limitation confirmations of individual transactions.
- Any initial, periodic or other disclosures or notices provided in connection with the Service, including without limitation those required by federal or state law.
- Any customer service communications, including without limitation communications with respect to claims of error or unauthorized use of the Service.
- Any other communication related to the Service.

Although Sunmark Credit Union reserves the right to provide Communications in paper format at any time, you agree that we are under no obligation to do so. All Communications in either electronic or paper format will be considered to be "in writing." You should print a paper copy of any electronic Communication that is important to you and retain the copy for your records. **If you do not agree to receive this Agreement or the Communications electronically, you may not use the Service.**

**B. How to Withdraw Consent.**

If you have registered for the Service and you wish to withdraw your consent to have Communications provided in electronic form, you must cancel any pending transfer requests (within the time period permitted by the Service cancellation policies) and stop using the Service. There are no fees to cancel a pending transfer request (as long as such cancellation is made within the time period permitted by the Service cancellation policies).

**C. How to Update Your Records.**

You agree to promptly update your registration records if your email address or other information changes. You may update your records, such as your email address, by using the Profile page.

**D. Delivery of Electronic Communications.**

Communications may be posted on the pages of the Service website or other website disclosed to you and/or delivered to the email address you provide. Any electronic Communication sent by email will be deemed to have been received by you when Sunmark Credit Union or our service provider sends it to you, whether or not you received the email. An electronic Communication by email is considered to be sent at the time that it is directed by Sunmark Credit Union's or service provider's email server to the appropriate email address. If the Communication is posted on the Service, then it will be deemed to have been received by you no later than five (5) business days after Sunmark Credit Union or our service provider posts the Communication on the pages of the Service, whether or not you retrieve the Communication. An electronic Communication made by posting to the pages of the Service is considered to be sent at the time it is publicly available. You agree that these are reasonable procedures for sending and receiving electronic Communications.

**E. Hardware and Software Requirements.**

In order to access and retain Communications, you must have:

- An Internet browser that supports 128-bit encryption, such as the newest versions of Microsoft Edge and Google Chrome.
- An email account and email software capable of reading and responding to your email.
- A personal computer, operating system and telecommunications connections to the Internet capable of supporting the foregoing.
- Sufficient electronic storage capacity on your computer's hard drive or other data storage unit.
- A printer that is capable of printing from your browser and e-mail software.

**Privacy Policy and Confidentiality**

We regard your privacy and security with the utmost importance, and we are absolutely committed to safeguarding any information that you share with us. In order to provide the Funds Transfer Service, we must obtain from you certain personal information about you, your Accounts, and your transactions (referred to herein as "User Information"). You represent that you have the right to provide such User Information and that you give us the right to use the User Information in accordance with our privacy policy.

All of your personal and financial information will be placed on a secure portion of our website. We do not use any persistent "cookies" on the browser to store any personal information. We have multiple levels of security that have been designed especially for us. You can see a full description of our security policy by clicking on "Security Policy" in Online Banking. You can see a full description of our privacy policy by clicking on "Privacy Policy" in Online Banking.

**Password**

To enable you, and only you, to use the Service, you will be asked to choose a password when you register

and are accepted as a user of the Service. This password is stored in encrypted form by us. You are responsible for maintaining the confidentiality of your Financial Institution member number and password. No one at Sunmark Credit Union has access to your Account passwords or user IDs. You are responsible for uses of the Service whether or not actually or expressly authorized by you. Therefore, it is important that you **DO NOT SHARE YOUR ACCOUNT NUMBER OR PASSWORD WITH ANYONE FOR ANY REASON**. No one at Sunmark Credit Union will know or need to know your password, and Sunmark Credit Union employees will never ask for your password.

#### **In the Event of Unauthorized Transfer**

If you believe your password or user ID has been lost or stolen, or that someone has transferred or may transfer money from your Account without your permission, contact us by calling 518-382-0605.

#### **Consumer Liability**

You agree to notify us **AT ONCE** if you believe your password or user ID has been lost or stolen. Telephoning us at 518-382-0605 promptly is the best way to protect yourself from possible losses. If you never tell us, you could lose all of the money in your account (plus your maximum overdraft line of credit).

**Please refer to the Electronic Funds Transfer Agreement for further error resolution information.**

You can see a complete statement of all your funds transfers effected or pending at any time by clicking on the History tab. If your statement shows transfers that you did not make, notify us **AT ONCE**. See Error Reporting and Claims below.

#### **Business Days**

The Service will process requests for transfers on business days. Our business days are Monday through Friday. Holidays and Bank Holidays are not included.

#### **Types of Transfers**

You may use your Sunmark Credit Union password to access Funds Transfer within the Service to transfer funds between any two of your Accounts about which you have provided the necessary information to Sunmark Credit Union. Transfers can be between Accounts within the same financial institution or at an unrelated financial institution (although transfers between Accounts at the same institution may be affected more quickly by contacting the institution directly).

Some of these services may not be available at all times. We may from time to time make available additional or new features to the Service, including but not limited to, a next day service and a higher limit service. You will be approved or declined for any such additional service at our sole discretion and additional terms and conditions may apply. Please ensure that your available balance is sufficient to affect any funds transfers from your Accounts. We may at any time decline to effect any funds transfer that we believe may violate applicable law.

#### **Frequency of Transfers**

We do not limit the number of funds transfers you may make; however, you may not make funds transfers in excess of the number of funds transfers allowed by the rules governing the applicable Accounts. We may from time to time for security and risk management reasons modify the limit, the Frequency, and the dollar amount of transfers you can make using our Service.

#### **Dollar Amount of Transfers**

You may not make funds transfers in excess of limits described on the Service. We reserve the right to change from time to time the dollar amount of funds transfers you are permitted to make using our Service. Without limiting the foregoing, in the event that your use of the Service has been suspended and reinstated as provided herein (see "Suspension and Reinstatement of Funds Transfer Service" below), you understand and agree that your use of the Service thereafter may be subject to lower dollar amount

limitations than would otherwise be permitted by us.

### **Transfers subject to the Rules of the Accounts**

Additionally, all funds transfers are also subject to the rules and regulations governing the relevant Accounts. You agree not to effect any funds transfers from or to an Account that are not allowed under the rules or regulations applicable to such accounts including, without limitation, rules or regulations designed to prevent the transfer of funds in violation of OFAC regulations.

### **Rejection of Transfers**

We reserve the right to decline to effect any funds transfer, to submit funds transfer instructions or orders, or to carry out change or cancellation requests.

### **Authorization**

You authorize us to select any means to execute your funds transfer instructions. You understand that to affect your funds transfer instruction we utilize the Automated Clearing House (ACH), using applicable ACH Rules, we debit one of your Accounts and credit another of your Accounts or an account of a Recipient. Once your Account has been debited, we credit our service provider's transfer account at the service provider's clearing bank. After our service provider and/or its clearing bank are reasonably certain that the debit will not be returned (in most cases this is usually between 3-4 banking days), our service provider will credit your or the Recipient's Account. The sole purpose for our service provider's transfer account is to complete your funds transfer requests and for performing the services within the scope of this Agreement. The service provider earns no interest on the funds in the transfer account. If the debit side fails or is returned for any reason and the credit side has been released and cannot be collected, you authorize our service provider to collect from the Account to which the credit side of the funds transfer was sent. We reserve the right to resubmit a debit, or a portion of the debit, in the event of an insufficient or uncollected funds return and if we cannot collect the amount credited. To effect this collection, you understand and authorize us to debit the credited Account or the debited Account in either the same dollar amount as the original funds transfer or a portion of the debit. There may be a fee associated with such collection imposed by the financial institution holding the Account. You understand and agree that there could be multiple fees charged related to a single transaction if the transaction is submitted multiple times (such as a re-debit attempt).

You understand and agree that we may from time to time impose additional charges in connection with your funds transfer transactions. Sunmark Credit Union will notify you of such fee in advance of the transaction. If you choose to proceed with the transaction, you authorize Sunmark Credit Union to debit your account in the amount indicated.

In the event that a debit to any of your Accounts, or any portion of any such debit, has failed and the credit side of such transaction has been released and cannot be collected, and we are unable to debit either the debited or the credited Account as set forth above, we reserve the right, and you hereby authorize us, to debit any of your other Accounts to the extent necessary to offset any resulting deficiency. We do not undertake to notify you in such event, other than by posting any such transfer or transfers to the applicable Account in accordance with this Agreement (see "Documentation," below).

You understand and agree that in the event we are unable to execute your funds transfer request utilizing the ACH, we may utilize other established payment mechanisms in order to complete your funds transfer instructions, such as wire transfer or check.

If you have requested for a funds transfer to a Recipient, you must provide us with a true, correct, current email address for such Recipient. We will contact the Recipient, and ask the Recipient to provide us with certain information, such as the account number and financial institution that they wish to

transfer the funds to. If the Recipient fails to reply to the email or fails to follow the instructions provided by us, we will notify you and credit your Account for the amount of the transfer.

### **Suspension and Reinstatement of Funds Transfer Service**

In the event that we at any time incur a problem with your use of the Service, including without limitation a fail in attempting to debit any of your Accounts or to collect with respect to any of your funds transfers as described above, and without limiting any other right or remedy that we may have under this Agreement or otherwise, we reserve the right to suspend your right to use the Service, immediately and without prior notice to you. You understand and agree that such action is reasonable for us to take in order to protect ourselves from loss. In the event of such suspension, you may request reinstatement of your service by contacting us using any of the methods provided for under this Agreement (see "Error Reporting and Claims," below). We reserve the right in our sole discretion to grant or deny reinstatement of your use of the Service. In the event we agree to reinstate you, we reserve the right to, and ordinarily will, initially reinstate your Service subject to lower per-transaction and monthly dollar limits and/or with other restrictions than otherwise might be available to you. Based upon your subsequent usage of the Service, Sunmark Credit Union in its sole discretion may thereafter restore your ability to effect transfers subject to such higher limits as may then be in effect (see "Dollar Amount of Transfers," above).

### **Documentation**

You may access a statement of all funds transfers effected or pending at any time by clicking on the History tab within Funds Transfer. In addition, all funds transfers will appear on your periodic statement. If a transfer could not be completed, Sunmark Credit Union and/or our service provider, upon learning that the funds transfer has failed, will make a reasonable effort to complete the transfer again. If the funds transfer fails a second time, we will notify you to contact your financial institution or other provider of the relevant Account to learn more about the failure.

### **Your Responsibility for Errors**

You understand that we must rely on the information provided by you and you authorize us to act on any instruction which has been or reasonably appears to have been sent by you, to submit funds transfer instructions on your behalf. You understand that financial institutions receiving the funds transfer instructions may rely on such information. We are not obliged to take any further steps to confirm or authenticate such instructions and will act on them without getting further confirmation. You understand that if you provide us with incorrect information or if there is any error in your instruction we will make all reasonable efforts to reverse or delete such instructions, but you accept full responsibility for losses resulting from any of your errors, duplication, ambiguities or fraud in the information that you provide. You agree not to impersonate any person or use a name that you are not authorized to use. If any information you provide is untrue, inaccurate, not current or incomplete, without limiting other remedies, Sunmark Credit Union reserves the right to recover from you any costs or losses incurred as a direct or indirect result of the inaccurate or incomplete information.

### **Error Reporting and Claims**

In case of errors or questions about your funds transfers, contact us as soon as you can at 518-382-0605, if you think your statement is wrong or if you need more information about a transfer listed on the statement. You can see a complete statement of all your funds transfers effected or pending at any time by clicking on the History tab. We must hear from you within 60 days after we FIRST posted the transfer to your statement. **Please see the Billing Errors subsection of the Right to Receive Documentation section within the Electronic Funds Transfer Agreement for specific reporting procedures.**

We are not responsible for errors, delays and other problems caused by or resulting from the action or inaction of financial institutions holding the Account or the account of your Recipient. Although we will try to assist you in resolving any such problems, you understand that any such errors, delays or other

problems are the responsibility of the relevant financial institution or the Recipient. Any rights you may have against a financial institution for such errors, delays or other problems are subject to the terms of the agreements you have with such financial institution, including any time limits during which complaints must be made.

### **User Content**

Subject to Sunmark Credit Union's Privacy Policy, you agree that Sunmark Credit Union may use, copy, modify, display and distribute any information, data, materials or other content (the "Content") you provide to Sunmark Credit Union for the purpose of providing the Service, and you hereby give Sunmark Credit Union a license to do so. By submitting Content, you represent that you have the right to license such Content to Sunmark Credit Union for the purposes set forth in this Agreement.

### **Proprietary Rights**

You acknowledge and agree that Sunmark Credit Union and/or our service provider owns all rights in and to the Funds Transfer Service. You are permitted to use the Service only as expressly authorized by this Agreement. You may not copy, reproduce, distribute, or create derivative works, reverse engineer or reverse compile Sunmark Credit Union and/or our service provider's Funds Transfer Service or any of Sunmark Credit Union and/or our service provider's services or technology.

### **No Unlawful or Prohibited Use**

As a condition of using the Service, you warrant to us that you will not use the Service for any purpose that is unlawful or is not permitted, expressly or implicitly, by the terms of this Agreement or by any applicable law or regulation. You further warrant and represent that you will not use the Service in any manner that could damage, disable, overburden, or impair the Service or interfere with any other party's use and enjoyment of the Service. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Service. You agree that these warranties and representations will remain in full force and effect even if this Agreement terminates for any reason.

### **Service Changes and Discontinuation**

We may modify or discontinue the Service or your account with us, with or without notice, without liability to you, any other user or any third party. We reserve the right, subject to applicable law, to terminate your account and your right to use the Service at any time and for any reason, including without limitation if we, in our sole judgment, believe you have engaged in conduct or activities that violate any of the Terms or the rights of Sunmark Credit Union and/or our service provider, or if you provide us with false or misleading information or interfere with other users or the administration of the Services. We reserve the right to charge a fee for the use of the Service and any additional services or features that we may introduce. You understand and agree that you are responsible for paying all fees associated with the use of our Funds Transfer Service.

You may terminate your account with Sunmark Credit Union at any time by contacting us. Once your account with Sunmark Credit Union has terminated for any reason, you will have no further right or access to use the Service, and Sunmark Credit Union will not access your Accounts thereafter for any reason.

### **Links to Third Party Sites**

The Sunmark Credit Union website may contain links to other websites ("Linked Sites"). Such links are provided solely as a convenience to you. Sunmark Credit Union does not screen, approve, review or otherwise endorse any content or information contained in any Linked Sites. You acknowledge and agree that Sunmark Credit Union, its affiliates and partners are not responsible for the contents of any Linked Sites, including the accuracy or availability of information provided by Linked Sites, and makes no representations or warranties regarding the Linked Sites or your use of them.

**Security Procedures**

You understand that the financial institution at which an Account is maintained may contact us to verify the content and authority of funds transfer instructions and any changes to those instructions. You understand that, as your agent, we may provide to such financial institution such information as may be required to verify the instructions and may constitute a valid security procedure under the rules governing such Account.

**Deviating from Security Procedures**

You agree to allow us to authorize any financial institution at which you have an Account to accept funds and transfer instructions in accordance with any authorization procedures as may be agreed from time to time between you and such financial institution, or between us, on your behalf, and such financial institution, without verifying the instructions under the established security procedures, regardless of whether such security procedures were agreed by you directly or by us on your behalf. In addition, you agree that we may authorize such financial institutions to charge and debit your accounts based solely on these communications.

**Account Number Policy**

If funds transfer instructions identify a financial institution by name and routing number or a beneficiary by name and account number, the relevant financial institution may execute those instructions by reference to the number only, even if the number does not correspond to the name. You understand that such financial institutions may not investigate discrepancies between names and numbers. In addition, you agree that we have no responsibility to investigate discrepancies between names and numbers.

**Joint Account Holder**

In submitting your application for the Funds Transfer Service, you confirm that, if any of your Accounts is a joint account, your joint account holder has consented for you to use your Accounts for the Service. We will end your use of the Service if any joint account holder notifies us that: (i) they never consented to your use of our Funds Transfer Service; (ii) the joint account can no longer be operated on your instructions alone; or (iii) they are withdrawing consent for you to operate the joint account.

**Means of Transfer**

You authorize us to select any means we deem suitable to provide your funds transfer instructions to the applicable financial institution. These choices include banking channels, electronic means, funds transfer systems, mail, courier, or telecommunications services, intermediary banks and other organizations. You agree to be bound by the rules and regulations that govern the applicable funds transfer systems, such as CHIPS or automated clearing house (ACH) as published by the National Automated Clearinghouse Association (NACHA). We shall make all reasonable efforts to ensure that your transfer requests are processed on time; however, we reserve the right to hold funds beyond the normal period and if any interest earned will be the property of Sunmark Credit Union.

**Our Liability**

If we do not provide a funds transfer instruction on time, if we cause an incorrect amount to be removed from an Account or if we cause funds from an Account to be transferred to any account other than the Account or Recipient's account specified in the applicable funds transfer instruction, we shall be responsible for returning the improperly transferred funds and/or for directing any misdirected funds to the proper Account or intended recipient's account. Sunmark Credit Union is not responsible or liable if your or the Recipient's financial institution's system fails and we are unable to complete the transfer. Except as otherwise required by law, Sunmark Credit Union shall in no other event be liable for any losses and damages other than those arising from gross negligence or willful misconduct on our part or if we breach a representation or warranty of Sunmark Credit Union hereunder.

You agree that your transfer instructions constitute authorization for us to complete the transfer. You represent and warrant to us that the available balance in the applicable Accounts is sufficient to make any funds transfer you request that we make on your behalf through the Service. You understand and agree that we are not liable under any circumstances for any losses or damages if, through no fault of ours, your available balance is insufficient to make the funds transfer and the funds transfer is not completed or is later reversed or if your financial institution does not permit the transfer or the funds transfer would exceed the credit limit on any applicable overdraft line.

You also understand and agree that we are not responsible for any losses or damages if circumstances beyond our control (such as fire or flood) prevent us from making a funds transfer or if the Sunmark Credit Union website was not working properly and you knew about the breakdown when you started the funds transfer. There may be other limitations provided in this Agreement or the Additional Agreements.

#### **Limitation of Warranty and Liability**

YOU UNDERSTAND AND AGREE THAT OUR FUNDS TRANSFER SERVICE IS PROVIDED "AS-IS." EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR AS REQUIRED BY LAW, WE ASSUME NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY USER COMMUNICATIONS OR PERSONALIZATION SETTINGS. YOU UNDERSTAND AND EXPRESSLY AGREE THAT USE OF THE FUNDS TRANSFER SERVICE IS AT YOUR SOLE RISK, THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE FUNDS TRANSFER SERVICE IS DOWNLOADED OR OBTAINED AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR THE OBTAINING OF SUCH MATERIAL AND/OR DATA.

EXCEPT AS EXPRESSLY SET FORTH ON THE SUNMARK CREDIT UNION'S WEB SITE OR IN THIS AGREEMENT, WE DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY OR THIRD PARTY RIGHTS, AND WE MAKE NO WARRANTY OR REPRESENTATION REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE FUNDS TRANSFER SERVICE, THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE FUNDS TRANSFER SERVICE, THE ACCURACY OF ANY INFORMATION RETRIEVED BY US FROM THE ACCOUNTS OR THAT THE FUNDS TRANSFER SERVICE WILL MEET ANY USER'S REQUIREMENTS, BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE.

EXCEPT AS DESCRIBED IN THIS AGREEMENT, WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND RESULTING FROM THE USE OF OR THE INABILITY TO USE THE FUNDS TRANSFER SERVICE, ANY INACCURACY OF ANY INFORMATION OR AMOUNT RETRIEVED BY US FROM THE ACCOUNTS, ANY BREACH OF SECURITY CAUSED BY A THIRD PARTY, ANY TRANSACTIONS ENTERED INTO BASED ON THE FUNDS TRANSFER SERVICE, ANY LOSS OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF A USER'S TRANSMISSIONS OR DATA OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES, EVEN IF WE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **Indemnification**

You agree to indemnify, defend and hold harmless Sunmark Credit Union, its affiliates, partners, officers, directors, employees, consultants, service providers and agents from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorney's fees) arising from your use of the Funds Transfer Service, our reliance on the information, instruction, license and/or authorization provided by you under or pursuant to this Agreement, your violation of the Terms or your

infringement, or infringement by any other user of your Sunmark Credit Union account, of any intellectual property or other right of any person or entity.

### **Miscellaneous**

You understand and agree that our service provider is not a bank, a broker-dealer firm, or any other kind of financial institution. You represent and warrant that you are who you claim to be; that you are the rightful owner of all Content and the Accounts linked for the purposes of the Funds Transfer Service; and that you are rightfully authorizing us to access the Accounts.

You agree that our rights and remedies arising out of any breach of your representations and warranties in this Agreement, the limitations on our liability and our rights to indemnification under this Agreement are continuing and shall survive the termination of this Agreement, notwithstanding the lack of any specific reference to such survivability in these provisions. Sunmark Credit Union's failure to enforce the strict performance of any provision of this Agreement will not constitute a waiver of Sunmark Credit Union's right to subsequently enforce such provision or any other provisions of this Agreement.

The most current version of this Agreement as it appears on our website, including any amendments that we may make from time to time, constitutes the entire agreement between us, and supersedes and replaces all other agreements or understandings, whether written or oral, regarding the Funds Transfer Service. This Agreement may be amended, or any of Sunmark Credit Union's rights waived, only if Sunmark Credit Union agrees in writing to such changes, or you continue using the Funds Transfer Service following receipt of notice of any changes proposed by Sunmark Credit Union.

All notices to you shall be in writing and shall be made either via email, conventional mail or messages delivered through the Services, at Sunmark Credit Union's discretion. All notices to Sunmark Credit Union must be made in writing. This Agreement is personal to you and you may not assign it to anyone.

If either of us has any dispute or disagreement with the other regarding this Agreement that we cannot resolve amicably, both parties agree that the sole and exclusive remedy shall be binding arbitration in accordance with the then-current rules and procedures of the American Arbitration Association. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to its conflict of law's provisions or your actual state or country of residence. If for any reason a court of competent jurisdiction finds any provision or portion of the Terms to be unenforceable, the remainder of the Terms will continue in full force and effect.

This Agreement shall take effect immediately upon the acceptance of your application for the Funds Transfer Service by us.