

# ONLINE BANKING USER AGREEMENT

## USER AGREEMENT

These are the Terms and Conditions of the Online Banking Service (herein referred to as Online Banking) for the IBM Southeast Employees' Credit Union (herein referred to as IBMSECU) consumer and business account holders. By subscribing to Online Banking or using Online Banking to access account information, or to make any transfer between accounts or payment to a third party, you agree to the terms of this Agreement. We encourage you to print a copy of this Agreement and to keep a copy of this Agreement for your records. The words "we," "us," "our" and "Credit Union" refer to IBMSECU. The words "you" and "your" refer to each person subscribing to Online Banking, and to each person who uses Online Banking with the permission of the subscriber.

## COMPUTER EQUIPMENT AND INTERNET USE

You are solely responsible for the maintenance, installation and operation of your computer, and for the hardware and software used in accessing Online Banking. IBMSECU shall not be responsible for any errors, deletions, or failures that occur as a result of any malfunction of your computer or software, nor will the Credit Union be responsible for any computer virus that affects your computer or the software while using Online Banking. You acknowledge that the Internet lacks security for transactions. You agree that you provide, receive and request information via the Internet with the knowledge that such information can be intercepted and/or viewed by unknown third parties. The Credit Union does not guarantee that downloads from its site will not contain a virus or other destructive device. It is your responsibility to protect your information and to maintain your computer with updated virus protection and spyware. You should purchase and install firewalls and antivirus programs to help decrease any potential security breaches.

Any virus that is not removed from your computer may corrupt and destroy your programs, files and even your hardware. Additionally, you must have an Internet Service Provider (ISP) and a 256-bit compliant browser to utilize Online Banking. It will be your responsibility to establish these specifications. Any costs or fees to obtain these services or software are solely your responsibility.

## SECURITY

IBMSECU is committed to protecting the security and confidentiality of your account information.

We use several different methods to protect your account information:

1. You can only access Online Banking with a browser that uses 256-bit encryption;
2. You must have a valid email address;
3. You must have a valid User Name for User Identification (ID) and Password to log in;
4. For your protection, we may temporarily suspend access to Online Banking for any reason, including inactivity;
5. If no action is taken for a period of time, you will be automatically logged off Online Banking;
6. We display your previous login date and Internet Protocol (IP) address each time you access Online Banking for you to review.

You agree to the following and you agree to ensure that your authorized Online Banking users comply with the following:

1. Never leave your computer unattended while using Online Banking;
2. Never leave your account information displayed where it may be viewed by others;
3. Always exit the system by logging out;
4. Notify our Call Center immediately at 800-873-5100 or 561-982-4700, if you suspect unauthorized access.

## ONLINE BANKING

These security procedures are not implemented for the purpose of detecting errors in your instructions or in their transmission, even if IBMSECU may take certain actions from time to time to do so. By your continued use of Online Banking, you agree that these procedures, including your security responsibilities described in this Agreement, constitute a commercially reasonable method of providing security against unauthorized instructions. Unless otherwise provided by any applicable law, rule, or regulation, you agree to be bound by any instructions delivered to us as long as they are accompanied by a permitted User Name and Password, even if the instructions are not actually transmitted or authorized by you or your user. You accept responsibility for any unauthorized access to, and action taken through, Online Banking using a valid User Name and Password, whether such access or action is taken by you, your authorized Online Banking user, persons with access to your records, or persons who have obtained access to Online Banking through your failure to maintain adequate control. In addition, you shall indemnify and hold the Credit Union harmless from and against any loss suffered or liability incurred by, or arising from, the execution of instructions in good faith and received and verified by the Credit Union in compliance with such security procedures.

You acknowledge that neither IBMSECU nor any person acting on behalf of the Credit Union will request that you disclose your User Name or your password or disclose security procedures and agree that neither you nor any of your authorized Online Banking users will disclose a User Name or

a password or security procedures. You hereby confirm that you have instituted proper controls through your computers, terminals, equipment and procedures to protect your financial information and all User Names and Passwords, as well as any other security procedures we may require from time to time. Unless otherwise provided by any applicable law, rule, or regulation, you are strictly responsible to establish and maintain the procedures to safeguard against unauthorized access to Online Banking services including, if reasonably required, updates to such procedures and monitoring by you of compliance with such procedures. You warrant that no individual will be allowed access to Online Banking in the absence of proper supervision and safeguards and agree to maintain the confidentiality of the security procedures and User Names and Passwords and related instructions provided by us in connection with the applicable security procedures. If you at any time have reason to believe or suspect that any such information or instructions have been disclosed to or accessed by any unauthorized person or used in a manner not authorized by you, you agree to notify us as soon as practicable, followed by written confirmation as provided under “*Changes to Agreement*” elsewhere in this Agreement. The occurrence of unauthorized access will not affect any transactions executed in good faith by us prior to receipt of such notification and for a reasonable time thereafter. Consumers should also see the “*Your Liability for Unauthorized Electronic Funds Transfers and Error Resolution*” section elsewhere in this agreement. If there is a conflict between this paragraph and that section, the latter shall govern in the case of consumers.

## **ACCOUNT AND OTHER ELIGIBILITY REQUIREMENTS**

To register your Membership or Business accounts for Online Banking, you must maintain an open and active account. By entering into this agreement, you agree to maintain your accounts properly, observe and comply with all rules applicable to them, and pay all fees associated with such accounts. Online Banking is offered only to residents of the United States (U.S.) who can form legally binding contracts under applicable law. Without limiting the foregoing, Online Banking is not offered to minors. By using Online Banking, you represent that you meet these requirements and that you agree to be bound by this Agreement.

## **ACCOUNT OWNERSHIP**

Any person with ownership rights to an account, including but not limited to joint ownership, may register and use any or all features of Online Banking. Online Banking transactions performed by an owner of the account will be considered authorized transactions and except as provided in this Agreement, IBMSECU will not be liable to you for any such transactions.

## **USER NAME IDENTIFICATION (ID) AND PASSWORD**

User Name and Password identify and authenticate you to IBMSECU when you use the Credit Union’s Online Banking service. You will be required to establish a User Name and Password during your first online session through our online registration process. You will be able to obtain a User Name if you have an existing account with the Credit Union that meets the account requirements above. You determine what password you will use and your password is not communicated to us.

You additionally agree that you and each joint owner will establish and maintain a unique User Name and Password separate from each other to individually identify each transaction.

By establishing a User Name and Password you agree to ensure that authorized Online Banking users will:

1. Not disclose your User Name and Password or otherwise make it available to anyone else, including other joint owners on the account;
2. Be liable for your User Name and Password and for its authorized and unauthorized use as described in this Agreement;
3. Change your password regularly;
4. Notify us immediately at 800-873-5100 or 561-982-4700 of any loss or theft of your User Name and Password.

For security purposes, your Password must meet complexity requirements:

1. The length must be between 8 and 16 characters; with
2. At least one uppercase alphabetic character (e.g., A-Z);
3. At least one lowercase alphabetic character (e.g., a-z);
4. At least one number (e.g., 0-9);

Your password should not be associated with any commonly known personal identification, such as social security numbers, address, date of birth, names of children, and should be memorized rather than written down.

You acknowledge that we are entitled to rely on the use of your User Name and Password as your authorization for any transaction through Online Banking. You are responsible for all transactions you initiate or authorize using Online Banking. If you permit any other person to use your Online Banking User Name and Password, you will have authorized that person to access your accounts, and you are responsible for any transaction that person initiates or authorizes from your accounts. If you suspect unauthorized use of your User Name and Password, please follow the procedures outlined in the “*Your Liability for Unauthorized Electronic Funds Transfers and Error Resolution*” section of this Agreement. We undertake no obligation to monitor transactions through Online Banking to determine that they are made on behalf of the account holder.

## Online Banking Services

After you successfully register for Online Banking, you will have “view” and “transfer to” access to your eligible IBMSECU accounts and loans. Initially, information regarding activity for up to the most recent three (3) months will be available to you. Information about additional activity will become available to you periodically, until the most recent fourteen (14) months are available to you at any time.

For these eligible accounts, you will be able to:

1. View balance information;
2. View transaction history;
3. Search for transactions;
4. View/print images of the front and back of your checks;
5. Import certain account information into Intuit Quicken, via Web Connect;
6. Send us secure messages regarding your accounts or Online Banking and receive secure messages (“*Message Center*”);
7. Setup multiple users to allow you to control access to your account. You can create “read only” or “full access” features for your family or business partners and associates;
8. Establish alerts to notify you when certain balance conditions are met, when transactions occur, when you have received Messages from IBMSECU or when eStatements are available. You may choose to receive alerts via email or mobile text (your carrier’s standard text messaging rates will apply). To ensure delivery, data must be entered in the required format;
9. Conduct internal fund transfers (Member to Member), recurring transfers, and external transfers to and from other financial institutions;
10. If you also choose to register for the Bill Pay service, you will be able to issue a bill payment to a third party from your Payment account;
11. Update Personal Information. This feature allows you to update your address, phone number, work number, and email address without having to visit an IBMSECU branch office.
12. Open Additional Accounts. This feature allows you to open new or additional Savings, Checking and Money Market accounts; to be funded from existing accounts; as individually owned accounts, or accounts associated with your existing joint owners and beneficiaries.

Any and all multiple users that you setup must be authorized as joint owners or co-borrowers on your account(s). You will be held liable for any activities performed by these individuals. It is your responsibility to monitor and maintain the access for multiple users, and to make any changes or suspensions as needed.

In accordance with the Electronic Signatures in Global and National Commerce (ESIGN) Act, all instructions or requests provided to IBMSECU via Online Banking with your User Name and Password will be deemed to be written instructions, with the same effect as written instructions provided to the Credit Union on paper and signed by you. By registering for the Online Banking service, you have provided your consent, and have demonstrated your ability, to receive electronic documents. You acknowledge receipt of, and agree to the terms and conditions of the disclosures, fees schedules and agreements associated with any and all accounts and services that you process through the Online Banking system. If you ask us to make periodic transfers or payments at regular intervals, that request will have the same effect as written instructions to us signed by you. We reserve the right to require an actual, physically-signed application, and the supporting documentation and identification, for any new or additional accounts opened via Online Banking.

## SYSTEM AVAILABILITY

You may access your account information through Online Banking 24 hours a day, seven (7) days a week, except for interruptions due to maintenance or matters beyond IBMSECU’s control.

## DAILY PROCESSING DEADLINES

IBMSECU’s business days are Monday through Friday (“Business Days”). Saturday, Sunday and Federal holidays are not considered Business Days. Online Banking transactions, such as funds transfers, that occur before our daily Online Banking cutoff time on Business Days will be reflected in your transaction history the following Business Day. Online Banking transactions, such as funds transfers, that occur after our daily Online Banking cutoff time on Business Days or all day Saturday, Sunday, and Federal holidays will be reflected in your transaction history on the second Business Day. Transactions that have occurred and that are not yet reflected in your account history may affect your available balance. In addition, the amount of such transactions may appear in the available balance fields in Online Banking.

## TRANSFERS

**Internal:** You may transfer funds to your loan here at IBMSECU or between your Savings, Checking, and Money Market accounts. Money Markets are regulated to only three (3) electronic transfers per month on debits. You will be able to make funds transfers that are effective when you complete the transfer online, schedule future-dated transfers, and establish recurring transfers. The available balance in the account from which the withdrawal for the transfer will be made (FROM account) and the available balance in the account to which the transfer will be credited (TO account) will be updated as soon as the transfer is complete. The maximum dollar limit on any transfer is equal to the available balance in your account from which the transfer is being made (FROM account), including the available balance in any other account being debited that is associated with the account, at the time the transfer is completed by the Credit Union. The transfer amount cannot exceed the available balance in the FROM account.

**External:** You will also be able to transfer funds to another financial institution in the United States (U.S.), and only to a savings or checking account (wire funds remittance transfers not included). You will also be able to bring in money from your savings or checking account at another U.S. financial institution, to your savings or checking account here at IBMSECU. The maximum dollar limit you will be able to transfer to or from another financial institution will be up to \$5,000.00 per day and within the monthly transaction limit if no more than twenty-five (25) transaction(s), not to exceed an aggregate total of \$20,000.00 per month or the amount equal to the available balance in your account from which the transfer is being made (FROM account), including the available balance in any other account being debited. Transfers made to and from another financial institution will appear in the account within three (3) Business Days from the date you have completed the transfer. Transfers completed to and from another financial institution on Saturdays, Sundays, Holidays and after Business hours will be processed the following Business Day by the Credit Union and appear in the account within two (2) business days from the date it was completed by the Credit Union. You will need to use your Bill Pay or Online Banking to pay your other bills such as utilities, credit cards, or any other merchants. No International Transfers will be allowed.

## **OUR RIGHT TO DELAY OR REJECT TRANSACTIONS**

Even though you may request a transaction it may be delayed or IBMSECU may reject the transaction without liability, if:

1. the request is untimely, incomplete, inaccurate or ambiguous in any respect;
2. the requested transaction may exceed either the collected and available funds on deposit in designated account, together with the credit limit on an overdraft line of credit you may have established in connection with the particular account (excluding any Overdraft Privilege service you may have);
3. the requested transaction is either not authenticated to the Credit Union's sole satisfaction, or the Credit Union believes such request may not have been authorized by you;
4. the requested transaction would cause the Credit Union to violate a law, regulation or a government guideline or program;
5. the requested transaction is not in accordance with any other requirement stated in this Agreement, or is objectionable to the Credit Union for any other reason, in the Credit Union's sole discretion;
6. the Credit Union's system was not working properly and you knew about the breakdown when you started to submit the transaction;
7. circumstances beyond our control (such as fire, flood, mechanical or electrical failure) prevent the transaction, despite reasonable precautions we have taken; or
8. if the Credit Union reasonably believes completing such transaction would result in the Credit Union's exposure to liability or risk beyond that contemplated by this Agreement. The Credit Union may treat such requested transaction as though it had not been received. In the event a transaction is rejected by the Credit Union, for any reason, it shall be your responsibility to remake the transaction.

## **RESTRICTIONS ON TRANSFERS FROM SAVINGS AND MONEY MARKET ACCOUNTS**

There are certain restrictions on transfers or withdrawals you may make out of a Savings or Money Market account. Please refer to your Membership or Business Disclosure for details.

## **FEES AND CHARGES**

Many of the Online Banking services are provided free of charge. Some account services requested through Online Banking may require payment of a fee. Refer to the Membership or Business Account Fee Schedules available on our website at [ibmsecurg.org](http://ibmsecurg.org) for a complete listing of fees. Fees will be charged to the account for which the service has been provided, unless otherwise stated. Fees and the services to which they apply are subject to change from time to time at IBMSECU's discretion.

## **STOP PAYMENTS**

This section refers to your ability to stop payment on a check that you have written. It does not allow you to cancel a bill payment or other electronic payment. Once a bill payment has been debited from your account and paid electronically, you cannot cancel or stop the bill payment. Stop payments for an Automated Clearing House (ACH) transaction must be processed with a signed Stop Payment Order form, and not via Online Banking.

For a stop-payment order to be effective, we must receive the request in time to give us reasonable opportunity to act on it. To place a stop payment order via Online Banking, the account number and check number are required. To request a stop payment without this required information, contact 800-873-5100 or 561-982-4700. Unless your request is complete and accurate, we may be unable to identify the item subject to your request.

A stop-payment order may be made and will be honored when made by the maker of the check or any other account owner who has withdrawal rights at least equal to the rights of the maker of the check. Stop payment orders placed using Online Banking are considered written stop payment orders. We reserve the right to require an actual, physically-signed written stop payment order at any time.

Written stop payment orders are effective for six (6) months and may be renewed in writing for an additional six (6) months only by one of the following methods:

1. Use Message Center to request that we extend the Stop Payment period for an additional six (6) months. The request must include the check number and the account number on which the check was written.
2. Complete a Stop Payment Order form from our website at [ibmsecurg.org](http://ibmsecurg.org) and fax it to 561-982-4776.

3. Send us a letter requesting that we extend the Stop Payment period for an additional six (6) months. The request must include the check number and the account number on which the check was written. The letter must be faxed to 561-982-4776 or mailed to:

IBMSECU  
P. O. Box 5090  
Boca Raton, FL 33431-0890

You may check the Stop Payment history screen in Online Banking to verify the Stop Payment orders placed on your account.

4. You agree to hold IBMSECU harmless for the amount of the stop payment as well as for all expenses and costs, including attorney's fees, and charges from other financial institutions or companies, that are incurred by the Credit Union through refusing payment of the check on which a stop payment has been placed. You further agree to hold IBMSECU free of all liability should payment be made contrary to this request, if such payments occur through inadvertence or accident.

### **CANCELING A STOP PAYMENT**

A stop payment order placed using Online Banking may only be cancelled by one of the following methods:

1. Send us a notice using Message Center and include the account number the check was written against and the check number, and the following, if known: check amount, date check written and Payee name.
2. Send us a letter including the account number the check was written against and the check number. Also identify the following, if known: the check amount, date check written and Payee name. The letter should be faxed to 561-982-4776 or mailed to:

IBMSECU  
P. O. Box 5090  
Boca Raton, FL 33431-0890

Or

3. Visit an IBMSECU branch

A stop payment order will be released only upon request from the account owner who authorized the stop payment to be placed.

### **MONTHLY STATEMENTS**

IBMSECU will mail or deliver to you monthly account statements for your Credit Union account(s). The Credit Union will include any transfers or bill payments you authorize through Online Banking on your statement. You should promptly notify the Credit Union of any discrepancies, including but not limited to, any errors or inaccuracies related to data transmitted by any online service. Unless provided otherwise by law, if you do not notify us of any errors within a reasonable period of time (not to exceed fourteen (14) days), after we send or make available to you your statement and/or items, you cannot assert the unauthorized signature or alteration against us even if we are unable to show a loss due to your failure. Also, you cannot assert any unauthorized signatures or alterations by the same wrongdoer on items paid by us after the reasonable time mentioned above elapses and before we receive your notice. We lose these protections if we fail to exercise ordinary care in paying an item with an unauthorized signature or alteration. However, if you do not notify us of the problem within sixty (60) days of when we send or make available to you the statement and/or items, you absolutely forfeit any right(s) to assert a claim against us. You must report any other account problem (e.g., erroneous statement or passbook entry, missing signature, unauthorized endorsement, etc.) within a sixty (60) day period or lose your right to assert claim against us.

In addition to your monthly statements, IBMSECU will mail or deliver to you other important documents and tax forms; such as a Change in Terms Notice, Certificate Maturity Notice, or Internal Revenue Service (IRS) 1099-INT Interest Income statement.

### **DISCLOSURE OF INFORMATION TO THIRD PARTIES**

We will disclose information to third parties about your account or the transactions that you make:

1. Where it is necessary to complete authorized transactions;
2. Where it is necessary to activate additional services;
3. In order to verify the existence and condition of your account for a third party, such as a credit bureau;
4. To a consumer reporting agency;
5. In order to comply with a government agency or court orders;
6. If you give us your written permission.

Refer to our Privacy Disclosure for details on your rights to confidentiality and opt-out choices for IBMSECU and its non-affiliated third-party service providers.

## **ADDRESS OR BANKING CHANGES**

It is solely your responsibility to ensure that the contact information in your user profile is current and accurate. This includes, but is not limited to, name, address, phone numbers and email addresses. Changes can be made either by using Online Banking or by contacting Member Services. If you are enrolled in the Bill Pay, any changes should also be made in accordance with the procedures outlined in the Online Banking Help files. We shall have a reasonable time to act on such changes. IBMSECU is not responsible for any payment processing errors or fees incurred if you do not provide accurate information.

## **YOUR LIABILITY FOR UNAUTHORIZED ELECTRONIC FUNDS TRANSFERS AND ERROR RESOLUTION**

Consumer and Business users, please refer to the Electronic Funds Transfer (EFT) Agreement located in our Membership and Business Disclosures available on our website at [ibmsecuri.org](http://ibmsecuri.org).

## **CHANGES TO AGREEMENT**

We may, in our sole discretion, change Online Banking services and the terms, including fees, set forth in this Agreement at any time. For example, we may add, delete or amend terms or services, add or change fees, or change or limit the types of accounts accessible by Online Banking. You will be notified of any such change as required by applicable law, either by mail or by Message Center. You understand that by your continued use of the Online Banking service after a change becomes effective, you have agreed to the change.

## **ELECTRONIC MAIL (EMAIL) AND MESSAGING**

Although you may currently have email capabilities, it is important to remember that normal Internet email transmissions may not be secure. You agree to contact us electronically only through Message Center within Online Banking if your correspondence contains confidential information, such as an account number or social security number. You also agree to receive communications regarding your account electronically and will not attempt to circumvent receiving any messages. It is your responsibility to notify us immediately if your email addresses change. You are deemed to have received any electronic messages at the time we send them to you.

We may not immediately receive email (including Message Center) that you send. You must confirm urgent messages by completing a telephone call to us at the number below. We will have a reasonable opportunity to act on your email requests.

### **You cannot use email for the following purposes:**

1. To report unauthorized use of User Name and Password (see “*Your Liability for Unauthorized Electronic Funds Transfers and Error Resolution*”).
2. To report an unauthorized transaction See the “*Notices*” section regarding how to report these matters.

## **NOTICES**

Any notices to us, unless otherwise stated in this Agreement, must be in writing and shall be deemed to have been given or made on the date of delivery, in the case of hand delivery, or five (5) business days after deposit in the United States (U.S.) mail, postage prepaid and addressed as required in this Agreement.

If you:

1. believe that any error has been made with respect to Online Banking,
2. dispute any transfer, payment, charge or other entry involving Online Banking, or
3. believe any security problem exists (including the fact or possibility that any unauthorized person has access to your User Name, password or other security procedures or otherwise has access to Online Banking), then you must promptly notify us by telephone, by calling 561-982-4700 or 1-800-873-5100 and confirm such communication by written notice.

We shall not be deemed to have received notice until it has been given written notice as provided herein, but telephonic notice may enable us to act to prevent or limit loss to you that may otherwise occur. Although you will have the ability to transmit electronic mail directly to us using Message Center, no communication through that system or other electronic communication shall be deemed to constitute written notice to us of an error, dispute or security problem.

## **COMMUNICATIONS BETWEEN YOU AND IBM SOUTHEAST EMPLOYEES’ CREDIT UNION**

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

1. Message Center: Use the Messaging feature in Online Banking.
2. Telephone: you can contact us by telephone at 800-873-5100 or 561-982-4700.
3. Fax: you can fax documents to us at 561-226-5415.
4. Mail: you can write to us at IBMSECU, P. O. Box 5090, Boca Raton, FL 33431-0890.
5. In Person: you may visit us in person at any one of our branch locations.

## **INDEMNIFICATION; LIMITATIONS ON CREDIT UNIONS LIABILITY**

IBMSECU will not be responsible for, and you expressly agree to indemnify, defend, and to hold the Credit Union, its affiliates, service providers, contractors and all of their directors, officers, employees, contractors, and agents harmless from, every claim, damage, loss, delay, cost (including, without limitation, attorney's fees) or liability which arises, directly or indirectly, in whole or in part, from:

1. your actions or omissions, or those of third parties;
2. your negligence or breach of any agreement with the Credit Union;
3. lack of available funds in your account;
4. any ambiguity, inaccuracy, or omission in any information provided to the Credit Union;
5. any error, failure or delay due to a breakdown in any computer or communications facility;
6. accidents, strikes, labor disputes, civil unrest, fire, flood, water damage (e.g., from fire suppression systems), war, emergency conditions, or other natural disasters;
7. causes beyond the Credit Union's reasonable control;
8. legal constraint,
9. the Credit Union's inability to confirm to us the authority of any person to act on your behalf;
10. the Credit Union honoring or acting upon any instructions received in accordance with the security procedures or otherwise in accordance with your instructions or the terms of this Agreement;
11. the Credit Union failing or refusing to honor or act upon any instructions received that are not in accordance with the security procedures, any user guides or the Credit Union's instructions;
12. any warranty that the Credit Union is required or deemed to make to a third party in connection with your transactions; and
13. your failure to comply with the National Automated Clearing House Association (NACHA) Electronic Payments Association rules or the rules of any clearing house or payment organization that processes its transactions.

Neither IBMSECU, nor its affiliates, service providers, contractors nor any of their directors, officers, employees, contractors, and agents shall be responsible under any circumstances for special, indirect, or consequential damages which you incur as a result of any of their actions or omissions, even if the Credit Union is aware of the possibility for such damages and regardless of the legal or equitable theory of liability asserted, including, without limitation, loss or damage from subsequent wrongful dishonor resulting from the Credit Union's acts or omissions pursuant to this Agreement.

IBMSECU will use reasonable efforts to provide the Online Banking services in a prompt fashion, but shall not be liable for temporary failure to provide in a timely fashion. In such event, you will be responsible for carrying out business through alternative delivery channels. The Credit Union will not be liable for any inaccurate or incomplete information with respect to transactions that have not been completely processed or posted to the Credit Union's systems prior to being made available within Online Banking. Information provided via Online Banking with respect to all transactions is provided for your convenience and you shall have no recourse to the Credit Union as to your use of this information.

Unless otherwise required by law, any claim, action or proceeding by you to enforce the terms of this Agreement must be commenced within one (1) year from the date that the event giving rise to the claim, action or proceeding first occurs. You agree to cooperate with IBMSECU in any loss recovery efforts the Credit Union may, in its discretion, undertake to reduce any loss or liability that arises in connection with the Online Banking services.

These limitations will apply to all causes of action, whether arising from breach of contract, tort (including negligence) or any other legal theory. Some states do not allow the exclusion or limitation of incidental or consequential damages so the above limitation or exclusion may not apply to you.

You acknowledge that IBMSECU's fees have been established in contemplation of:

1. these limitations on the Credit Union's liability;
2. your agreement to review statements, emails, and notices promptly and to notify the Credit Union immediately of any discrepancies or problems; and
3. your agreement to assist the Credit Union in any loss recovery effort. In no event shall the liability of the Credit Union and its affiliates exceed the average monthly amounts paid by you for the services provided to you through Online Banking in the year preceding any claim you make against us.

THE FOREGOING SHALL CONSTITUTE **IBM SOUTHEAST EMPLOYEES' CREDIT UNION'S** ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY. IN NO EVENT SHALL THE CREDIT UNION BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE EQUIPMENT, SOFTWARE, AND/OR THE SERVICE.

## **DISCLAIMER OF WARRANTY**

ONLINE BANKING SERVICES PROVIDED TO YOU UNDER THIS AGREEMENT AND RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN

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Use of this site is subject to express terms of use, which prohibit commercial use of this site. | By continuing past this page, you agree to abide by these terms.

PARTICULAR, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ANY PART OF OUR SERVICE, AND OPERATION OF OUR SITE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL.

### **RECORDING AND USE OF COMMUNICATIONS**

You and IBMSECU agree that all telephone conversations and data transmissions between you and the Credit Union or either of our agents made in connection with this Agreement may be electronically recorded and retained by either party by use of any reasonable means and for any lawful purpose. All recordings and discs, magnetic tapes, security reports and related media and records used by the Credit Union for transactions contemplated by this Agreement shall remain the Credit Union's property.

### **CALLS TO YOU**

By providing us with a telephone number (including a wireless/cellular telephone), you consent to receiving autodialed and prerecorded message calls from us at that number for marketing and non-marketing purposes.

### **GOVERNING LAW**

This Agreement shall be governed by the laws of the state in which the main office of IBMSECU which maintains your account is located and, where applicable, by federal law. Any issue relating to an account or service with the Credit Union shall be governed by the law(s) specified in the agreement for that account or service if there is a separate agreement for that account or service. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

### **WAIVER OF JURY TRIAL**

Where permitted by law, both parties agree to waive any right to have a jury participate in the resolution of any dispute or claim between the parties or any of their respective Affiliates arising under this Agreement. IBMSECU reserves the right to select the arbitrator who will handle any disputes arising from this Agreement.

### **RELATED AGREEMENTS**

All rules and regulations outlined in your account agreements apply to Online Banking. State and federal law, including the Uniform Commercial Code (UCC), and regulations of the Federal Reserve System, other regulatory agencies and clearinghouse associations, regulate much of our relationship with you. These laws and regulations, as well as the terms of the Agreement may change from time to time without notice to you unless law requires notice. The Electronic Funds Transfer Act governs some of the transactions permitted under this Agreement, and some terms and conditions included in the Agreement are required by this Act.

In addition, certain agreements and documents govern the accounts you access through Online Banking, as they are amended from time to time, including, but not limited to the following:

1. Membership Agreement;
2. Business Account Agreement;
3. Any agreement you may have for a loan that may be accessed through Online Banking.

### **NEW SERVICES**

We, in our sole discretion, may add or change services or features of the Online Banking service at any time. We will update this Agreement to notify you of these new services. If you continue to use Online Banking, you agree to be bound by the terms contained in the revised Agreement.

### **TERMINATION OF AGREEMENT**

You may cancel Online Banking at any time. We reserve the right to terminate Online Banking immediately and without notice:

- 1) in the event of improper use of such service,
- 2) in the event of a failure to comply with the security procedures, or
- 3) if all of your eligible accounts have been closed for ninety (90) or more days.

We may terminate this Agreement with or without cause by providing written notice of such termination to you. Any termination of this Agreement shall not affect any of Banks rights and your obligations with respect to Online Banking utilized by you, or your payment obligations with respect to services performed by us, or any other obligations that survive termination of this Agreement. Termination of this Agreement will not affect or terminate agreements governing your accounts with IBMSECU. Any improper, illegal or unlawful use of this service, or if you have been negligent or have engaged in fraud, may result in the termination or restriction of this service, in addition to civil or criminal prosecution.



## **CANCELLATION OF ONLINE BANKING SERVICE**

To cancel your Online Banking Service use Message Center or send us written notification, with your signature, to:

IBMSECU  
P. O. Box 5090  
Boca Raton, FL 33431-0890

Such termination shall only be effective after we have had a reasonable amount of time to act upon the request or the written notice of such termination or such later date as is specified in that notice.

## **SURVIVAL**

The sections entitled “*Indemnification; Limitations on Banks Liability*” and “*Disclaimer of Warranty and limitation of Liability*” shall survive termination of this Agreement.

## **SEVERABILITY**

If any provision of this Agreement is found to be unenforceable according to its terms, all remaining provisions will continue in full force and effect.

## **ASSIGNMENT**

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

## **NO WAIVER**

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

## **CAPTIONS**

The captions of sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

## **ENTIRE AGREEMENT**

This Agreement (including the Supplements found elsewhere in Online Banking, as the same may be amended from time to time), is the complete agreement between you and us with respect to the subject matter hereof and supersedes any prior agreements, statements, negotiations and understandings between you and us with respect to such subject matter. In the event of any inconsistency between the terms of this Agreement and any agreement governing an account of yours, the terms of this Agreement shall govern. In the event performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which IBMSECU is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and we shall incur no liability to you as a result of such violation or amendment. No course of dealing between you and us will constitute a modification of this Agreement or the security procedures utilized in connection with Online Banking or constitute an agreement between you and us.

## **BINDING AGREEMENT; BENEFIT**

This Agreement shall be binding upon and inure to the benefit of you and us and our respective legal representatives, successors and assigns. This Agreement is not for the benefit of any other person, and no other person shall have any right against you or us hereunder.

## **MISCELLANEOUS**

You agree that this Agreement is the complete and exclusive statement of the agreement between you and IBMSECU which supersedes any proposal or prior agreement, oral or written, and any other communications between you and the Credit Union relating to the subject matter of this Agreement. If there is a conflict between what an employee of the Credit Union says and the terms of this Agreement, the terms of this Agreement will prevail. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. The captions of sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.