

MOBILE PAYMENT SERVICE USER AGREEMENT

USER AGREEMENT

These are the Terms and Conditions of the Mobile Payment Service (herein referred to as Mobile Payment Banking) for the IBM Southeast Employees' Credit Union (herein referred to as IBMSECU) consumer and business account holders. By registering your IBMSECU Visa® credit or debit card on your mobile device for mobile payment digital wallet service, you agree to the terms of this Agreement and those of our non-affiliated third-party providers. 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 registering their IBMSECU credit or debit card for Mobile Payment Banking, and to each person who uses Mobile Payment Banking with the permission of the registrant.

MOBILE EQUIPMENT AND INTERNET USE

You are solely responsible for the maintenance, installation and operation of your mobile device, and for the hardware and software used in accessing Mobile Payment Banking. IBMSECU shall not be responsible for any errors, deletions, or failures that occur as a result of any malfunction of your mobile device or software, nor will the Credit Union be responsible for any virus that affects your mobile device or the software while using Mobile Payment 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 mobile device 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 mobile device may corrupt and destroy your programs, files and even your hardware. Any costs or fees to obtain these services or software are solely your responsibility.

SERVICE RESTRICTIONS

The restrictions and daily processing deadlines for Mobile Payment Banking are determined by the funds availability and transaction limitations of the credit or debit card enrolled in the service. For more information, refer to your Credit Card Agreement or Membership Disclosure.

SECURITY

IBMSECU is committed to protecting the security and confidentiality of your account information. You agree to the following and you agree to ensure that your authorized Mobile Payment Banking users comply with the following:

1. Never leave your mobile device unattended while using Mobile Payment 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, if you suspect unauthorized access.

In the event your enrolled mobile device is lost or stolen, or if your confidential information is compromised, you agree to immediately update your enrollment information and make the appropriate changes to disable the use of the device, and to notify the Credit Union of any unauthorized transactions or other issues at 800.873.5100 or serviceplus@ibmsecu.org. If you fail to promptly notify the Credit Union or abide by the terms and conditions of the service, you may be held liable for any unauthorized activity. You further acknowledge and expressly agree, that you will indemnify, defend and hold the Credit Union harmless from and against any and all actions, including any violations of our policies by your negligence or improper use of the service.

ACCOUNT AND OTHER ELIGIBILITY REQUIREMENTS

To register your credit or debit card for Mobile Payment 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.

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 Mobile Payment Banking. Mobile Payment 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.

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.

FEES AND CHARGES

Mobile Payment Banking is a no cost service for IBMSECU Members, however check with your wireless carrier regarding charges for web-enabled services. You agree that by your use of this service you are responsible for all fees, charges, limitations, and/or restrictions that your wireless service providers and/or wireless carriers may assess. Ancillary fees and charges may be assessed from your credit or debit card enrolled in the service in accordance with your Credit Card Agreement or Membership Disclosure. Refer to your Credit Card Disclosure or Membership Fee Schedule for details.

MONTHLY STATEMENTS

IBMSECU will mail or deliver to you monthly account statements for your Credit Union account(s). The Credit Union will include any debit or credit transactions you authorize through Mobile Payment 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.

YOUR LIABILITY FOR UNAUTHORIZED TRANSACTIONS AND ERROR RESOLUTION

You are responsible for reviewing your monthly statement to determine if there are any errors or unauthorized transactions, and for alerting us of such events, in accordance with the Membership and Business Disclosures available on our website at ibmsecu.org. You should review these disclosures to understand certain rights you may have.

CHANGES TO AGREEMENT

We may, in our sole discretion, change Mobile Payment 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 cards eligible for Mobile Payment 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 Mobile Payment Banking service after a change becomes effective, you have agreed to the change.

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 mail, postage prepaid and addressed as required in this Agreement. If you:

1. Believe that any error has been made with respect to Mobile Payment Banking;
2. Dispute any transfer, payment, charge or other entry involving Mobile Payment Banking; or
3. Believe any security problem exists (including the fact or possibility that any unauthorized person has access to your mobile device), then you must promptly notify us by telephone, by calling 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 IBMSECU

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

1. Telephone: you can contact us by telephone at 800-873-5100.
2. Email: you can contact us by email at serviceplus@ibmseu.org.
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.

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 Mobile Payment 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 IBMSECU'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 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 text messages, and 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 Mobile Payment 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 Mobile Payment 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 card that may be accessed through Mobile Payment Banking.

NEW SERVICES

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

TERMINATION OF AGREEMENT

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 Mobile Payment 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.

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.