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Attorneys for Defendant OnPoint Community Credit Union

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

CINDY ADKINS [sic], TIMOTHY SOUTH,
and PAITON CAMPBELL, individually and on
behalf of all other similarly situated,

Plaintiff,

v.

ONPOINT COMMUNITY CREDIT UNION,

Defendant.

Case No. 3:21-cv-00567

NOTICE OF REMOVAL

Defendant OnPoint Community Credit Union (“OnPoint”) removes this case, originally filed in the Circuit Court of the State of Oregon for the County of Multnomah, to the United States District Court for the District of Oregon at Portland. OnPoint removes this case under 28 U.S.C. §§ 1331, 1332, 1334, 1441, 1452, and 1446, on the grounds described below.¹

¹ OnPoint expressly preserves all Rule 12(h) objections. *See* Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1395 (3d ed. 2004) (“When a defendant removes an action from a state court in which he has been sued, he consents to nothing and ‘waives’ nothing; he is exercising a

I. STATEMENT OF FACTS

1. On March 16, 2021, Plaintiffs Cindy Adkins [sic], Timothy South, and Paiton Campbell (“Plaintiffs”) served a Summons including a Complaint styled *Cindy Adkins, Timothy South, and Paiton Campbell, individually and on behalf of all other [sic] similarly situated v. OnPoint Community Credit Union* (the “State Court Action”). On approximately April 2, 2021, OnPoint received a copy of the First Amended Complaint (“FAC”), though the FAC has not been filed in the State Court Action. Copies of the Summons, Complaint, and FAC are attached hereto as **Exhibit 1**.

2. OnPoint is entitled to remove this action under 28 U.S.C. § 1441 because—despite Plaintiffs’ efforts to disguise the nature of their claims—the State Court Action is a civil action “arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331; *Bright v. Bechtel Petroleum, Inc.*, 780 F.2d 766, 769 (9th Cir. 1986) (“A plaintiff will not be allowed to conceal the true nature of a complaint through ‘artful pleading.’”).

3. OnPoint is also entitled to remove this action under diversity jurisdiction, 28 U.S.C. 1332(d)(2), because this case is brought as a putative class action involving more than 100 potential class members, at least one Plaintiff is diverse from OnPoint (*see* FAC ¶ 6), and the amount in controversy exceeds \$5 million.

4. OnPoint is also entitled to remove this action under 28 U.S.C. §§ 1334 and 1452, because the State Court Action is related to the bankruptcy case pending in the United States Bankruptcy Court for the District of Oregon, *In re Campbell*, Case No. 21-30543-pcm13 (the “Active Bankruptcy Case”). The State Court action is also related to the Bankruptcy estate and discharge of Plaintiff Atkins in the United States Bankruptcy Court for the District of Oregon, *In re Atkins*, 16-31931-tmb13 (Bankr. D. Or. June 12, 2020).

privilege unconditionally conferred by statute, and, since the district court to which he must remove it is fixed by law, he has no choice, without which there can be no ‘waiver.’”).

II. FEDERAL JURISDICTION EXISTS FOR SEVERAL REASONS

5. “To remove a case from a state court to a federal court, a defendant must file in the federal forum a notice of removal ‘containing a short and plain statement of the grounds for removal.’” *Dart Cherokee Basin Operating Co. v. Owen*, 135 S. Ct. 547, 552 (2014). “A statement ‘short and plain’ need not contain evidentiary submissions.” *Id.*

A. The FAC Arises Under Federal Law

6. “An action may arise under a law of the United States if the plaintiff’s right to relief necessarily turns on the construction of federal law.” *Bright*, 780 F.2d at 769. The claims in Plaintiffs’ FAC all arise under federal law because they necessarily turn on the construction and application of 12 C.F.R. § 205, otherwise known as “Regulation E,” which implements provisions of the federal Electronic Funds Transfer Act, 15 U.S.C. § 1693 *et seq.*, and the Truth in Savings Act, 12 USC §§ 4301 *et seq.*, and its implementing regulations, which require financial institutions and ATM operators to make certain disclosures in connection with ATM withdrawals and electronic funds transfers (and fees associated with those actions).

7. Plaintiffs are or were members of defendant OnPoint, FAC ¶¶ 4-6, and allege contract and Unfair Trade Practices Act (“UTPA”), ORS 646.608, claims based on OnPoint’s alleged practice of charging NSF fees on purportedly unauthorized payment requests and balance-inquiry fees at out-of-network ATMs when combined with withdrawals and withdrawal fees. *See* FAC ¶¶ 11, 92.

8. As detailed in the State Court Action, the underpinnings of Plaintiffs’ claims necessarily raise federal questions. For example, Plaintiffs allege as a basis for their claims that they need not comply with federal Regulation E’s duty to contact OnPoint within 60 days to challenge unauthorized electronic transfers (or errors appearing on monthly statements), while simultaneously basing their claims on allegedly unauthorized transfer attempts, transfers, and fees identified on statements. *Compare* 15 U.S.C. § 1693(f)(1); 12 C.F.R. 205.11(a)(1)(ii) and

(iv), with FAC ¶¶ 60-62 (no duty to report “errors”), ¶¶ 17, 18, 26, 31, 48, 52, 56-57 (unauthorized electronic funds transfer requests and transfers processed by OnPoint).

9. Plaintiffs allege that their claims are based on the fact that “*federal law requires*” ATM operators to “inform users of the amount of the usage fees,” *id.* ¶ 70 (citing 15 U.S.C. § 1693b(d)(3)), and that OnPoint’s alleged “scheme to assess OON fees” is based on those federally required disclosures made to consumers at ATMs. *See* FAC ¶ 75. Plaintiffs allege that “as a result of” the “ATM screen[‘s]” failure to “disclose that a balance inquiry alone will incur a usage fee”—which is a disclosure controlled by “federal law”—that OnPoint is liable. *Id.* ¶¶ 75-76, 70. Plaintiffs likewise challenge OnPoint’s disclosures as to ATM fees, *id.* ¶ 77, which are mandated by the federal Truth in Savings Act. 12 C.F.R. 1030.4(b)(4).

10. Plaintiffs summarize their claims by alleging that “[a]gainst the backdrop of reasonable consumer expectations *and federal law [cited] above,*” OnPoint breaches its contracts with members. FAC ¶ 80 (emphasis added). Plaintiffs based their ATM-fee contract and UTPA claims on the “Electronic Funds Transfer” disclosures required under federal law (the Electronic Funds Transfer Act). *Id.* ¶ 84.

11. Each of Plaintiffs’ claims necessarily rely on the construction and application of the federal Electronic Funds Transfer Act (and Regulation E) and the federal Truth in Savings Act (and Regulation DD). Because Plaintiffs’ “right to relief necessarily turns on the construction of federal law.” *Bright*, 780 F.2d at 769, Plaintiffs’ claims arise under federal law.

B. The Claims Are Related to Bankruptcy Proceedings.

12. This Court has jurisdiction over “all civil proceedings arising under title 11, or arising in or related to cases under title 11.” 28 U.S.C. § 1334(b). An action is “related to” a bankruptcy proceeding if “the outcome of the proceeding could conceivably have an[] effect on the estate being administered in bankruptcy, alter the debtor’s rights, liabilities, options, or freedom of action (either positively or negatively) [or] ... in any way impact[] upon the handling and administration of the bankrupt estate.” *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988).

13. The State Court Action involves claims brought by Plaintiff Campbell, who filed for bankruptcy in March 2021, and those claims thus belong to her bankruptcy estate and are therefore related to the Active Bankruptcy Case. Thus, this Court has jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1334(b).

14. Likewise, the State Court Action involves claims brought by Plaintiff Atkins, which arose before her separate bankruptcy proceeding initiated in 2016, and which resulted in a discharge in June 2020. *In re Atkins*, 16-31931-tmb13 (Bankr. D. Or. June 12, 2020); *see also* FAC ¶¶ 46-48 (alleging improper fees assessed in January 2015). Any claims Ms. Atkins had before her discharge belonged to her bankruptcy estate and thus were related to her bankruptcy proceedings (subject to re-opening).

15. Under 28 U.S.C. § 1452(a), removal to the United States District Court for the District of Oregon is proper because § 1452(a) provides that a “party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.”

16. The State Court Action is not a core proceeding. 28 U.S.C. § 157(a)(2). OnPoint does not consent to entry of final orders and judgment by the Bankruptcy Court. Fed. R. Bankr. P. 9027(a)(1).

C. This Court Has Diversity Jurisdiction Under 12 U.S.C. 1332(d).

17. This Court also has jurisdiction under 12 U.S.C. 1332(d) because this case is brought as a putative class action with more than 100 potential members, at least one class member (Plaintiff Campbell) is diverse from Defendant OnPoint, *see* FAC ¶¶ 6-7, and the amount in controversy—without conceding the merits of the claims—exceeds \$5 million. As a result, this Court “has original jurisdiction.” 28 U.S.C. § 1332(d)(2). *See also Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1023 (9th Cir. 2007).

III. REMOVAL IS TIMELY

18. Defendant received copies of the Summons and Complaint on March 16, 2021. Removal is therefore timely. 28 U.S.C. § 1446(b)(1); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354-56 (1999) (“[I]f the summons and complaint are served together, the 30–day period for removal runs at once.”).

IV. INTRADISTRICT ASSIGNMENT

19. OnPoint properly removes this action to the Portland Division of the District of Oregon. Under L.R. 3-2(a)(1), cases where the claims arose in Multnomah County are properly removed to Portland and plaintiffs allege Multnomah County is the appropriate venue. FAC ¶ 8. Defendant has therefore properly removed this case to the Portland Division. *See* L.R. 3-2(a)(1).

V. DEFENDANT SATISFIED THE REMAINING PROCEDURAL REQUIREMENTS

20. The United States District Court for the District of Oregon is the federal judicial district embracing the superior courts of Multnomah County, where Plaintiffs filed the State Court Action. 28 U.S.C. § 117.

21. Copies of the Summons, Complaint, and FAC received by OnPoint are attached as Exhibit 1.

22. Promptly after filing this Notice of Removal, Defendant will give written notice to Plaintiffs’ counsel and will submit a copy of this Notice with the Clerk of the Multnomah County Circuit Court as required under 28 U.S.C. § 1446(d).

23. OnPoint therefore gives notice that the above-entitled action is removed to the United States District Court for the District of Oregon at Portland.

DATED this 15th day of April, 2021.

DAVIS WRIGHT TREMAINE LLP

By s/ Tim Cunningham

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Tim Cunningham, OSB #100906

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Of Attorneys for Defendant

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF MULTNOMAH**

CINDY ADKINS, TIMOTHY SOUTH, and PAITON
CAMPBELL, individually and on behalf of all other similarly
situated,

Plaintiff,

vs.

ONPOINT COMMUNITY CREDIT UNION,

Defendant.

Case No. 21CV06289

SUMMONS

To: OnPoint Community Credit Union, Defendant
c/o Rob Stuart, CEO/President
2701 NW Vaughn St
Portland OR 97210

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney, or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636

/s/ David F. Sugerman
SIGNATURE OF ATTORNEY/AUTHOR FOR PLAINTIFF

David F. Sugerman 86298
ATTORNEY'S NAME BAR NO.

707 SW Washington St, Suite 600
ADDRESS

Portland OR 97205 503-228-6474
CITY STATE ZIP PHONE

STATE OF OREGON, County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

/s/ David F. Sugerman
ATTORNEY OF RECORD FOR PLAINTIFF

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(s) to whom or which this summons is directed, and to make your proof of service on the attached page or a separate similar document which you shall attach hereto.

/s/ David F. Sugerman
ATTORNEY FOR PLAINTIFF

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
IN AND FOR THE COUNTY OF MULTNOMAH

CINDY ADKINS, TIMOTHY SOUTH,)
and PAITON CAMPBELL, individually)
and on behalf of all other similarly situated,)

Plaintiff,

v.

ONPOINT COMMUNITY)
CREDIT UNION)

Defendant.)

Case No.

CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL

BREACH OF CONTRACT; BREACH OF
COVENANT OF GOOD FAITH AND
FAIR DEALING; UNLAWFUL TRADE
PRACTICES ACT (ORS 646.608)

CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION

Filing fee \$884.00 pursuant to ORS
21.160(1)(d)

1.

Plaintiffs, Cindy Adkins, Timothy South and Paiton Campbell, individually and on behalf of the classes of persons preliminarily defined below (the “Classes”), make the following allegations based upon information and belief, except as to allegations specifically pertaining to Plaintiff, which are based on personal knowledge.

PRELIMINARY STATEMENT

2.

Plaintiffs bring this action against Defendant OnPoint Community Credit Union (“OnPoint” or “Defendant”), arising from its routine practices of (1) assessing and collecting multiple \$30 fees

1 on the same item and (2) assessing two ATM Withdrawal/Inquiry Fees (“OON Fees”) per
2 transaction. The practices at issue in this case breach consumers’ contracts and the covenant of
3 good faith and fair dealing, and violate the Oregon Unlawful Trade Practices Act, ORS 646.605 *et*
4 *seq.* (“UTPA”). Plaintiffs seek injunctive relief. As required by ORCP 32H, plaintiffs have
5 provided notice and demand to OnPoint. Unless OnPoint fully complies with the provisions of
6 ORCP 32I, Plaintiffs will amend to add claims for actual damages and statutory damages.
7

8 **PARTIES**

9 3.

10 Plaintiff Atkins is a citizen and resident of Wilsonville, Oregon and has had a checking account
11 with OnPoint at all times material hereto.

12 4.

13 Plaintiff South is a citizen and resident of Beaverton, Oregon and has had a checking account
14 with OnPoint at all times material hereto.

15 5.

16 Plaintiff Campbell is a citizen and resident of Vancouver, Washington and has had a checking
17 account with OnPoint at all times material hereto.

18 6.

19 OnPoint is the largest credit union in Oregon with its headquarters and principal place of
20 business in Portland, Multnomah County, Oregon. OnPoint has \$4.4 billion in assets and provides
21 banking services to 315,000 members throughout Oregon, including in this County. Among other
22 things, OnPoint is engaged in the business of providing retail banking services to consumers,
23 including Plaintiffs and members of the putative classes.
24
25
26

JURISDICTION AND VENUE

7.

This Court has jurisdiction over this matter and venue is proper because OnPoint is headquartered in Multnomah County and conducts regular, sustained business in Multnomah County.

BACKGROUND FACTS

OnPoint Improperly Charges Two Or More Fees on the Same Item

Overview of Claim

8.

Plaintiffs have OnPoint checking accounts, which are governed by OnPoint’s standardized “Personal Fee Schedule,” attached hereto as Exhibit A (“Fee Schedule”) and the “Membership Account Agreement,” attached hereto as Exhibit B (“Account Agreement”) (collectively, “the Contract”).

9.

The Contract allows OnPoint to take certain steps when paying a check or an electronic item. Specifically, OnPoint may (a) pay the item and charge a *single* \$30 fee; or (b) reject the item and charge a *single* \$30 fee. Ex. A.

10.

In contrast to its account documents, however, OnPoint regularly assesses two or more fees on the *same* item.

11.

Plaintiffs do not dispute Defendant’s right to reject an item and charge a single fee, but OnPoint unlawfully maximizes its already profitable fees by unlawfully assessing *multiple* fees on

1 the same item.

2 12.

3 Unbeknownst to consumers, each time OnPoint reprocesses a check or an electronic
4 payment item, ACH item for payment after it was initially rejected for insufficient funds, OnPoint
5 chooses to treat it as a new and unique item that is subject to yet another fee. But the Contract
6 doesn't allow OnPoint to do so.

7 13.

8
9 The Contract indicates that only a *single* fee will be charged “per item,” however many
10 times that item is reprocessed. Ex. B. An item, whether it be a check or an electronic payment
11 item, reprocessed after an initial return for insufficient funds, especially through no action by the
12 customer, cannot and does not fairly become a new, unique item for fee assessment purposes.

13 14.

14 This abusive practice is not universal in the financial services industry. Indeed, major banks
15 like Chase—the largest consumer bank in the country—do not undertake the practice of charging
16 more than one fee on the same item when it is reprocessed. Instead, Chase charges one fee even if
17 an item is reprocessed for payment multiple times.

18 15.

19 The Contract never authorizes its practice of charging multiple fees on the same item. To
20 the contrary, the Contract indicates it will only charge a single fee on the same item.

21
22 **The Imposition of Multiple Fees on a Single Item Violates Defendant’s Express Promises
23 and Representations**

24 16.

25 The Contract provides the general terms of Plaintiffs’ relationship with OnPoint, and
26 therein OnPoint makes explicit promises and representations regarding how transactions will be

1 processed, as well as when fees may be assessed.

2 17.

3 OnPoint’s Fee Schedule promises that, at most, a single fee may be assessed on each item:

4 Returned Funds Fees

5 NSF Fee (items returned) \$30.00

6 Overdraft Fee (item paid) \$30.00

7 Fee Schedule, Ex. A at 2.

8 18.

9
10 The Contract thus promises that a “fee”—singular—will be assessed on the same item,
11 when in fact OnPoint regularly charges two or more fees on the same item.

12 19.

13 OnPoint’s Account Agreement document reinforces the promise to only assess a single fee
14 on a single item:

15 If we do not pay the overdraft, there is a **NSF/Returned Item fee per check or**
16 **item.**

17 Ex. B at 16 - 17 (emphasis added).

18 20.

19 Taken together, the above promise can only mean that a single fee will be charged on the
20 item.

21 21.

22 The same “item” on an account cannot conceivably become a new one each time it is
23 rejected for payment then reprocessed, especially when—as here—Plaintiffs took no action to
24 resubmit it.
25
26

22.

1
2 There is zero indication anywhere in the account documents that the same “item” is eligible
3 to incur multiple fees.

4
23.

5 Even if OnPoint reprocesses an instruction for payment, it is still the same “item.” Its
6 reprocessing is simply another attempt to effectuate an account holder’s original order or
7 instruction.
8

9
24.

10 The Contract never discusses a circumstance where OnPoint may assess multiple fees for
11 a single check, electronic payment transaction, or ACH transaction that was returned for
12 insufficient funds and later reprocessed one or more times and returned again.

13
25.

14 In sum, OnPoint promises that one \$30 fee will be assessed per item, and this term must
15 mean all iterations of the same instruction for payment. As such, OnPoint breached its contract
16 when it charged more than one fee per item.
17

18
26.

19 Reasonable consumers understand any given authorization for payment to be one, singular
20 “item,” as that term is used in the Contract.
21

22
27.

23 Taken together, the representations and omissions identified above convey to customers
24 that all submissions for payment of the same item will be treated as the same “item,” which
25 Defendant will either authorize (resulting in an overdraft item) or reject (resulting in a returned
26 item) when it decides there are insufficient funds in the account. Nowhere does Defendant disclose

1 that it will treat each reprocessing of a check, electronic payment item, or ACH item as a separate
2 item, subject to additional fees, nor do Defendant’s customers ever agree to such fee practices.

3 28.

4 Customers reasonably understand, based on the language of the account documents, that
5 OnPoint’s reprocessing of checks, electronic payment transactions, and ACH transactions are
6 simply additional attempts to complete the original order or instruction for payment, and as such,
7 will not trigger fees. In other words, it is always the same item.
8

9 29.

10 Banks and credit unions like OnPoint that employ this abusive practice require their
11 accountholders to expressly authorize it—something OnPoint never did until February 1, 2021
12 where it disclosed in its Fee Schedule, for the first time, that fees are charged “per presentment.”
13

14 30.

15 For example, First Citizens Bank, a major institution in the Carolinas, engages in the same
16 abusive practice as OnPoint, but at least expressly states:

17 Because we may charge a service fee for an NSF item each time it is presented, **we**
18 **may charge you more than one service fee for any given item.** All fees are
19 charged during evening posting. When we charge a fee for NSF items, the charge
20 reduces the available balance in your account and may put your account into (or
21 further into) overdraft.

22 *Deposit Account Agreement*, First Citizen’s Bank (Oct. 2020), <https://bit.ly/2GJjSqq> (emphasis
23 added).

24 31.

25 First Hawaiian Bank engages in the same abusive practices as OnPoint, but at least
26 currently discloses it in its online banking agreement, in all capital letters, as follows:

YOU AGREE THAT MULTIPLE ATTEMPTS MAY BE MADE TO SUBMIT A
RETURNED ITEM FOR PAYMENT AND THAT **MULTIPLE FEES MAY BE
CHARGED TO YOU AS A RESULT OF A RETURNED ITEM AND**

RESUBMISSION.

1 *Terms and Conditions of FHB Online Services*, First Hawaiian Bank 40, <https://bit.ly/30ObGMp>
2 (last visited Jan. 26, 2021) (emphasis added).

3
4 32.

5 Klein Bank similarly states in its online banking agreement:

6 [W]e will charge you an NSF/Overdraft Fee each time: (1) an item is submitted to
7 us for payment from your Account when, at the time of posting, your Account is
8 overdrawn or would be overdrawn if we paid the item (whether or not we in fact
9 pay it); or (2) we return, reverse, or decline to pay an item for any other reason
10 authorized by the Terms and Conditions of your account. For these purposes, an
11 item includes a check, an ATM or debit card transaction, an ACH transaction, or
12 other withdrawal, transfer or debit. Your account is overdrawn if your Available
13 Balance is less than zero. **We will charge an NSF/Overdraft Fee as provided in
14 this section regardless of the number of times an item is submitted or
15 resubmitted to us for payment, and regardless of whether we pay the item or
16 return, reverse, or decline to pay the item.**

17 *Online Access Agreement*, Klein Bank 17 (Jan. 2013), <https://bit.ly/2Fevj8W> (emphasis added).

18
19 33.

20 Central Pacific Bank, a leading bank in Hawai'i, states in its Fee Schedule under the
21 "Multiple NSF Fees" subsection:

22 Items and transactions (such as, for example, checks and electronic
23 transactions/payments) returned unpaid due to insufficient/non-sufficient ("NSF")
24 funds in your account, **may be resubmitted one or more times for payment, and
25 a \$32 fee will be imposed on you each time an item and transaction resubmitted
26 for payment is returned due to insufficient/nonsufficient funds.**

27 *Miscellaneous Fee Schedule*, Central Pacific Bank (Oct. 20, 2020), <https://bit.ly/3o2b9j1>
(emphasis added).

28
29 34.

30 BP Credit Union likewise states:

31 "We may charge a fee each time an item is submitted or resubmitted for payment;
32 therefore, **you may be assessed more than one fee as a result of a returned item
33 and resubmission(s) of the returned item.**"

1 *Membership and Account Agreement*, BP Federal Credit Union (Jul. 2019), <https://bit.ly/3o1AsBE>
(emphasis added).

2 35.

3 Regions Bank states in their deposit agreement:

4
5 If an item is presented for payment on your account at a time when there is an
6 insufficient balance of available funds in your account to pay the item in full, you
7 agree to pay us our charge for items drawn against insufficient or unavailable funds,
8 whether or not we pay the item. **If any item is presented again after having
previously been returned unpaid by us, you agree to pay this charge for each
time the item is presented for payment and the balance of available funds in
your account is insufficient to pay the item.**

9 *Deposit Agreement*, Regions Bank (Jun. 2018), <https://bit.ly/3qB9Qcd> (emphasis added).

10 36.

11 First Financial Bank states in their disclosures of charges document:

12 Merchants or payees may present an item multiple times for payment if the initial
13 or subsequent presentation is rejected due to insufficient or other reason
(representation). **Each presentment is considered an item and will be charged
14 accordingly.**

15 *Special Handling/Electronic Banking Disclosures of Charges*, First Financial Bank (Aug. 2020),
<https://bit.ly/3p2ULA1> (emphasis added).

16 37.

17 Andrews Federal Credit Union states in their Terms and Conditions:

18 You understand and agree that a merchant or other entity may make multiple
19 attempts to resubmit a returned item for payment. **Consequently, because we may
charge a service fee for an NSF item each time it is presented, we may charge
20 you more than one service fee for any given item. Therefore, multiple fees may
be charged to you as a result of a returned item and resubmission regardless
21 of the number of times an item is submitted or resubmitted to use for payment,
and regardless of whether we pay the item or return, reverse, or decline to pay
22 the item.** When we charge a fee for NSF items, the charge reduces the available
23 balance in your account and may put your account into (or further into) overdraft.

24 *Terms & Conditions*, Andrews Federal Credit Union (Aug. 2020), <https://bit.ly/2KwRFFj>
(emphasis added).

38.

Parkside Credit Union states in its Membership and Account Agreement:

If the Credit Union returns the item, you will be assessed an NSF Fee. Note that the Credit Union has no control over how many times an intended payee may resubmit the same check or other item to us for payment. **In the event the same check or other item is presented for payment on more than one occasion, your account will be subject to an additional charge on each occasion that the item is presented for payment.** There is no limit to the total fees the Credit Union may charge you for overdrawing your account.

Membership and Account Agreement, Parkside Credit Union, <https://bit.ly/3qGTgHV> (emphasis added).

39.

Because OnPoint provided no such disclosures until February 1, 2021, its customers never agreed to OnPoint’s multiple fee practice prior to that date.

Plaintiffs’ Experience

40.

In support of Plaintiffs’ claims, Plaintiffs offer examples of fees that should not have been assessed against their checking accounts. As alleged below, OnPoint: (a) reprocessed a previously declined item; and (b) charged a fee upon reprocessing.

41.

On or around January 8, 2015, Plaintiff Atkins attempted a \$150 payment via check.

42.

OnPoint rejected payment of the item due to insufficient funds in Plaintiff Atkins’ account and charged a \$30 “NSF Fee (Item Returned)” for doing so. Plaintiff Atkins does not dispute this initial fee, as it is allowed by OnPoint’s account documents.

43.

1
2 Unbeknownst to Plaintiff Atkins and without Plaintiff’s request to OnPoint to reprocess
3 the item, on January 13, 2015, OnPoint processed the same item yet again, rejected the item again
4 for insufficient funds, and charged Plaintiff Atkins another \$30 “NSF Fee (Item Returned).”

5
6 44.

7 *In sum, OnPoint charged Plaintiff Atkins \$60 in fees to attempt to process a single item.*

8
9 45.

10 Similarly, on or around November 30, 2020, Plaintiff South attempted a payment via ACH
11 to a company called FUTU.

12 46.

13 OnPoint rejected payment of the item due to insufficient funds in Plaintiff South’s account
14 and charged a \$30 “NSF Fee (Item Returned)” for doing so. Plaintiff South does not dispute this
15 initial fee, as it is allowed by OnPoint’s account documents.

16
17 47.

18 Unbeknownst to Plaintiff South and without Plaintiff’s request to OnPoint to reprocess
19 the item, on December 2, 2020, OnPoint processed the same item yet again, and this time paid the
20 item into overdraft, charging Plaintiff South another \$30 fee.

21 48.

22 *In sum, OnPoint charged Plaintiff South \$60 in fees to attempt to process a single item.*

23
24 49.

25 On or around August 19, 2020 Plaintiff Campbell attempted a payment to PayPal.
26

50.

1
2 OnPoint rejected payment of the item due to insufficient funds in Plaintiff Campbell's
3 account and charged a \$30 "NSF Fee (Item Returned)" for doing so. Plaintiff Campbell does not
4 dispute this initial fee, as it is allowed by OnPoint's account documents.

51.

6 Unbeknownst to Plaintiff Campbell and without Plaintiff Campbell's request to OnPoint
7 to reprocess the item, on August 21, 2020, OnPoint processed the same item yet again, rejected
8 the payment of the item, and assessed Plaintiff Campbell another \$30 Fee.

52.

10 Then, unbeknownst to Plaintiff Campbell and without Plaintiff's request to OnPoint to
11 reprocess the item, on August 25, 2020, OnPoint processed the same item for a third time, rejected
12 the payment of the item, and assessed Plaintiff Campbell *another* \$30 fee.

53.

14 *In sum, OnPoint charged Plaintiff Campbell \$90 in fees to attempt to process a single item.*

54.

15
16
17 Plaintiff Campbell was also assessed multiple fees on the same item on August 17, 2020
18 and August 19, 2020.

55.

19
20
21 The improper fees charged by OnPoint were not "errors" such as a "statement" error" and
22 were not caused by "circumstances beyond the Credit Union's control," but rather were intentional
23 charges made by OnPoint as part of its standard processing of transactions. Ex. B at 16.
24
25
26

56.

1
2 Plaintiffs therefore had no duty to report the fees as “errors” because they were not “errors,”
3 but were systematic and intentional assessment of fees according to OnPoint’s standard practices.

4 57.

5 Moreover, any such reporting would have been futile as OnPoint had made a decision to
6 charge the fees in this specific manner to maximize profits at the expense of customers.

7
8 **A. The Imposition of Multiple Fees on a Single Item Breaches Defendant’s Duty of
9 Good Faith and Fair Dealing**

10 58.

11 Parties to a contract are required not only to adhere to the express conditions in the contract,
12 but also to act in good faith when they are invested with a discretionary power over the other party.
13 This creates an implied promise to act in accordance with the parties’ reasonable expectations and
14 means that OnPoint is prohibited from exercising its discretion to enrich itself and gouge its
15 customers. Indeed, OnPoint has a duty to honor transaction requests in a way that is fair to
16 Plaintiffs and its other customers and is prohibited from exercising its discretion to pile on ever
17 greater penalties on the depositor.

18 59.

19 Here—in the adhesion agreements OnPoint foisted on Plaintiffs and its other customers—
20 OnPoint has provided itself numerous discretionary powers affecting customers’ accounts. But
21 instead of exercising that discretion in good faith and consistent with consumers’ reasonable
22 expectations, OnPoint abuses that discretion to take money out of consumers’ accounts without
23 their permission and contrary to their reasonable expectations that they will not be charged
24 multiple fees for the same item.
25
26

60.

1
2 When OnPoint charges multiple fees on an item, it uses its discretion to define the meaning
3 of “item” in a way that violates common sense and reasonable consumer expectations. OnPoint
4 uses its contractual discretion to define that term to choose a meaning that directly causes more
5 fees.

6
7 61.

8 In addition, OnPoint exercises its discretion in its own favor and to the prejudice of
9 Plaintiffs and its other customers when it reprocesses a transaction when it knows a customer’s
10 account lacks funds and then charges additional fees on a single item. Further, OnPoint abuses the
11 power it has over customers and their bank accounts and acts contrary to their reasonable
12 expectations under the account documents. This is a breach of OnPoint’s duty to engage in fair
13 dealing and to act in good faith.

14
15 62.

16 It was bad faith and totally outside of Plaintiffs’ reasonable expectations for OnPoint to use
17 its discretion to assess two or more fees for a single attempted payment.

18
19 63.

20 OnPoint abuses its discretion and acts in bad faith by defining contract terms in an
21 unreasonable way that violates common sense and by charging multiple fees on the same item.

22
23 64.

24 Moreover, OnPoint provides itself discretion to refuse to reprocess transactions that are
25 initially rejected. It abuses that discretion when it repeatedly reprocesses transactions when it
26 knows that the customer has insufficient funds in their account to pay the transaction and charges
additional fees each time.

OnPoint Improperly Charges Two OON Fees Per Transaction

Mechanics of Domestic Out of Network ATM Withdrawals

65.

When consumers use ATMs not owned by their own bank, federal law requires the owners of those out-of-network ATMs to inform users of the amount of the usage fees charged by the ATM owner. *See* 15 U.S.C. § 1693b(d)(3).

66.

Thus, it is standard at ATMs in the United States that when a consumer uses an ATM not owned by his home bank, a message is displayed on the screen stating that usage of the ATM will cost a specified amount to proceed with a withdrawal of funds, and that such a fee is in addition to a fee that may be assessed by a consumer's financial institution for use of the ATM.

67.

That message appears only after a user has decided to perform a cash withdrawal and entered the amount of cash he or she would like to withdraw.

68.

Through repeated exposure to such fee warning messages, consumers are accustomed to being warned of fee assessments at out-of-network ATMs - and to being provided with the opportunity to decide whether the fees charged are reasonable - before proceeding with their cash withdrawal.

69.

OnPoint knows this—that consumers expect a fair fee disclosure at the ATM— and has designed a scheme to assess OON Fees on balance inquiries and exploit consumers' reasonable expectation that they will be provided an opportunity to cancel actions before being assessed a fee.

1 That scheme involves assessing fees for the mere act of checking a balance before proceeding with
2 a cash withdrawal.

3 70.

4 The ATM screen does not disclose that a balance inquiry alone will incur a usage fee, and
5 indeed ATM owners in the United States in general do not charge usage fees for balance inquiries.
6 Thus, there is simply no warning at the ATM that a balance inquiry alone could incur a fee.

7 71.

8 As a result, reasonable consumers have zero expectation that their home bank will charge
9 a separate fee for a balance inquiry, especially one that precedes a cash withdrawal at the same
10 ATM.
11

12 72.

13 If a bank is going to charge such a surprising fee, it must fully and fairly disclose such a
14 fee in its account documentation. OnPoint did the opposite—providing express and implied
15 indications in its contract that balance inquires would not incur OON Fees.
16

17 **Defendant's Account Contract**

18 73.

19 Plaintiffs Campbell and South have OnPoint Bank checking accounts, which are governed
20 by the Contract.

21 74.

22 OnPoint issues debit cards to its checking account customers, including Plaintiffs Campbell
23 and South, which allows its customers to have electronic access to their checking accounts for
24 purchases, payments, and ATM withdrawals at both Defendant and non-Defendant ATMs.
25
26

75.

Against the backdrop of the reasonable consumer expectations and federal law above, Defendant’s contractual disclosures deceive consumers and reinforce the reasonable understanding that no fee will be assessed for a balance inquiry—especially since ATM users are not warned beforehand.

76.

Defendant’s disclosures also reinforce the reasonable understanding that there can be no balance inquiry fee when such an inquiry is in conjunction with a cash withdrawal at the same ATM.

77.

At the time of the relevant transactions, OnPoint’s Fee Schedule stated:

ATM Withdrawal/Inquiry\$2.00
(No charge for OnPoint, MoneyPass or CO-OP ATMs, Free with Interest Checking)

Ex. A at 2.

78.

In short, Defendant states that it may impose a *single* \$2.00 OON Fee on an ATM use.

79.

The Electronic Funds Transfer Disclosure states:

ATMs. If you use an ATM operated by any other institution or network, you may be charge a fee by that entity and the Credit Union.

Ex. B at 28 (emphasis added).

80.

When a cash withdrawal is made at the same time as a balance inquiry at an out of network ATM, Defendant’s account documents indicate to reasonable consumers that those functions count

1 as a single transaction triggering a single OON Fee assessment of \$2.

2 81.

3 Defendant and its customers, including Plaintiffs Campbell and South, contractually agree
4 that should the customer make a balance inquiry and a cash withdrawal, the customer will pay a
5 fee of no more than \$2.

6 82.

7
8 Moreover, accountholders using a non-OnPoint ATM are never warned that they will
9 receive two separate fees from OnPoint—plus another one from the ATM owner—when they
10 check their balance before proceeding with a cash withdrawal at the same ATM. Yet that is exactly
11 what happens.

12 83.

13 As discussed *supra*, ATMs do not warn that such a balance inquiry will be the basis for a
14 fee, either from the ATM owner or from the consumer’s own bank. Defendant’s disclosures do
15 nothing to disabuse consumers of the reasonable expectation that a balance inquiry will not incur
16 a separate fee when it precedes a cash withdrawal at the same ATM, and never state outright that
17 such a fee will be assessed even when conducted absent a subsequent cash withdrawal. Again, the
18 Fee Schedule says nothing more than \$2 per “withdrawal/inquiry.”

19 84.

20
21 Moreover, reasonable consumers like Plaintiffs Campbell and South do not understand—
22 and are never warned—that a mere balance inquiry (in which no funds are transferred in any way)
23 counts on its own as a separate “withdrawal/inquiry” that could be the basis for an independent
24 OON Fee by OnPoint.
25
26

Plaintiff Campbell’s and Plaintiff South’s Domestic Out of Network ATM Withdrawals

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85.

As an example, on December 1, 2017, Plaintiff Campbell withdrew cash from an out of network ATM. Prior to withdrawing the cash, Plaintiff Campbell was prompted to check her balance, and she did so. The ATM owner charged Plaintiff Campbell a usage fee for the cash withdrawal but did not charge a fee for the balance inquiry. OnPoint, however, charged Plaintiff Campbell *two* OON Fees of \$2 each—one for the withdrawal and one for the “balance inquiry.”

86.

These improper fees were also charged to Plaintiff Campbell on February 29, 2020, June 28, 2020, and July 7, 2020.

87.

OnPoint’s contract does not disclose that a \$2 balance inquiry fee will be charged by anyone, much less by OnPoint itself, when a balance inquiry precedes a cash withdrawal at the same out of network ATM.

88.

OnPoint’s contract does not disclose that Defendant imposes a fee on balance inquiries at all.

89.

On January 19, 2020, Plaintiff South withdrew cash from an out of network ATM. Prior to withdrawing the cash, Plaintiff South was prompted to check his balance, and he did so. The ATM owner charged Plaintiff South a usage fee for the cash withdrawal but did not charge a fee for the balance inquiry. OnPoint, however, charged Plaintiff South *two* OON Fees of \$2 each—one for the withdrawal and one for the “balance inquiry.”

90.

1 OnPoint's contract does not disclose that a \$2 balance inquiry fee will be charged by
2 anyone, much less by OnPoint itself, when a balance inquiry precedes a cash withdrawal at the
3 same out of network ATM.
4

91.

5 OnPoint's contract does not disclose that Defendant imposes a fee on balance inquiries at
6 all.
7

8 **CLASS ACTION ALLEGATIONS**

92.

10 *Description of the Classes:* Plaintiffs bring this action individually and as a class action on
11 behalf of the following proposed classes of persons:

12 The Multiple Fee Class: All citizens of Oregon who, during the
13 applicable statute of limitations, were OnPoint checking
14 accountholders and were charged multiple fees on the same item.

15 The OON Fee Class: All citizens of Oregon who, during the
16 applicable statute of limitations, were OnPoint checking
17 accountholders and were charged improper out-of-network ATM
18 fees.

93.

17 Plaintiffs reserve the right to modify or amend the definition of the Classes as this litigation
18 proceeds.
19

94.

20 Excluded from the Classes are OnPoint's officers, directors, affiliates, legal
21 representatives, employees, successors, subsidiaries, and assigns. Also excluded from the Classes
22 are any judge, justice, or judicial officer presiding over this matter and the members of their
23 immediate families and judicial staff.
24
25
26

95.

The time period for the Classes is the number of years immediately preceding the date on which this Complaint was filed as allowed by the applicable statute of limitations, going forward into the future until such time as OnPoint remedies the conduct complained of herein.

96.

Numerosity: The members of the proposed Classes are so numerous that individual joinder of all members is impracticable. ORCP 32A(1). The exact number and identities of the members of the proposed Classes are unknown at this time and can be ascertained only through appropriate discovery. Plaintiffs estimate the number of members in each Class to be in the thousands.

97.

Commonality: There are one or more questions of law or fact common to Plaintiffs and the Classes. ORCP 32A(2). Common questions of law and fact include whether OnPoint:

- a. Imposed more than one fee on the same item;
- b. Improperly imposed OON Fees;
- c. Breached its contract with Plaintiffs and members of the Classes;
- d. Breached the covenant of good faith and fair dealing imposed on it; and
- e. Violated the UTPA.

98.

Typicality: Plaintiff's claims are typical of the claims of the members of the Classes. ORCP 32A(3). Plaintiffs and all members of the Classes have been similarly affected by OnPoint's actions.

99.

Adequacy of Representation: Plaintiffs will fairly and adequately represent and protect the interests of the Classes. ORCP 32A(4). Plaintiffs have retained counsel with substantial experience

1 in prosecuting complex and consumer class action litigation. Plaintiffs and Plaintiffs' counsel are
2 committed to vigorously prosecuting this action on behalf of the Classes and have the financial
3 resources to do so.

4 100.

5 *Prelitigation Notice.* Plaintiffs complied with the prelitigation notice provision of ORCP
6 32H and 32A(5).

7 101.

8 A class is action is superior to other available methods for the fair and efficient adjudication
9 of the controversy, ORCP 32B, in that:
10

- 11 a) Prosecution of separate actions by individual members of the classes creates risks
12 of inconsistent or varying adjudications with respect to members of the class which
13 would establish incompatible standards of conduct (ORCP 32B(1)(a));
14
15 b) Prosecution of separate actions by individual members of the classes creates risks
16 of adjudications with respect to members of the class which would as a practical
17 matter be dispositive of the interest of the other members not parties to the
18 adjudications or substantially impair or impede their ability to protect their rights
19 (ORCP 32B(1)(b));
20
21 c) The relief sought includes injunctive relief or corresponding declaratory relief with
22 respect to the class as a whole (ORCP 32B(2));
23
24 d) Common questions of law or fact predominate over any questions affecting only
25 individual members (ORCP 32B(3));
26
e) Individual members of the class have little interest in controlling the prosecution of
the separate actions (ORCP 32B(4));

- f) Plaintiff is aware of no other litigation already commenced by members of the class against this defendant (ORCP 32B(5));
- g) It is desirable to concentrate the litigation of these claims in one forum, and this court is well suited to handle the complexities of a case of this kind (ORCP 32B(6));
- h) There are few or no difficulties likely to be encountered in the management of this class action and to the extent such difficulties exist, they will not be eliminated or significantly reduced if the controversy is adjudicated by other available means (ORCP 32B(7)); and
- i) When compared to the complexities and costs of this litigation, the claims of the individual class members are sufficient in amount or interests to afford significant relief to the class (ORCP 32B(8)).

**FIRST CLAIM FOR RELIEF
 (Breach of Contract and Breach of the Covenant of Good Faith and Fair Dealing)
 (On Behalf of Plaintiffs and the Multiple Fee Class)**

102.

Plaintiffs incorporate the preceding allegations by reference as if fully set forth herein.

103.

Plaintiffs and OnPoint have contracted for bank account deposit, checking, ATM, and debit card services. *See* Exs. A and B.

104.

OnPoint mischaracterized in the account documents its true fee practices and breached the express terms of the account documents.

105.

No contract provision authorizes OnPoint to charge more than one fee on the same item.

106.

1
2 Under Oregon law, good faith is an element of every contract pertaining to the assessment
3 of overdraft fees. Good faith is also mandated by the Uniform Commercial Code (“UCC”), which
4 covers banking transactions. Whether by common law or statute, all contracts impose upon each
5 party a duty of good faith and fair dealing. Good faith and fair dealing, in connection with
6 executing contracts and discharging performance and other duties according to their terms, means
7 preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract
8 are mutually obligated to comply with the substance of their contract in addition to its form.
9 Evading the spirit of the bargain and abusing the power to specify terms constitute examples of
10 bad faith in the performance of contracts.
11

12 107.

13 Subterfuge and evasion violate the obligation of good faith in performance even when an
14 actor believes their conduct to be justified. A lack of good faith may be overt or may consist of
15 inaction, and fair dealing may require more than honesty. Examples of violations of good faith and
16 fair dealing are willful rendering of imperfect performance, abuse of a power to specify terms, and
17 interference with or failure to cooperate in the other party’s performance.
18

19 108.

20 OnPoint has breached the covenant of good faith and fair dealing through its overdraft
21 policies and practices as alleged herein.
22

23 109.

24 OnPoint harms consumers by abusing its contractual discretion in a number of ways that
25 no reasonable customer would anticipate.
26

110.

1
2 Plaintiffs and members of the Multiple Fee Class have performed all, or substantially all,
3 of the obligations imposed on them by the account documents.

4 111.

5 Plaintiffs and members of the Multiple Fee Class have sustained damages as a result of
6 OnPoint’s breach of the contract and breach of the covenant of good faith and fair dealing.
7

8
9 **SECOND CLAIM FOR RELIEF**
10 **Breach of Contract, Including Breach of the Covenant of Good Faith and Fair Dealing**
11 **(On Behalf of Plaintiff Campbell, Plaintiff South, and the OON Fee Class)**

12 112.

13 Plaintiff Campbell and Plaintiff South incorporate by reference the preceding paragraphs.

14 113.

15 Plaintiffs Campbell and South and OnPoint have contracted for banking services, as
16 embodied in OnPoint’s account documents. *See* Exs. A and B.

17 114.

18 All contracts entered between Plaintiffs Campbell and South and the OON Fee Class and
19 OnPoint are identical or substantively identical because ONPOINT’s form contracts were used
20 uniformly.

21 115.

22 OnPoint has breached the express terms of its own agreements as described herein.
23

24 116.

25 Under Oregon law, good faith is an element of every contract between banks and their
26 customers because banks are inherently in a superior position to their checking account holders

1 and, from this superior vantage point, they offer customers contracts of adhesion, often with terms
2 not readily discernible to a layperson.

3 117.

4 Good faith and fair dealing, in connection with executing contracts and discharging
5 performance and other duties according to their terms, means preserving the spirit—not merely
6 the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply
7 with the substance of their contract in addition to its form. Evading the spirit of the bargain and
8 abusing the power to specify terms constitute examples of bad faith in the performance of
9 contracts.
10

11 118.

12 Subterfuge and evasion violate the obligation of good faith in performance even when an
13 actor believes their conduct to be justified. Bad faith may be overt or may consist of inaction, and
14 fair dealing may require more than honesty. Examples of bad faith are evasion of the spirit of the
15 bargain and abuse of a power to specify terms.
16

17 119.

18 OnPoint abused the discretion it granted to itself when it charged OON Fees that are not
19 authorized by the Contract.
20

21 120.

22 In these and other ways, OnPoint violated its duty of good faith and fair dealing.
23

24 121.

25 OnPoint willfully engaged in the foregoing conduct for the purpose of (1) gaining
26 unwarranted contractual and legal advantages; and (2) unfairly and unconscionably maximizing
fee revenue from Plaintiffs Campbell and South and other members of the Class.

122.

1
2 Plaintiffs Campbell and South and members of the OON Fee Class have performed all, or
3 substantially all, of the obligations imposed on them under the Contract.

4 123.

5 Plaintiffs Campbell and South and members of the OON Fee Class have sustained damages
6 as a result of OnPoint's breaches of the parties' contracts and breaches of contract through
7 violations of the covenant of good faith and fair dealing.
8

9 **THIRD CLAIM FOR RELIEF**
10 **Oregon Unlawful Trade Practices Act**
(On Behalf of Plaintiffs and the Classes)

11 124.

12 Plaintiffs incorporate by reference the preceding paragraphs.

13 125.

14 OnPoint violated the Oregon Unlawful Trade Practices Act, ORS § 646.608 in one or more
15 of the following ways:
16

- 17 a. In failing to disclose that OnPoint would assess multiple fees on the same item and
18 improper OON Fees, in violation of ORS § 646.608(1)(e) and (1)(k);
19 b. In failing to disclose material known defects or known material nonconformity
20 upon tender or delivery, in violation of ORS § 646.608(1)(t);
21 c. In making false or misleading affirmative representations concerning the nature of
22 the transaction or obligation incurred, in violation of ORS § 646.608(1)(k); and
23 d. In affirmatively representing that its services have characteristics, benefits, and
24 qualities that they do not have, in violation of ORS § 646.608(1)(e).
25
26

126.

As a result of these violations, Plaintiffs and the Classes suffered ascertainable losses.

First Count-Reckless or Knowing Violation

127.

OnPoint acted recklessly or knowingly used or employed an unlawful method, act, or practice in violation of ORS § 646.608.

128.

Plaintiffs and members of the Classes are entitled to an injunction and equitable relief requiring repayment of monies overcharged. Plaintiffs will amend to allege a claim to recover statutory damages of \$200 per consumer, as well as attorneys’ fees. ORS 646.638(1) and (8).

Second Count-Willful Violation

129.

OnPoint willfully used or employed an unlawful method, act, or practices in violation of ORS 646.608. Plaintiffs and members of the class are entitled to an injunction and equitable relief requiring repayment of monies overcharged. Plaintiffs will amend to allege a claim for actual damages. Plaintiffs are entitled to attorney fees. ORS 646.638(1).

130.

Plaintiffs and members of the Classes are entitled to recover actual damages in amounts to be proved at trial, as well as attorneys’ fees. ORS § 646.638. Plaintiffs are entitled to an injunction to stop future violations and disgorgement of profits.

REQUEST FOR RELIEF

1
2 WHEREFORE, Plaintiffs and the Class demand a jury trial on all claims so triable and
3 judgment including the following:

- 4 a. Certify this case as a class action, designating Plaintiffs as the Class
5 Representatives and designating the undersigned as Class Counsel;
6
7 b. Enjoin OnPoint from engaging in the practices outlined herein;
8
9 c. Require OnPoint to restore to Plaintiffs and the class monies illegally charged;
10 and
11
12 d. Grant such other relief as the Court deems just and proper.

13 Dated February 19, 2021.

14 DAVID F. SUGERMAN ATTORNEY, PC

15 By: /s/ David F. Sugerman
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*Pro Hac Vice Motion Forthcoming

Trial Attorneys for Plaintiffs

PLAINTIFFS' DEMAND A JURY TRIAL as to each issue on which they are entitled.

DATED this 19th day of February, 2021.

SUGERMAN LAW OFFICE

By: /s/ David F. Sugerman
David F. Sugerman, OSB No. 86298
Attorney for Plaintiffs and Trial Attorney

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Personal Fee Schedule

11-09-2015

Membership Fees

Membership Fee (one time fee, waived if under 18) \$10.00

Minimum Balance Required to Maintain an Active Membership \$5.00

Checking Minimum Opening Deposit

Basic Checking, eChecking, Access Account \$50.00

Monthly Service Fees

FlexSmart Money Market Account (if below \$1,000 minimum balance) \$10.00

Interest Checking (if below \$500 average monthly \$7.00)

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Exhibit A Page 1 of 5

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About this capture

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ISA Checking (annual fee on anniversary date) \$25.00

Card Fees (Debit, Credit, Gift, and ATM)

ATM Withdrawal/Inquiry (No charge for OnPoint, MoneyPass or CO-OP ATMs, Free with Interest Checking) \$2.00

Card Replacement (First replacement per year is free) \$5.00

Card/Pin Rush Delivery (Domestic) \$25.00

Card/Pin Rush Delivery (International) \$65.00

Visa Gift Card Processing Fee \$4.95

Visa Reloadable Prepaid Card (Purchase or replacement) \$15.00

Visa Reloadable Prepaid Card (Reload Fee) \$2.00

Visa Foreign Transaction Up to 1% of transaction amount

Online Banking Fees

Online Banking Free

Bill Payment monthly fee (first 3 months waived, free with Interest Checking and eChecking) \$3.95

Same Day Bill Payment \$12.95

Overnight Check Bill Payment \$12.95

Popmoney Express Delivery (per transfer) \$3.00

Popmoney Standard Delivery Free

Returned Funds Fees

Check sent for Collections - Domestic (per check) \$20.00

Check Sent for Collections -International (per check, \$250.00 US equivalent minimum) \$75.00

Returned Deposit (per check or ACH item) \$15.00

Foreign Returned Item (per item) \$30.00

NSF Fee (items returned) \$30.00

Overdraft Fee (item paid) \$30.00

Overdraft Transfer Service (per transfer, 1st each month refunded) \$3.00

Exhibit 1

Loan Fees

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About this capture

8 captures

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Fixed Portion Conversion to Line of Credit	\$50.00
Personal Line of Credit Annual Fee	\$24.00
Deed of Trust Reconveyance Fee (Oregon)	\$80.00
Deed of Trust Reconveyance Fee (Washington)	\$115.00
Loan Subordination Fee (per request)	\$150.00
Rate Reduction/Modification (Auto Loan)	\$150.00
Verification of Deposit/Loan (per request)	\$25.00
Skip Pay (when offered, per loan)	\$35.00

Phone Payment by Credit Card

\$0 - \$100 transaction amount	Free
\$100.01 - \$400 transaction amount	\$10.00
\$400.01 - \$1,500 transaction amount	\$20.00
\$1,500.01 - \$3,000 transaction amount	\$50.00

Foreign Currency Fees

Foreign Fund Check	Free
Foreign Check in US Dollar (including Canada)	\$5.00
Foreign Currency Exchange (orders under \$300 US dollars)	\$10.00
Foreign Currency Exchange (orders over \$300 US dollars)	Free
Foreign Currency Expedited Delivery (standard overnight)	\$10.00
Foreign Currency Expedited Delivery (priority overnight)	\$15.00

Wire Transfer Fees (per wire)

Incoming (all)	\$8.00
Domestic (outgoing)	\$20.00
Foreign (outgoing - foreign currency)	\$25.00
Foreign (outgoing - US dollars)	\$40.00

Research and Legal Fees

Account Reconciliation/Research (per hour)	\$25.00
Garnishment/Levy Processing (per order)	\$50.00

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Exhibit A
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8 captures

9 Nov 2015 - 30 Jul 2016

About this capture

Photocopies of Visa Card Purchases (per item) \$12.00

Miscellaneous Fees

Cashier's Check (free with Interest Checking or when accessing OnPoint loan products) \$5.00

Check Printing (first order free with Interest Checking) Varies

Inactive Account (per month, balances less than \$150) \$5.00

Special Item Handling Prices vary based on request

Stop Payment (including payments made through Bill Payment) \$25.00

Unknown Address (per month) \$5.00

This Fee Schedule sets forth current conditions, rates, fees and charges applicable to your Savings, Checking, IRA, TDF and Certificate of Deposit Accounts at OnPoint at this time. The Credit Union may offer other rates and fees or amend the rates and fees contained in this schedule from time to time. Each account holder agrees to the terms set forth on this Fee Schedule and acknowledges that it is a part of the Membership and Account Agreement.

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- Loans Accounts Convenience
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Credit Cards Savings Mobile Banking
Home Equity IRAs Telephone Teller
Mortgages Deposit Rates Locations & ATMs

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Membership Account Agreement



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OnPoint[®]

COMMUNITY CREDIT UNION

Welcome to OnPoint Community Credit Union. We are pleased to have you as a member.

This is the contract between you and OnPoint Community Credit Union. When you become a member you agree to the terms and conditions described in this booklet. These terms and conditions apply whether the account is opened in person, by mail, by telephone, or electronically. Please read this Agreement carefully and keep it for your records.

This Agreement is the contract of deposit that covers your and our rights and responsibilities concerning Membership and Account(s) offered to you. In this Agreement, the words “you” and “yours” mean those who sign the Membership Application / Update, Fiduciary Accounts Membership Application / Update or Contribution Account Application / Update (“Application”), assert any ownership in an account or use any access device for any account. The words “we,” “us,” and “our” mean OnPoint Community Credit Union (“Credit Union”). The word “account” means any one or more savings, checking or certificate of deposit accounts you have with the Credit Union.

The classification and form of ownership of your accounts (including certificate of deposit) are designated on your Application. By signing the Application that is a part of this Agreement or by applying for membership electronically, each of you, jointly and severally, agree to the terms and conditions in this Agreement, including the Funds Availability Policy, Electronic Funds Transfer Agreement, and the Truth-in-Savings Disclosures (Rate and Fee Schedule) incorporated in or accompanying this Agreement, any account receipt, the Credit Union’s Bylaws and policies, and any amendments which collectively govern your Membership and Accounts. You agree that additional accounts and services you request in the future will be governed by this Agreement, as amended from time to time.

Important Information about Procedures for Opening New Accounts. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. When you open an account, we will ask you your name, address, date of birth and other information that will allow us to identify you. We will also ask to see your driver’s license or other identifying documents.

I. Membership And Accounts

1. Membership Eligibility

To be eligible for membership in the Credit Union you must be an individual or entity qualifying within the Credit Union's field of membership and must purchase and maintain a membership deposit as required by the Credit Union's Bylaws. You authorize us to check financial information data, and employment history about you by any means allowed by law, including obtaining a credit report or credit score from any consumer reporting agency to verify your eligibility for any accounts and services we offer or you request.

a. Always a Member. Once you join OnPoint Community Credit Union you are a member for life provided you comply with the terms of this Agreement and maintain a minimum deposit of \$5 in Savings. If you leave your job or move from the area, you can still use the Credit Union, provided you keep your account open. (See Sections 26 & 27 of this Agreement.)

b. Voting. The Credit Union is owned and operated by our members. Each member may cast one ballot to elect our Board of Directors. Members must be at least 18 years of age or older in order to cast a vote. Joint owners are not eligible to vote.

2. Individual Accounts

An individual account is an account owned by one depositor including any individual qualified for Credit Union membership. If the account is an individual account, the interest of a deceased individual owner will pass, subject to applicable law, to the payable on death ("POD") beneficiary or decedent's estate, if applicable.

3. Joint Accounts

An account owned by the member and one or more persons is a joint account. The Member is the person so identified on the Application. A Joint Owner is not a member of OnPoint Community Credit Union and does not become a member as a result of being designated a joint owner.

a. Rights of Survivorship. If your account is a joint account, the account is owned as a joint account with rights of survivorship. Upon the death of one of the joint account owners, that person's interest will become the property of the surviving joint account owners.

b. Rights of Joint Account Owners. Any joint account owner is authorized and deemed to act for the other owner(s) and the Credit Union may accept orders and instructions regarding the account and requests for future services from any account owner. Each account owner guarantees the signature of the other owners. Any account owner may withdraw all funds in the account, stop payment on items drawn

on an account, withdraw, or pledge all or any part of the deposits of any account and use any access device issued for the account without the consent of the other account owner(s) and the Credit Union shall have no duty to notify any other joint account owner(s). If the Credit Union receives written notice of a dispute between account owners or receives inconsistent instructions from them, the Credit Union may suspend or terminate the account, require a Court order to act, or require that all joint account owners agree in writing to any transaction concerning the account.

c. Joint Account Owner Liability. If any item deposited in a joint account is returned unpaid or an account is overdrawn, or if we do not receive final payment on any transaction, each of the multiple account owners and authorized users is jointly and severally liable to the Credit Union for the amount of the returned item, overdraft, or unpaid amount and any charges, or liability for any transaction performed by an authorized user, regardless of who created or performed the overdraft, deposited or cashed the item or benefited from the transaction. If any account owner is indebted to the Credit Union, the Credit Union may enforce its rights against any or all funds in the joint account regardless of who contributed the funds to the joint account.

4. POD Designations

A Payable on Death (POD) designation is an instruction to the Credit Union that a single or multiple party account so designated is payable to the owner(s) during his, her or their lifetimes and, when the last account owner dies, is payable to any named and surviving POD/payee. Accounts payable to more than one POD payee are owned jointly and equally, unless otherwise designated, by such beneficiaries with rights of survivorship. Any POD payee designation shall not apply to IRA or HSA accounts which shall be governed by a separate beneficiary designation. We are not obligated to notify any payee of the existence of any account or the vesting of the payee's interest in any account, except as otherwise provided by law.

5. Accounts for Minors

The Credit Union reserves the right to limit the accounts and services that are available to minors. For any account established by or for a minor, the minor account owner must have a joint account owner who is a parent or legal guardian of the minor, as approved by the Credit Union, who shall be jointly and severally liable to the Credit Union. For a joint account, all funds in the account shall be owned as a joint account with rights of survivorship. The Credit Union may make payments of funds directly to the minor without regard to his or her minority. The Credit Union has no duty to inquire about the use or purpose of any transaction by the minor or joint account owner. The minor's tax identification number must

be shown on the Application. The Credit Union will not remove joint owners when the minor reaches age eighteen (18). Once the minor reaches age eighteen (18), the joint owners may remove themselves by providing written notice to the Credit Union. However, when the minor reaches age eighteen (18), the minor may open new accounts without regard to any restrictions on, or ownership and access arrangements of, existing accounts.

6. Uniform Transfer to Minor Accounts

A Uniform Transfer to Minor (Custodial) Account (UTTMA) is an account established by an individual as a custodian on behalf of a minor (a person under twenty-one (21) years of age). The custodian shall open the account in the name of the minor, include the minor's tax identification number, and must sign his or her own name, as custodian on the Application. The custodian has possession and control of the account for the exclusive right and benefit of the minor and, barring a court order otherwise, is the only party entitled to make withdrawals from, or close the account. The custodian may name a successor custodian. In the event of the custodian's death, the Credit Union may place an administrative hold on the account until it receives instructions from any person authorized by law to withdraw funds or a court order authorizing such withdrawal. It is the legal responsibility of the custodian to change the status of the account when the minor reaches age twenty-one (21).

7. Accounts for Formal Trusts

An account for a formal trust is held by one or more trustees of a trust for the benefit of one or more beneficiaries pursuant to a revocable or irrevocable trust agreement. Upon request of the Credit Union, the trustee shall sign a Fiduciary Accounts Membership Application/Update and provide any other evidence of the trustee's authority the Credit Union requires. Trustee warrants that a valid formal trust has been created, is currently existing, and that the trustor is eligible for membership in the Credit Union. The Credit Union does not act as a trustee and is under no obligation to inquire as to the powers or duties of the trustee(s). Trustee agrees to notify the Credit Union in writing if a change of trustee occurs. The Credit Union may withhold payment of funds to any party until proper evidence of authority is provided. The Credit Union may rely upon the directions of any one trustee until a written notice of revocation of the trust is received. Funds may be released to any one trustee acting alone or with a co-trustee. The trustee(s) agrees to indemnify and hold the Credit Union harmless of any liability, claim, damage or loss arising as a result of unauthorized acts of any trustee or former trustee or acts of any trustee upon which the Credit Union relies prior to notice of revocation of the trust. This Agreement shall be binding on the trust, any trustee, successor trustee and beneficiaries.

8. Fiduciary Accounts

A fiduciary account is an account opened by an executor, administrator, personal representative, guardian, conservator, or other fiduciary in such capacity authorized under a will, court order or trust instrument establishing the fiduciary relationship trustee or a Representative Payee authorized by the Social Security Administration or other designated fiduciary (“fiduciary”). The account owner is the estate, guardianship, conservatorship, trust or Social Security Administration benefit recipient and is the sole owner of this account. The fiduciary is authorized to act on behalf of the account owner but has no ownership interest in the account. The fiduciary is the only authorized party to transact on this account. The fiduciary is expressly authorized to endorse all items payable to or owned by the account owner for deposit with or collection by the Credit Union and to execute such other agreements and to perform any other account transaction under the Agreement. The fiduciary is authorized to receive account information from the Credit Union, either orally or in writing, and any information related to the account. The authority given to the fiduciary shall remain in full force until a court order, termination of the account or written notice of revocation is received by the Credit Union either by a court appointed representative of the account owner or by the Social Security Administration, as applicable. Any such notice shall not affect any items in process at the time notice is given. The fiduciary will notify the Credit Union of any change in the account owner’s status affecting the deposit relationship between the account owner and the Credit Union. The fiduciary warrants that all actions he or she takes regarding the account will be for the sole benefit of the account owner and that the fiduciary will not conduct any transaction on the account that will personally benefit the fiduciary or will not comply with the terms of the applicable laws, will, court order, or instrument establishing the fiduciary relationship. The Credit Union may rely upon these representations and shall have no duty to examine such authorizing documents for compliance or inquire as to the powers and duties of the fiduciary and shall have no notice of any breach of fiduciary duties by the fiduciary unless the Credit Union has actual notice of wrongdoing. The account owner agrees that the Credit Union shall not be liable for any losses due to the account owner’s failure to notify the Credit Union of any unauthorized acts of the fiduciary or changes to the relationship between the fiduciary and account owner. The account owner and fiduciary agree to indemnify and hold the Credit Union harmless of any claim or liability as a result of unauthorized acts of the fiduciary upon which the Credit Union relies prior to any actual notice of any account change or change of the fiduciary.

9. Deposit Requirements

Funds may be deposited to any account in any manner approved by the Credit Union in accordance with the requirements set forth on the Deposit Rate Sheet/

Fee Schedule. All accounts are non-assignable and nonnegotiable to third parties. Certificate of Deposit accounts are governed by the terms of this Agreement and the terms and disclosures on your Certificate of Deposit Receipt for each account, which is incorporated herein by this reference. Individual Retirement Accounts and Health Savings Accounts are governed by the terms of the Agreement and by a separate IRA/HSA account agreement and disclosure statement included with your IRA/HSA application, which are incorporated herein by this reference. You agree not to deposit any substitute check or similar item that you have created, or for which no financial institution has provided any substitute check, warranties and indemnity. If you do so, you agree to indemnify the Credit Union for all losses the Credit Union incurs in connection with the substitute check or item.

You agree not to deposit any substitute check without our consent.

a. Endorsements. You authorize the Credit Union, in its discretion, to accept transfers, checks, drafts and other items for deposit into any of your accounts, whether or not they are endorsed by all payees. You authorize the Credit Union to supply missing endorsements if the Credit Union chooses to supply such endorsements. The Credit Union reserves the right to refuse to accept third party checks or to verify all endorsements on third party checks presented. If an insurance, government, and certain other checks or drafts require an endorsement as set forth on the back of the check, the Credit Union may require endorsement as set forth on the check. Endorsements must be placed in the space on the back of the check between the top edge and 1 1/2 (one and one half) inches from the top edge. The Credit Union may accept drafts or checks with endorsements outside this space. However, if any such endorsement or other markings you or any prior endorser make on the check cause any delay or error in processing the item for payment, you will be responsible for any loss incurred by the Credit Union due to the delay or error.

b. Collection of Items. The Credit Union shall not be responsible for deposits made by mail or at an unstaffed facility until the Credit Union actually receives them. In handling items for deposit or collection, the Credit Union only acts as your agent and assumes no responsibility beyond the exercise of ordinary care. The Credit Union will not be liable for default or negligence of any correspondent or for loss in transit, and each correspondent will only be liable for its own negligence. The Credit Union reserves the right to send any item for collection. We normally credit your account after we receive payment of collection items, but if we do credit your account and then do not receive payment, we will charge your account. For our

collection fees, refer to the Deposit Rate Sheets/Fee Schedule.

c. Final Payment. All items or Automated Clearing House (“ACH”) transfers credited to your account are provisional and subject to our receipt of final payment. If final payment is not received, we reserve the right to charge your account for the amount of those items or ACH transfers and impose a return charge on your account. After we have received final payment, we refer to these deposits as collected items. If the Credit Union incurs any fee to collect any item, the Credit Union may charge such fee to your account. The Credit Union reserves the right to refuse or to return all or any item or funds transfer. The Credit Union shall have the right to charge back against your account all previously deposited items or other items endorsed by you that are returned to the Credit Union unpaid, regardless of whether the amount of the item has been available for your use.

d. Direct Deposits. The Credit Union may offer direct deposit options allowing you to preauthorize deposits (i.e., payroll, retirement, Social Security or other government benefits) or preauthorize transfers from other accounts at the Credit Union. You must authorize any direct deposits to your accounts by a separate authorization form. If applicable, you must notify the Credit Union at least thirty (30) days prior to any direct deposit or preauthorized transfer if you wish to cancel or change the direct deposit or direct transfer option. Upon a filing of bankruptcy, if you fail to cancel any direct deposit authorization, you instruct your employer and the Credit Union to make and apply direct deposits in accordance with your authorization on file with the Credit Union. If the Credit Union is required to reimburse the U.S. Government for any benefit payment directly deposited into your account for any reason, you agree the Credit Union may deduct the amount returned from any of your accounts, unless prohibited by law.

e. Crediting of Deposits. Deposits made on Saturdays, Sundays, and Credit Union holidays will be credited to your account on the next business day. Ask for our current deposit cutoff time. Deposits received at unstaffed facilities, such as night depositories, will be credited on the day funds are removed and processed by the Credit Union. For deposits at ATMs, unstaffed facilities, or any other means except in-person deposits made to a Credit Union employee, any credit that we provide before we have removed and processed the deposit is subject to adjustment based on our verification of the items deposited. Items drawn from an institution located outside the United States are handled on a collection basis only. Amounts, less any associated collection costs, will be credited to your

account when we receive final payment. You waive any notice of nonpayment, dishonor, or protest regarding any items credited to or charged against your account.

f. Transactions by Mail. Except as otherwise provided in this Agreement, the Credit Union may permit you to make deposits, transfers, and withdrawal requests by mail. You must provide specific information instructing us how to process the transactions. Such transactions will be posted to your account as of the day the transaction is processed at the Credit Union. If you make a deposit or payment, which is not accompanied by instructions how or where it is to be credited, we may apply it to any loan or deposit account you maintain with us, at our discretion, and this may delay the crediting of such a deposit or payment.

10. Account Access

a. Authorized Signature. We require your authorized signature on your Application before we will honor transactions on your account(s). The Credit Union is authorized to recognize your signature, but will not be liable for refusing to honor any item or instruction of yours if it believes in good faith that the signature on such item or instruction is not genuine. If you have authorized the use of a facsimile signature, the Credit Union may honor any transaction that appears to bear your facsimile signature even if it was made by an unauthorized person. If you give your member/account number to a third person, you authorize us to honor transactions initiated by the third person even if you did not specifically authorize a particular transaction. The Credit Union may refuse to accept any item for deposit. You agree that your electronic consent is your electronic signature which specifically records your signature and constitutes your agreement to the terms and conditions of this Agreement. You agree your electronic signature captured and stored as an image by electronic means shall be sufficient to evidence of your assent to be contractually bound by the Agreement and shall constitute a valid signature for purposes of any provision of this Agreement.

b. Access Options. You may make withdrawals or transfers from your account in any manner which is permitted by the Credit Union (i.e., check, ATM, debit card, in person, electronically, Internet Enabled Device, mail, wire transfer, automatic transfer, or telephone). If the Credit Union accepts any check that is not drawn on a check form provided by or through the Credit Union, you will be responsible for any loss incurred by the Credit Union for handling the check. The Credit Union may return as unpaid any check that is not drawn on the check form provided by the Credit Union.

c. ACH & Domestic Wire Transfers. If offered, you may initiate or receive credits or debits to your account via wire transfer or ACH (“Automated Clearing House”) transfer. You agree that if you receive funds by a wire or ACH transfer, the Credit Union is not required to notify you at the time the funds are received. Instead, the transfer will be shown on your periodic statement. The Credit Union may provisionally credit your account for an ACH transfer before it receives final settlement for the transfer. You agree that if the Credit Union does not receive final settlement for a transfer, it may reverse the provisional credit to your account, or you will refund the amount to the Credit Union. The Credit Union may require that wire transfers be authorized in writing. When you initiate a wire transfer, you may identify either the recipient or any financial institution by name and by account or identifying number. The Credit Union (and other institutions) may rely on the account or other identifying number you give as the proper identification number, even if it identifies a different party or institution. The Credit Union reserves the right to confirm or verify information on all wire requests prior to sending the wire. Once the Credit Union has sent an outgoing wire, the transfer is final and cannot be stopped. If you provide incomplete or inaccurate transfer instructions, written or oral, the Credit Union will not be responsible for any resulting wire transfer losses, delays or failed transactions. You understand international wire transfers may not be completed for up to four weeks or longer. Terms and conditions for international wire transfers will be provided at the time of the transfer transaction. Wire transfers are governed by the Uniform Commercial Code Section 4A, and (if the transfer is cleared through the Federal Reserve) by Federal Reserve Regulation J. International wire transfers are governed by the Bureau of Consumer Financial Protection Regulation E. ACH transactions are governed by the rules of the National Automated Clearing House Association. The origination of ACH transactions to or from the consumer’s account must comply with provisions of U.S. Law. You agree that the authorized transfer to/from your account must comply with all applicable federal and state laws or regulations including OFAC (Office of Foreign Asset Control) regulations.

d. Credit Union Examination. The Credit Union may disregard information on any check other than the signature of the drawer and amount of the item and any magnetic encoded information. You agree the Credit Union does not fail to exercise ordinary care in paying an item solely because its procedures do not provide for sight examination of items.

e. Electronic Check Transactions.

1. Electronic Checks. If you authorize a merchant to electronically debit your checking account using the routing, account and serial number of your check to initiate the transfer, whether the check is blank, partially or fully completed and signed, such

authorization is an electronic check conversion. An electronic check conversion is an electronic funds transfer (“EFT”) subject to the terms of Part III. Electronic Funds Transfer Agreement. You authorize us to honor any electronic check conversion from your checking account just the same as a regular written check.

2. Electronic Re-presented Checks. If you write a check on a personal account that we return unpaid because of insufficient or uncollected funds, the payee or any subsequent holder of the check may re-present the check to us, through an electronic instruction (“Electronic Represented Check”) to charge your account for the amount of the check. If we receive an electronic represented check, we will pay or return the electronic represented check as if the original paper check was presented to us. Any collection fee you authorize the merchant to debit from your account is an electronic funds transfer subject to the terms of Part III. Electronic Funds Transfer Agreement. If you want to reverse an electronic re-presented check, you must give us an affidavit within 15 days after we send or make available to you the periodic statement that reflects payment of that electronic re-presented check. In your affidavit, you must declare and swear under oath that the electronic re-presented check was ineligible or unauthorized. If we receive a proper notice or affidavit from you within the 15-day period, we will re-credit your account with the amount of the charge. If you wish to stop payment of any electronic re-presented check, you must follow the procedures contained in this Agreement for stopping payment of checks, not the procedures for stopping payment on electronic loan or bill payments. If you ask us to request the depositor’s bank to send us the original paper check or a copy of the paper check, and we provide it to you, you agree that you will not seek to have your account re-credited due to a prior stop payment order or if for any other reason the item is deemed ineligible for collection.

f. International ACH Transactions. You understand that in the event an International ACH Transaction (“IAT”) Entry that is transmitted to or from any of your accounts is identified and designated by the Credit Union’s screening criteria for review and examination under the OFAC Rules and Regulations (“OFAC Rules”). The settlement of such an IAT Entry may be delayed or suspended pending the Credit Union’s review of the IAT Entry, and may be terminated under applicable OFAC Rules. You acknowledge that we may be required to place an indefinite hold on the funds covered by the IAT Entry if the IAT Entry is required to be terminated under

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the OFAC Rules. You agree that any delay described above will be a permissible delay under the regulations applicable to the availability of funds held in deposit accounts. In the event an IAT Entry is delayed or terminated, we will provide you such notice as may be required by applicable laws and regulations.

11. Account Rates and Fees

The Credit Union's payment of earnings on any account is subject to the account rates and fees, payment and balance requirements as set forth on the Deposit Rate Sheet/Fee Schedule. You agree the Credit Union may impose fees and charges for the deposit account services provided by the Credit Union. A current Deposit Rate Sheet/Fee Schedule has been provided to you separately. You agree the Credit Union may change the Deposit Rate Sheet/Fee Schedule from time to time and you will be notified of such changes as required by law.

12. Transaction Limitations

a. Withdrawal Restrictions. The Credit Union will permit a withdrawal only if you have sufficient available funds in your account to cover the full amount of the withdrawal or have an established overdraft protection plan. Checks or other transfer or payment orders which are drawn against insufficient available funds will be subject to a service charge, set forth in the Rate and Fee Schedule. If there are sufficient available funds to cover some but not all of your withdrawal orders, the Credit Union may allow those withdrawals for which there are sufficient available funds in any order at the Credit Union's discretion.

The Credit Union may also refuse to allow a withdrawal in other cases; for example: any dispute between the owners about the account (unless a court has ordered the Credit Union to allow the withdrawal); a legal garnishment or attachment is served; the account secures an obligation to the Credit Union; any required documentation has not been presented; or you fail to repay a Credit Union loan on time. The Credit Union reserves the right to require members to give notice in writing of any intended withdrawals from any account (except checks) of not less than 7 days and up to 60 days, as required by law, before such withdrawal.

b. Transfer Limitations. For Regular Savings, Market Rate Savings, FlexSmartSM Money Markets, and Teachers Deposit Fund Accounts, you may make up to six (6) pre-authorized, automatic, overdraft, Online and Mobile Banking, External Transfer, Popmoney, telephonic or audio response transfers to another account of yours or to a third party during any calendar month. A preauthorized transfer includes any arrangement with the Credit Union to pay a third party from the member's account upon oral or written orders, including orders received through the automated clearing house (ACH). In addition, there is no limit

on the number of transfers you may make to another Credit Union account or withdrawals (checks mailed directly to you) when such transfer or withdrawal is initiated in person, by mail or at an ATM. If a transfer request would exceed the transfer limitations set forth above in any month, the Credit Union may refuse or reverse the transfer, and your account will be subject to suspension or closure by the Credit Union, and the Credit Union may impose a charge.

The limit of six (6) transfers per month applies to the following types of transactions:

1. Automatic overdraft transfers from Savings to a Checking Account.
2. Telephone requests, including Telephone Teller, to transfer funds from Savings to other accounts.
3. Transfer requests, made through Online Banking, Mobile Banking, External Transfer or Popmoney to transfer funds from Savings to other accounts.
4. Pre-authorized arrangements to transfer funds from Savings to a third party, such as your automobile insurance company or health club, and other electronic transfers.

c. Transaction Limitations. The Credit Union reserves the right to limit the volume of checks or cash deposited and/or the number of deposits per day. If the transactions on your account exceed the volume or amount considered normal for consumer activity, the Credit Union may impose an excess transaction fee, limit your account activity or close your account.

In order to reduce Credit Union reserve requirements, Checking account balances are reported as two subaccounts, a checking and savings subaccount. For reporting purposes only, the Credit Union may make up to six (6) transfers per month between the savings and checking subaccounts. This reporting structure does not affect the balance, interest earnings, statement activity or NCUA insurance applicable to your Checking account.

13. Administrative Account Freezes

If this Membership and Account Agreement or any other loan/line of credit or other service agreement is breached by an authorized signer, borrower or designee, OnPoint may restrict access to your account or electronic services connected to your account. This includes ATM, debit card and/or online and mobile banking access. Restrictions may be placed without providing you prior notice and will be confirmed by written notification. Such restrictions may remain in place until the delinquency or other matter has been resolved.

14. Overdrafts

a. Your Overdraft Liability. If on any day, the available funds in your checking account are not sufficient to cover checks and other items posted to

your account, those checks and items will be handled in accordance with our overdraft procedures and the terms of this Agreement. The available balance is your account balance minus any account holds and is impacted by pending debit card transactions or checks, preauthorized items, service charges as disclosed in the Rate and Fee Schedule, deposit holds or holds placed due to notification of previously deposited items being returned unpaid. The Credit Union's determination of an insufficient account balance is made at the time the check or item is presented to us, which may be later than the time you conduct the transaction. The Credit Union has no duty to notify you of a check or item that will overdraw your account. If we pay an item that overdraws your account, you are liable for and agree to pay the overdraft amount and any fees immediately. You will be subject to a charge for each item whether paid or returned as set forth in the Rate and Fee Schedule. We reserve the right to pursue collection of previously dishonored items at any time, including giving a payer bank extra time beyond any midnight deadline limits.

b. Overdraft Transfers. We will cover overdrafts on your checking account by making transfers from any savings account of yours or a loan advance on your line of credit or credit card account, as you have previously authorized, and transferring amounts to cover an overdraft to your checking account. You will be subject to a charge for each overdraft transfer whether the associated item is paid or unpaid as set forth in the Rate and Fee Schedule. You may cancel this overdraft transfer service at any time by notifying us in time to take action prior to a transfer being made.

c. Overdraft Protection. We offer a discretionary overdraft protection service (Overdraft Protection)

to cover overdrafts. The Overdraft Protection service is offered to all eligible checking account owners, unless revoked by OnPoint. The service will be provided under the following terms and conditions.

1. Discretionary Service. The Overdraft Protection service will be provided once your checking account is opened and will continue as long as the account is maintained in good standing with the Credit Union. The Overdraft Protection service is provided only if you have no authorized savings or loan account funds available to transfer. Under the Overdraft Protection service, we are not obligated to pay any check or item presented for payment if your account does not contain sufficient available funds. We may, as a discretionary service and not as a right of yours or our obligation to you, pay overdrafts up to an overdraft limit under the terms of this service and subject to this Agreement. This overdraft service is not a line of credit, is not guaranteed, and is

independent of any loan arrangement you may have with us. We may refuse to pay an overdraft for you at any time, even if we have previously paid overdrafts for you. We will notify you by mail (or email, if you have requested) of any insufficient funds, checks, or items paid or unpaid and returned that you may have. However, we will not notify you before we pay or return any item.

2. Overdraft Transactions Covered. If on any day you do not have available funds in your account, the following transactions, which may result in an insufficient or negative balance (“overdrafts”), may be covered under our service: checks, debit card purchases, online or other electronic funds transfers, ACH debits and other payments or withdrawals authorized by you, account service charges, pre-authorized drafts, and any other items that may be posted to your account. If we pay an item, we will pay the item in the order it is presented or received by us, regardless of amount and in accordance with our normal operating procedures for such checks, items or transactions.

3. Overdraft Limit/Available Balance. We may pay overdrafts up to your available overdraft limit provided you continue to qualify for the service. The Credit Union’s fees and charges and each paid check or item will be included in this limit. This overdraft balance will not be included or reflected in your actual or “available balance” of your account provided by a teller, at ATM or POS facilities, through online services or on your periodic statements.

4. Overdraft Fees. There is an Overdraft Fee for each paid overdraft check or item. If we do not pay the overdraft, there is a NSF/Returned Item fee per check or item. There is no limit on the number of overdrafts paid or overdraft fees incurred on any one day. These fees are set forth in our Rate and Fee Schedule.

5. Member Repayment Responsibility. You agree your overdraft balance, including applicable overdraft fees, is due and payable upon demand. If there is more than one owner on an account, all owners are jointly and severally liable for repayment of the overdraft balance. If you fail to repay your overdraft balance within 7 days of notice from us, we may immediately suspend the Overdraft Protection service. Accounts may be closed for failure to repay overdraft balances and we will report account closures to consumer reporting agencies.

15. Postdated and Staledated Items

You authorize us to accept and pay any check, even if the check is postdated (presented for payment before its date), or staledated (presented for payment more than six months

after its date). You also agree not to deposit checks, drafts, or other items before they are properly payable. The Credit Union is under no obligation to you to pay any check that is presented more than six (6) months after its date. If you don't want us to pay a postdated or staledated check, you must notify us of the check and place a stop payment order on it. (See the Stop Payment Orders section.)

16. Stop Payment Orders

a. Stop Payment Request. You may ask the Credit Union to stop payment on any check drawn upon or ACH debit scheduled from your checking or savings account. This does not apply to bill payment items. You may request a stop payment by telephone, by mail or in person. For checks, the stop payment will be effective if the Credit Union receives the order in time for the Credit Union to act upon the order. For ACH debits, the stop payment order must be received at least three (3) banking days before the scheduled date of the transfer. You must state the number of the account, date and the exact amount of the check or ACH and the number of the check or originator of the ACH debit.

If you give the Credit Union incorrect or incomplete information, the Credit Union will not be responsible for failing to stop payment on the item. If the stop payment order is not received in time for the Credit Union to act upon the order, the Credit Union will not be liable to you or to any other party for payment of the item. If we re-credit your account after paying a check over a valid and timely stop payment order, you agree to sign a statement describing the dispute with the payee, to transfer all of your rights against the payee or other holders of the check to the Credit Union, and to assist the Credit Union in legal action taken against the person.

b. Duration of Order. If you make an oral stop payment order, we reserve the right to require your written confirmation within fourteen (14) days. A check stop payment order will be effective for twelve (12) months and may be renewed orally or in writing. An ACH stop payment will be effective indefinitely, unless you request it to be removed in writing. The Credit Union is not obligated to notify you when a stop payment order expires.

c. Liability. The Credit Union may charge a fee for each stop payment order requested, as set forth on the Deposit Rate Sheet/Fee Schedule. You may not stop payment on any cashier's check, or other check or payment guaranteed by the Credit Union. You should be aware that while payment of the item may be stopped, you may remain liable to any person, including the Credit Union, who is a holder of the item despite the stop payment order. You agree to indemnify

and hold the Credit Union harmless from all costs; including attorney fees, damages or claims related to the Credit Union's action in refusing payment of an item, including claims of any multiple party account owner, payee, or endorsee in failing to stop payment of an item as a result of incorrect information provided by you.

17. Lost Items

The Credit Union, in receiving items from you for withdrawal or deposit, acts only as your agent and reserves the right to reverse the credit for any deposited items or to charge your account for the items should they become lost in the collection process.

18. Credit Union's Liability for Errors

If the Credit Union does not properly complete a transaction according to this Agreement, the Credit Union will be liable for your losses or damages not to exceed the amount of the transaction, except as otherwise provided by law. The Credit Union will not be liable if: (a) through no fault of the Credit Union, your account does not contain enough money to make the transaction; (b) circumstances beyond the Credit Union's control prevent the transaction; (c) your loss is caused by your negligence or the negligence of another financial institution; or (d) the money in your account is subject to legal process or other claim. The Credit Union will not be liable for consequential damages except liability for wrongful dishonor. The Credit Union's actions will constitute the exercise of ordinary care if such actions or non-actions are consistent with applicable state law, Federal Reserve regulations and operating letters, clearinghouse rules, and general banking practices followed in the area serviced by the Credit Union. You grant the Credit Union the right, in making payments of deposited funds, to rely exclusively on the type and ownership of the account and the terms of this Agreement. Any conflict between oral representations by you or Credit Union employees and any written form will be resolved by reference to this Agreement and any other applicable written agreement.

19. Credit Union Lien and Security Interest

To the extent you owe the Credit Union money as a borrower, guarantor, endorser or otherwise, the Credit Union has a lien on any or all of the funds in any account (excluding IRA/HSA funds) in which you have an ownership interest at the Credit Union, regardless of the source of the funds. The Credit Union may apply these funds in any order to pay off your indebtedness. If the Credit Union chooses not to enforce its lien, the Credit Union does not waive its right to enforce the lien at a later time. In addition, you grant the Credit Union a consensual security interest in your accounts and agree the Credit Union may use the funds from your accounts to pay any debt or amount owed the Credit Union, except obligations secured by your dwelling, unless prohibited by applicable law. All accounts are nonassignable and nontransferable to third parties.

20. Legal Process

If any legal action, such as a levy, garnishment, or attachment, is brought against your account, the Credit Union may refuse to pay out any money from your account until the issue is resolved. If the Credit Union incurs any expenses or attorney fees in responding to legal process, such expenses may be charged against your account without prior notice to you, unless prohibited by law. Any legal process against your account is subject to the Credit Union's lien and security interest.

21. Account Information

Upon your request, the Credit Union will inform you of the name and address of each credit reporting agency from which the Credit Union obtains a credit report in connection with your account. The Credit Union agrees not to disclose information to third parties about your account regarding any transaction or balances except as provided in our Privacy Policy and in accordance with applicable law.

You authorize us to disclose information about your account to credit reporting agencies and to other persons or agencies who, in our judgment, have a legitimate purpose for obtaining information. You authorize us to disclose information about your account to an account verification service and/or credit reporting agency if we close your account due to unsatisfactory handling, fraud, attempted fraud, or criminal activity.

You agree we may exchange credit report information with others regarding any update or renewal of or additional accounts and services we may offer or extend in the future, or for any other legitimate business purpose. You agree we may share your account information and any information you provide to us with any Credit Union affiliate and others for the purpose of considering your eligibility for their products and services, including financial, insurance, and investment products.

22. Notices

a. Name or Address Changes. It is your responsibility to notify the Credit Union upon a change of address or change of name. The Credit Union is only required to attempt to communicate with you at the most recent address you have provided us. Notice of change of address may be given by writing the Credit Union, calling Member Services, or by providing notice in person to a Credit Union employee. If you do not notify us of your current address we may impose a service fee as set forth on the Deposit Rate Sheet/Fee Schedule. The Credit Union may accept a Notice of Address Change from the U.S. Postal Service as your most recent address for sending statements and notices to you.

b. Notice of Amendments. Except as otherwise prohibited by applicable law, the terms of this Agreement are subject to change at any time. The Credit Union will notify you of any changes in account terms, rates, or fees as required by law. You may make changes in account ownership, such as adding or removing a joint account owner, and you acknowledge that the Credit Union may require a new Membership Application/Update to be completed before any change in ownership becomes effective. However, the removal of any joint owner will not be effective without the joint owners' authorized termination. The Credit Union reserves the right to waive any term in this Agreement. Any such waiver shall not affect the Credit Union's right to enforce any right in the future.

c. Effect of Notice. Any written notice you give to the Credit Union is effective when it is actually received by the Credit Union. Any written notice the Credit Union gives to you is effective when it is deposited in the U.S. Mail, postage prepaid and addressed to you at your statement mailing address. Notice to any one account owner is considered notice to all owners of the account.

d. Negative Information Notice. We may report information about your loan, share or deposit accounts to credit bureaus. Late payments, missed payments, or other defaults on your accounts may be reflected in your credit report.

23. Taxpayer Identification Numbers and Backup Withholding

If your account is or becomes subject to backup withholding, the Credit Union is required by law to withhold and pay to the Internal Revenue Service (IRS) a required percentage of payments of interest and certain other payments under certain conditions. Your failure to furnish a correct taxpayer identification number (TIN) or meet other applicable requirements may result in backup withholding as well as civil or criminal penalties. The Credit Union may suspend the opening of your account until an accurate TIN is provided.

24. Statements

a. Contents. You will receive a periodic statement of all transactions and activity on your account during each statement period. You agree that only one statement is necessary for a multiple party account. For checking accounts, you understand that when paid, your original check becomes property of the Credit Union and may not be returned to you. You agree to keep a copy or carbon copy of your original check in order to verify its validity. If you request us to provide you with an original check or sufficient copy, you agree that we may provide an electronic image of the original check or sufficient copy if you have agreed to receive

account information or statements electronically. Copies will be retained by the Credit Union, and made available upon your request for a fee as set out in the Deposit Rate Sheets/Fee Schedule. You understand statements and checks are considered to have been made available to you on the date the statement is mailed or the information is otherwise made available to you. Statements will be mailed to the last address you have provided to us or as we have otherwise agreed.

b. Examination. You are responsible for examining each statement and reporting any irregularities to the Credit Union. The Credit Union will not be responsible for any forged or altered item or unauthorized endorsement on any item drawn on your account if (1) you did not exercise reasonable care in promptly examining the statement to discover any irregularities; (2) you fail to notify the Credit Union within thirty (30) calendar days of the mailing date of the earliest statement and availability of checks containing any forgery, alteration, or unauthorized signature on the front or back of an item; or (3) any items are forged or altered in a manner not detectable by a reasonable person, including the unauthorized use of facsimile signature machine or stamp

c. Notification of Errors. You agree that the Credit Union's retention of checks does not alter or waive your responsibility to examine your statements and all transactions included or the time limit for notifying the Credit Union of any errors. The statement will be considered correct for all purposes, and the Credit Union will not be liable for any payment made or charged to your account unless you notify the Credit Union in writing within the above time limit after the statement is made available to you.

d. Electronic Statements (E-Statements). If your statement is provided electronically, you will be sent an email that will direct you to the website where you may access, review, print and otherwise copy/download your periodic statements using procedures we authorize. Emails from us will be sent to the email address provided by the account owner.

25. Inactive and Abandoned Accounts

If you have an account that you have not made a withdrawal from, deposit to, or transfer involving your account for more than one (1) year, the Credit Union may classify your account as an inactive account and may charge a service fee as allowed by applicable law and set forth on the Deposit Rate Sheet/ Fee Schedule. The Credit Union will notify you at your last known address prior to imposing any fee as required by law. If a deposit or withdrawal has not been made on the account or the Credit Union has had no other contact with you for three (3) years or as required by the Uniform Unclaimed Property Act,

the account will be presumed to be abandoned. Funds in abandoned accounts will be remitted in accordance with state law. Once funds have been turned over to the state, the Credit Union has no further liability to you for such funds and if you choose to reclaim such funds, you must apply to the appropriate state agency.

26. Death of Account Owner

The Credit Union may require the survivor or other claimant to the account to produce certain documents before releasing the funds in the account. The Credit Union may continue to honor all transfers, withdrawals, deposits and other transactions on the account until the Credit Union learns of an account owner's death. You agree that the Credit Union can require that anyone who claims funds in your account after your death to indemnify the Credit Union for any losses resulting from honoring that claim. Deceased individuals should be removed from the membership within a reasonable period of time. If the deceased member was the Primary account holder, we may require closure of the membership within a period of six (6) months.

27. Termination of Account

The Credit Union may terminate your account at any time without notice to you or may require you to close your account and apply for a new account if (1) there is a change in owners or authorized signers; (2) there has been a forgery or fraud reported or committed involving your account; (3) there is a dispute as to the ownership of the funds in the account; (4) any account checks are lost or stolen; (5) there are excessive returned unpaid items not covered by an overdraft protection plan; or (6) there has been any misrepresentation or any other abuse of any of your accounts. You may terminate your account at any time by notifying the Credit Union in writing. The Credit Union is not responsible for payment of any check, withdrawal, or other item once your account is terminated; however, if the Credit Union honors a transaction after termination, you agree to reimburse the Credit Union for payment.

28. Termination of Membership

You may terminate your membership at the Credit Union after giving written notice of your intent to withdraw from membership. We may suspend all of your account access and services and expel you from membership for any reason allowed by applicable law, including failure to comply with our bylaws; causing a loss to the membership; causing willful destruction or damage to Credit Union property or acting without civility in dealings with Credit Union members, officers and employees.

29. Special Account Instructions

You may request the Credit Union to facilitate certain trust, will, or court-ordered account arrangements. However, because the Credit Union does not give legal advice, we cannot counsel you as to which account arrangement most appropriately meets the specific requirements of your

trust or court order. If you ask us to follow instructions that we believe might expose us to claims, suits, or any liability, whether directly or indirectly, we may refuse to follow your instructions or may require a bond or other protection. We may ask for your promise to defend the Credit Union against any claims and pay all legal fees and costs associated with the defense. In the event the Credit Union brings legal action to enforce this Agreement, the prevailing party shall be entitled, subject to applicable law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal. Any item presented with a full payment legend must be presented in person to a Credit Union officer; otherwise, payment is accepted with full reservation of rights. Account changes requested by you, or any account owner, such as adding or closing an account or service, must be evidenced by a signed Application and accepted by the Credit Union. The Credit Union will not recognize the authority of someone to whom you have given power of attorney without written authorization and a copy of the Power of Attorney on record at the Credit Union. You understand that the Credit Union may choose to retain electronic or imaged copies of any original documents, and you agree that an electronic or imaged copy is valid as an original.

30. Severability

In the event that any paragraph of this Agreement or any portion thereof is held by a court to be invalid or unenforceable for any reason, the other paragraphs and portions of this Agreement shall not be invalid or unenforceable and will continue in full force and effect.

31. Enforcement

You agree to be liable to the Credit Union for any liability, loss, or expense as provided in this Agreement that the Credit Union incurs as a result of any dispute involving your accounts or services. You authorize the Credit Union to deduct any such liability, loss, or expense from your account without prior notice to you. In the event either party brings a legal action to enforce the Agreement or collect any overdrawn funds on accounts accessed under this Agreement, the prevailing party shall be entitled, subject to applicable law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions, if applicable.

32. Governing Law

This Agreement is governed by the Bylaws of the Credit Union, federal laws and regulations, the laws and regulations of the State of Oregon and local clearinghouse rules, as amended from time to time. Any disputes regarding this Agreement shall be subject to the jurisdiction of the court of the county in which the Credit Union administrative offices are located.

II. FUNDS AVAILABILITY POLICY

1. General Policy

We reserve the right to place reasonable holds on funds deposited via Mobile Deposit or any deposit to savings accounts, to the extent permitted by law. For checking accounts, our funds availability policy is set forth below.

Our policy is to make funds from your deposits available to you on the same business day we receive your deposit.

Electronic deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written. For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before 5:30 p.m. on Monday through Thursday or 6:00 p.m. on Fridays, on days that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after the cutoff hours or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

2. Reservation of Right to Hold

In some cases, we will not make all of the funds that you deposit by check available to you on the same business day of your deposit. Depending on the type of check that you deposit, or if you deposit checks at an ATM, funds may not be available until the fifth business day after the day of your deposit. However, the first \$200.00 of your deposit into your checking account may be available on the same business day. If we are not going to make all of the funds from your deposit available on the same business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

3. Holds on Other Funds

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it. If we accept for deposit a check that is drawn on another financial institution, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

4. Longer Delays May Apply

We may delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons:

- a.** We believe a check you deposit will not be paid.
- b.** You deposit checks totaling more than \$5,000 on any one day.
- c.** You deposit a check that has been returned unpaid.
- d.** You have overdrawn your account repeatedly in the last six months.
- e.** There is an emergency, such as failure of communications or computer equipment. We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the seventh business day after the day of your deposit.

5. Deposits at Automated Teller Machines (ATMs)

Funds from deposits at all ATMs in excess of your daily limit in one day may not be available until the second business day after the day of deposit. All ATMs that we own or operate are identified as our machines. Funds from deposits (cash or checks) made at ATMs we do not own or operate may not be available until the fifth business day after the day of your deposit. The amount available for immediate withdrawal from an ATM deposit varies with your card limits.

6. Special Rules for New Accounts

The following special rules may apply during the first thirty (30) days your account is open:

- a.** Funds from electronic direct deposits will be available on the day we receive the deposit.
- b.** Funds from deposits of wire transfers, and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's and federal, state, and local government checks will be available on the next business day following the date of the deposit if the deposit meets certain conditions (for example, the checks must be payable to you). The excess over \$5,000 may not be available until the seventh business day after the day of your deposit.
- c.** Funds from all other check deposits may not be available until the seventh business day after the day of your deposit.

III. ELECTRONIC FUNDS TRANSFERS

The following terms set forth your and our additional rights and responsibilities concerning electronic funds transfers. Terms and conditions set forth elsewhere in this Agreement shall also apply to your electronic funds transfer service.

Electronic funds transfers (“EFTs”) are electronically initiated transfers of money through preauthorized deposits and payments, Visa Debit Card, automated teller machines (“ATMs”), point of sale (POS), telephone services provided by Member Service staff, audio response (“Telephone Teller”), and Online and Mobile Banking, Account-to-Account and Popmoney Funds transfers services involving your deposit accounts at the Credit Union.

1. Visa Debit/ATM Card and POS Services

a. Visa Debit Card. If we approve your Application for a Visa Debit Card, you may use your card to purchase goods and services any place your Visa Debit Card is honored by participating merchants. Funds to cover your Visa Debit Card purchases will be deducted from your checking account. If the balance in your account is not sufficient to pay the transaction amount, the Credit Union may terminate all services under this Agreement, unless you have an approved Overdraft Protection Agreement with us. You do not have the right to stop payment on Visa Debit Card transactions other than preauthorized transfers under Section 18, which follows.

Visa purchases are limited to the balance available in your account and our daily purchase limits. Point of Sale and Visa Debit Card purchases have a combined daily purchase limit amount. You are solely responsible for any disputes you may have with merchandise or services received using the Visa Debit Card. We are not responsible for any damages, liability, or settlement resolution as a result of the misrepresentation of quality, price, or warranty of goods or services by a merchant. We deduct the amount of your transaction, including any charges imposed by the merchant or financial institution, from the deposit account you’ve designated for this service. We may debit or place a hold on your account for a transaction either on the day it is presented to us for payment, by electronic or other means, or on the day we receive notice of the transaction whichever is earlier even though the transaction may not be actually posted to your account until a later date. When you use your Visa Debit Card for a Visa transaction, if the merchant requests preauthorization for this transaction, we will place a three (3) business day hold on your account for the amount of the preauthorization request (which may vary in some cases from the amount of the actual purchase, depending on the merchant’s request). If on the business day the transaction posts to your account, the 3 business day hold has not expired, both the amount of the hold and the amount of the transaction reduce the balance available in your account.

b. ATMs. You may use your ATM Card or Visa Debit Card along with your Personal Identification Number (“PIN”) at ATMs that are part of the networks listed on the back of your card, and such other machines or facilities as the Credit Union may designate. At the present time, you may use your card to:

- Make deposits to your checking and savings accounts.
- Withdraw cash from your checking and savings accounts.
- Access an established Line of Credit. (Any advances accessed by this card are governed by your Loan Account Agreement.)
- Make balance inquiries on your checking, savings, and Personal Line of Credit balances.

Cash withdrawals from ATMs can be made as often as you like. You may withdraw up to your maximum daily limit per day using your ATM Card or Visa Debit Card, subject to sufficient funds in your account and our daily withdrawal limits. ATM deposits are generally credited on the day of deposit. In the event that network or systems access is interrupted, there may be a delay between the time a deposit (either cash or check) is made and when it will be available for withdrawal. (See our Funds Availability Policy.) Deposits in excess of our daily deposit limits, may not be accepted at ATMs not owned or operated by the Credit Union. *NOTICE: You may use your ATM Card or Visa Debit Card free of any fees when you use an OnPoint ATM, or one connected to the MoneyPass or CO-OP networks. If you use an ATM operated by any other institution or network, you may be charged a fee by that entity and the Credit Union.*

c. Point of Sale (POS). You may use your ATM Card or Visa Debit Card together with your PIN to pay for purchases from merchants who have agreed to accept the card at such POS terminals as the Credit Union may designate. POS transactions will be withdrawn from your checking account. You may make purchases through point of sale terminals up to your maximum daily limit using your ATM Card or Visa Debit Card, subject to sufficient funds in your account and our daily purchase limits. Point of Sale and Visa Debit Card purchases have a combined daily purchase limit amount up to your maximum daily limit.

d. Limitations on Card Use

1. Non-Visa Debit Transactions. Some merchants may permit you to initiate debit and bill payment transactions with your card using either the Visa network or another network shown on your card, such as the MoneyPass, CO-OP, Plus, Star or Interlink networks. The Credit union will honor your debit transactions processed by any of these networks.

Transactions processed over the Visa network do not require you to use your PIN to validate the transaction. Generally, you will sign a receipt, provide your card number (e.g. internet, mail, or telephone transactions), or swipe your card at a terminal. Also, there are certain protections and rights such as the zero liability protections in the section Member Liability, applicable only to Visa processed transactions.

Transactions processed over other networks may not require you to use your PIN in order to validate a transaction. Generally, you enter your card number or swipe your card and provide or enter a PIN. However, some merchants may not require you to provide a PIN, and allow you to choose whether the transaction is processed by Visa or another network. Provisions applicable only to Visa transactions (such as Visa's zero liability protections) will not apply to non-Visa debit transactions and the liability rules for other EFTs in the section titled "Member Liability" will apply.

2. **Illegal Use of Internet Gambling.** You agree that all transactions that you initiate by use of your Visa Debit Card are legal in the jurisdiction where you live and/or where the transaction occurred. Internet gambling may be illegal in the jurisdiction in which you are located, including the United States. Your Visa Debit Card may only be used for legal transactions. Display of a payment card logo by an online merchant does not mean that internet gambling transactions are lawful in all jurisdictions in which you may be located. We have restricted all online gambling transactions with the Visa Debit Card.

3. **International Transactions.** Purchases and cash advances with your Visa Debit Card made in foreign countries and foreign currencies will be billed to you in U.S. dollars. The currency conversion rate for international transactions is established by Visa International, Inc. In addition, you will be assessed a Visa Foreign Transaction Fee on any card purchase, cash advance, web initiated transaction or ATM/POS transaction, made in or processed through a foreign country. See our Rate and Fee Schedule for the current Visa Foreign Transaction Fee.

2. Preauthorized Electronic Funds Transfers and Direct Deposits

Preauthorized electronic funds transfers may be made into or from your Credit Union accounts. These may include preauthorized electronic funds transfers made to an account from a third party (such as Social Security or your employer) or from an account to a third party (such as a mortgage payment, insurance premium payment or a converted check). If electronic funds transfers are made into or from your account, those payments may be affected

by a change in your account status or if you transfer or close your account.

3. Telephone Teller

If approved for Telephone Teller service, you may choose an account Access Code. You must use your Access Code along with your member/account number to access your accounts. At the present time you may use the Telephone Teller service to:

- Obtain balance information from your deposit and loan accounts.
- Obtain the transaction history on your checking, savings, Market Rate Savings, Teachers Deposit Fund, IRA Savings Account and loan accounts.
- Verify certain account information, including if a particular check has cleared your account, the date of your last deposit or loan payment, and loan payoff amounts.
- Transfer funds between your savings, checking and loan accounts.
- Transfer funds to accounts of other members (advance authorization required).
- Request a withdrawal from your savings, checking, Market Rate Savings, or Teachers Deposit Fund or an advance from your line of credit account by check mailed to you at your mailing address on file.
- Verify the total interest you earned on your deposit accounts, and the interest you paid on your consumer loan and Home Equity loan accounts during the prior calendar year.

Your accounts can be accessed under Telephone Teller service via a touch-tone telephone only. Not all push-button phones are touch-tone. Converters may be purchased for pulse and rotary dial phones. Telephone Teller service will be available for your convenience seven (7) days per week. This service may be interrupted for a short time each day for data processing. While there is no limit to the number of inquiries, transfers, or withdrawal requests you may make in any one day, there are certain limitations on transfers from Savings, Market Rate Savings, and Teachers Deposit Fund accounts. No transfer or withdrawal may exceed the available funds in your account. Cashier's checks can be made payable only to the primary account owner and will be processed and mailed to your address on file. The Credit Union reserves the right to refuse any transaction which would draw upon insufficient funds, exceed a credit limit, lower an account below a required balance, or otherwise require us to increase our required reserves on the account.

4. Electronic Check Transactions

You authorize us to honor any electronic check conversion transaction and represented check fee debit transactions you authorize (“Electronic Check Transactions”). You agree that your authorization for an electronic check transaction occurs when you initiate such a transaction after receiving any notice regarding the merchant’s right to process the transaction, including any written sign provided by the merchant at the time of your transaction. All terms governing electronic funds transfer services will apply to electronic check transactions, except the \$50 and \$500 limits of liability for unauthorized transactions in Section 12. You remain responsible for notifying us of any unauthorized electronic check transaction shown on your statement

5. Online Banking Services

a. Online Banking Services. Upon approval, you may use an Internet Enabled Device to access your accounts. You must use your User ID and Online Banking Password to access your accounts. Online Banking credentials are individually owned. You will need an Internet Enabled Device to access the Internet. You are responsible for the installation, maintenance and operation of your Internet Enabled Device. The Credit Union will not be responsible for any errors or failures involving your Internet Enabled Device or Internet Connection. At present time, you may use Online Banking Service to:

- Review account balance and transaction history for your deposit and loan accounts.
- Review information on your loan account including payoff amounts on some loans, due dates, and balance information.
- Transfer funds between your savings, checking and loan accounts.
- Transfer funds to accounts of other members.
- Make bill payments from your authorized funding accounts up to our standard per-check limit.
- Receive periodic (monthly) electronic statements.
- Communicate with the Credit Union using the secure message center.
- Transfer funds to other people and request transfers from other people using Popmoney.
- Transfer funds between your own accounts at different financial institutions using the External Transfer service.
- View your accounts with participating financial institutions using external Linked Accounts.
- Initiate Domestic Wires (upon approval)

- Initiate ACH transactions (upon approval)
- Initiate Tax Payments (upon approval)
- Deposit Checks via Scanner and mobile device (upon approval)
- Set up travel notifications on OnPoint debit and credit cards.
- Temporarily freeze and unfreeze OnPoint credit cards.

Transactions involving your deposit accounts will be subject to the terms of your Membership and Account Agreement. Transactions involving a line of credit or loan account will be subject to your Loan Agreement and Disclosures, as applicable. Transactions involving your Credit Card account will be subject to your Visa Credit Card Agreement.

b. Online Banking Service Limitations. The following limitations on Online Banking transactions may apply:

1. Transfers. You may make transfers to other accounts of yours as often as you like. However, transfers from your Regular Savings, Market Rate Savings, FlexSmartSM Money Market or Teachers Deposit Fund accounts will be limited to a total of six (6) in any one month, with the exception to make a loan payment at the Credit Union. You may transfer or withdraw up to the available balance in your account or up to the available credit limit on a line of credit or credit card at the time of the transfer, except as limited under this Agreement or your loan or Visa Credit Card agreements. The Credit Union reserves the right to refuse any transaction that would draw upon insufficient or unavailable funds, lower an account below a required balance, or otherwise require us to increase our required reserve on the account.
2. Account Information. The account balance and transaction history may be limited to recent account information involving your accounts. Also, the availability of funds for transfer or withdrawal may be limited due to the processing time for any ATM, Mobile Deposit transactions and our Funds Availability Policy.
3. E-Mail and Secure Message Center. The Credit Union may not immediately receive E-mail or Secure Message communications that you send and the Credit Union will not take action based on E-mail or Secure Message requests until the Credit Union actually receives your message and has a reasonable opportunity to act. We reserve the right to require any stop payment notices to be put in writing and we may refuse to send certain information through

unsecure e-mail communications. If you need to contact the Credit Union immediately regarding an unauthorized transaction or stop payment request, you may call the Credit Union at the telephone number set forth in Section 12.

6. Bill Pay Services

When you apply for the bill payment service (“Bill Pay”) you must designate your preferred checking account as the account from which payments that you authorize will be deducted. You will be given the ability to set up merchants, institutions or individuals that you would like to pay. All payees must be in the United States. We reserve the right to not allow the designation of a particular merchant or institution. Your enrollment in Bill Pay may not be fulfilled if we cannot verify your identity or other necessary information. In order to verify ownership of the Payment Account(s) or Billing Account, we may issue offsetting debits and credits to the Payment Account and Billing Account and require confirmation of these transactions from you. Through your enrollment in Bill Pay, you agree that we may request and review your credit report from a credit reporting agency. In addition, you agree that we may obtain financial information regarding your account from a payee or your financial institution to resolve payment posting problems or for verification

a. Service Access. Upon approval, you may use your personal computer to access your accounts. You must use your user ID along with your Online Banking password to access your accounts. The Bill Payment service is accessible seven (7) days a week, 24 hours a day. However, from time to time, some or all of the Credit Union’s Bill Payment services may not be available due to system maintenance. You will need a personal computer, Internet access and an appropriate web browser (such as Safari, Google Chrome or Microsoft Internet Explorer). The online address for the Bill Payment service is www.onpointcu.com. You are responsible for the installation, maintenance and operation of your computer. The Credit Union will not be responsible for any errors or failures involving any internet service provider, telephone service or your equipment.

b. Service Definitions. “Payee” is the person or entity to which you wish a bill payment to be directed or is the person or entity from which you receive electronic bills, as the case may be.

“Payment Instruction” is the information provided by you to the Credit Union for a bill payment to be made to the Payee (such as, but not limited to, Payee name, Payee account number, and Scheduled Payment Date).

“Payment Account” is the checking account from which bill payments will be debited.

“Billing Account” is the checking account from which all service fees will be automatically debited.

“Business Day” is every Monday through Friday, excluding Federal Reserve holidays.

“Scheduled Payment Date” is the day you want your Payee to receive your bill payment and is also the day your Payment Account will be debited, unless the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the previous Business Day.

“Due Date” is the date reflected on your Payee statement for which the payment is due. It is not the late date or grace period.

“Scheduled Payment” is a payment that has been scheduled through the Bill Pay Service but has not begun processing.

c. Payment Scheduling. The earliest possible Scheduled Payment Date for each Payee (typically four (4) or fewer Business Days from the current date) will be designated within the application when you are scheduling the payment. Therefore, you will not be permitted to select a Scheduled Payment Date less than the earliest possible Scheduled Payment Date designated for each Payee. When scheduling payments you must select a Scheduled Payment Date that is no later than the actual Due Date reflected on your Payee statement unless the Due Date falls on a non-Business Day. If the actual Due Date falls on a non-Business Day, you must select a Scheduled Payment Due Date that is at least one (1) Business Day before the actual Due Date. Scheduled Payment Dates should be prior to any late date or grace period.

d. Bill Pay Transactions. You authorize us to process Bill Pay transactions from your checking account. You or any persons who you have authorized to use your Bill Pay service or Password can perform the following Bill Pay transactions:

- **Make Bill Payments.** Pay any designated merchant, institution or individual in accordance with this agreement, a fixed recurring amount or a variable amount from your designated checking account.
- **Obtain Information.** Obtain information (payee information, payment status information, etc.) about your bill payment account status.
- **Bill Pay Payment Transactions.** You authorize us to process bill payments from your designated account. You may use the Bill Pay service to initiate different types of payment transactions.

e. Payment Transactions. You may use Bill Pay to initiate three different types of bill payment transactions:

- “Today” payments are payments initiated today with today’s transfer date. Payments can be canceled or changed through Bill Pay until funds are withdrawn from the account.
- “Future” payments are payments initiated by setting the payment amount and future payment date. Payments can be canceled or changed through Bill Pay until funds are withdrawn from the account.
- “Recurring” payments are payments that reoccur on a preset date with a fixed amount. You have the option in Bill Pay to set recurring payments to continue indefinitely or to stop on a specific date. Payments can be canceled or changed through Bill Pay until funds are withdrawn from the account.

f. Number and Authorized Payees. You may schedule payments with payees located in the United States. You may not make payments to federal, state or local governments or other categories of payees we designate from time to time. When you submit a Bill Pay transaction, you authorize us to transfer funds from your checking account. We will process Bill Pay transactions only to those payees the Credit Union has designated, payees you authorize and payees for whom the Credit Union has the proper payee member number. The Credit Union will not process any Bill Pay transfer if we know the required transaction information is incomplete. In any event, the Credit Union will not be liable for any transaction that contains incorrect information that the Credit Union was not responsible for entering or knowing. If there are insufficient funds in your account to process the Bill Pay transaction, we may refuse to process the transaction or we may process the transaction and transfer funds from any overdraft protection account you have authorized. The Credit Union reserves the right to refuse to process transactions that reasonably appear to the Credit Union to be fraudulent or erroneous.

g. Service Guarantee. Due to circumstances beyond the control of the Credit Union, particularly delays in handling and posting payments by Payees or financial institutions, some transactions may take longer to be credited to your account. The Credit Union will bear responsibility for any late payment related charges up to \$50.00 should a payment post after its Due Date as long as the payment was scheduled in accordance with the guidelines described under “Payment Scheduling” in this Agreement.

h. Bill Payment Authorization and Payment Remittance. By providing the Credit Union with names and account information of Payees to whom you wish to direct payments, you authorize the Credit Union to follow the Payment Instructions that it receives through the payment system. In order to

process payments more efficiently and effectively, the Credit Union may edit or alter payment data or data formats in accordance with Payee directives.

When the Credit Union receives a Payment Instruction, you authorize the Credit Union and its processing agents to debit your Payment Account and remit funds on your behalf so that the funds arrive as soon as reasonably possible after the Scheduled Payment Date designated by you. You also authorize the Credit Union and its processing agents to credit your Payment Account for payments returned to the Credit Union by the United States Postal Service or Payee, or payments remitted to you on behalf of another authorized user of the Bill Pay Service.

The Credit Union will use its best efforts to make all your payments properly. However, the Credit Union shall incur no liability and any Service Guarantee shall be void if the Credit Union is unable to complete any payments initiated by you because of the existence of any one or more of the following circumstances:

1. If, through no fault of the Credit Union, your Payment Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of your overdraft account;
2. The payment processing center is not working properly and you know or have been advised by the Credit Union about the malfunction before you execute the transaction;
3. You have not provided the Credit Union with the correct Payment Account information, or the correct name, address, phone number, or account information for the Payee; and/or,
4. Circumstances beyond control of the Credit Union (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction and the Credit Union has taken reasonable precautions to avoid those circumstances.

Provided none of the foregoing exceptions are applicable, if the Credit Union causes an incorrect amount of funds to be removed from your Payment Account or causes funds from your Payment Account to be directed to a Payee which does not comply with your Payment Instructions, the Credit Union shall be responsible for returning the improperly transferred funds to your Payment Account, and for directing to the proper Payee any previously misdirected transactions, and, if applicable, for any late payment related charges.

i. Payment Methods. The Credit Union reserves the right to select the method in which to remit funds on your behalf to your Payee. These payment methods may include, but may not be limited to, an electronic payment, an electronic check payment,

or a laser draft payment. (Funds remitted to the Payee are deducted from your Payment Account when the laser draft is presented to your financial institution for payment.)

j. Payment Cancellation Requests. You may cancel or edit any Scheduled Payment (including recurring payments) by following the directions within the application. There is no charge for canceling or editing a Scheduled Payment. Once the Credit Union has begun processing a payment it cannot be cancelled or edited, therefore a stop payment request must be submitted.

k. Stop Payment Requests. The Credit Union's ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. The Credit Union may also not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you desire to stop any payment that has already been processed, you must contact Customer Service. Although the Credit Union will make every effort to accommodate your request, the Credit Union will have no liability for failing to do so. The Credit Union may also require you to present your request in writing within fourteen (14) days. The charge for each stop payment request will be the current charge for such service as set out in the applicable fee schedule.

l. Prohibited Payments. Payments to Payees outside of the United States or its territories are prohibited through the Bill Pay Service.

m. Exception Payments. Tax payments and court ordered payments may be scheduled through the Bill Pay Service, however such payments are discouraged and must be scheduled at your own risk. In no event shall the Credit Union be liable for any claims or damages resulting from your scheduling of these types of payments. The Service Guarantee as it applies to any late payment related charges is void when these types of payments are scheduled and/or processed by the Credit Union. The Credit Union has no obligation to research or resolve any claim resulting from an exception payment. All research and resolution for any misapplied, misposted or misdirected payments will be the sole responsibility of you and not of the Credit Union.

n. Bill Delivery and Presentment. This feature is for the presentment of electronic bills only and it is your sole responsibility to contact your Payees directly if you do not receive your statements. In addition, if you elect to activate one of the Bill Pay Service electronic bill options, you also agree to the following:

1. Information provided to the Payee. We may, at the request of a Payee, provide to the Payee

your e-mail address, service address, or other data specifically requested by the Payee at the time of activating the electronic bill for that Payee, to inform you about any bill information. The Credit Union is unable to update or change your personal information such as, but not limited to, name, address, phone numbers and e-mail addresses, with the electronic Payee. Any changes will need to be made by contacting the Payee directly. Additionally it is your responsibility to maintain all usernames and passwords for all electronic Payee sites. You also agree not to use someone else's information to gain unauthorized access to another person's bill.

2. Activation. Upon activation of the electronic bill feature the Credit Union may notify the Payee of your request to receive electronic billing information. The presentment of your first electronic bill may vary from Payee to Payee and may take up to sixty (60) days, depending on the billing cycle of each Payee. Additionally, the ability to receive a paper copy of your statement(s) is at the sole discretion of the Payee. While your electronic bill feature is being activated it is your responsibility to keep your accounts current. Each electronic Payee reserves the right to accept or deny your request to receive electronic bills.

3. Authorization to Obtain Bill Data. By activating and using the electronic bill feature for a Payee you authorize us to obtain bill data from the Payee on your behalf. For some Payees, you will be asked to provide us with your user name and password for that Payee. By providing us with such information, you authorize us to use the information to obtain your bill data.

4. Notification. The Credit Union will use its best efforts to present all of your electronic bills promptly. In addition to notification within the Bill Pay Service, the Credit Union may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically logon to the Bill Pay Service and check on the delivery of new electronic bills. The time for notification may vary from Payee to Payee. You are responsible for ensuring timely payment of all bills.

5. Cancellation of Electronic Bill Notification. The electronic Payee reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Payee to Payee.

It may take up to sixty (60) days, depending on the billing cycle of each Payee. The Credit Union will notify your electronic Payee(s) as to the change in status of your account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. The Credit Union will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

6. Non-Delivery of Electronic Bill(s). You agree to hold the Credit Union harmless should the Payee fail to deliver your statement(s). You are responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Payee directly.

7. Accuracy and Dispute of Electronic Bill. The Credit Union is not responsible for the accuracy of your electronic bill(s). The Credit Union is only responsible for presenting the information we receive from the Payee. Any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail must be addressed with the Payee directly.

This Agreement does not alter your liability or obligations that currently exist between you and your Payees.

7. Mobile Banking Services

Mobile Banking is a personal financial information management service that allows you to access account information, make payments to individuals and merchants who have previously been set up through our online bill pay services and make other permitted financial transactions using compatible and supported mobile phones and/or other compatible and supported Internet Enabled devices (including phones, "Internet Enabled Devices"). We reserve the right to modify the scope of the Mobile Banking services at any time. We reserve the right to refuse to make any transaction you request through Mobile Banking. You agree and understand that Mobile Banking may not be accessible or may have limited utility over some mobile telephone networks, such as while roaming. The most up-to-date list of services which you may be able to access through Mobile Banking is posted on the Mobile Access enrollment website at www.onpointcu.com. When you register for Mobile Banking, designated accounts and payees (or billers) linked to your account through Online Banking will be accessible through the Mobile Banking service.

a. Mobile Banking Transactions. Upon approval, you may use your Internet Enabled device to access your accounts and loans. You must use your User ID and Online Banking password to access your accounts. You will need an Internet Enabled device with access

to the OnPoint Mobile Banking app or web browser version. You are responsible for the installation, maintenance and operation of your Internet Enabled device. You understand that the Mobile Banking Service may not be accessible or may have limited access over some mobile telephone networks, or based on the availability of mobile service. The Credit Union will not be responsible for errors or failures involving your Internet Enabled device or service. At present time, you may use Mobile Banking Service to:

- Review account balance and transaction history for your deposit and loan accounts.
- Review information on your loan account including payoff amounts, due dates, and balance information.
- Transfer funds between your savings, checking and loan accounts.
- Transfer funds to accounts of other members (advance authorization required).
- Make bill payments from your authorized funding accounts to payees, previously set up in Online Banking, up to our standard per-check limit.
- Transfer funds to other people and request transfers from other people using Popmoney.
- Transfer funds between your own accounts at different financial institutions using the External Transfer service.
- Locate an ATM.
- Locate an OnPoint branch.

b. Use of Services. Mobile Banking will not work unless you use it properly. You accept responsibility for making sure that you understand how to use Mobile Banking before you actually do so, and you use Mobile Banking in accordance with the online instructions posted on our website. You also accept responsibility for making sure that you know how to properly use your Internet Enabled device and the Mobile Banking software (“Software”) required to use the Service. The Software is provided by a service provider not affiliated with the Credit Union and you are solely responsible for entering a license agreement to use the software. We will not be liable to you for any losses caused by your failure to properly use the Mobile Banking service, the Software or your Internet Enabled device. You may experience technical or other difficulties related to the Mobile Banking service that may result in loss of data, personalization settings or other Mobile Access service interruptions. We assume no responsibility for the timeliness, deletion, misdelivery or failure to store any user data, communications or personalization settings in connection with your use of the Mobile Banking

service. We assume no responsibility for the operation, security, or functionality of any Internet Enabled device or mobile network which you utilize to access the Mobile Banking service. Financial information shown on the Mobile Banking service reflects the most recent account information available through the Mobile Banking service, you agree that we will not be liable for any delays in the content, or for any actions you take in reliance thereon. If you need current account information you agree to contact us directly.

c. Access to Accounts. By enrolling in the Mobile Banking service, you certify you are an owner, joint owner or custodian on the accounts represented in your enrollment. You understand that all owners of your accounts or anyone with whom you share your Password or any access code will be an Authorized User, and that authority will be considered unlimited in amount and manner with full authority to perform all transactions relating to the stated accounts, until you notify the Credit Union, in writing of the revocation of such authority. You agree that you are and will remain fully responsible for any transactions made by such persons on your accounts except transactions that occur after the Credit Union has been notified of any revocation of authority and has had a reasonable opportunity to act upon such notice.

d. Relationship to Other Agreements. You agree that when you use Mobile Banking, you will remain subject to the terms and conditions of all your existing agreements with us or any service providers of yours; including service carrier or provider and that this Agreement does not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of Mobile Banking (for example, your mobile service carrier or provider may impose data usage or text message charges for your use of or interaction with Mobile Banking, including while downloading the Software, receiving or sending Mobile Banking text messages, or other use of your Internet Enabled device when using the Software or other products and services provided by Mobile Banking), and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service carrier or provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your carrier or provider directly with your carrier or provider without involving us. You also agree that if you have any problems with Mobile Banking, you will contact us directly.

e. Mobile Banking Service Limitations and Conditions. When you use the Mobile Banking service to access accounts, you agree to the following limitations and conditions:

1. Transfers. You may make transfers to other accounts of yours as often as you like. However, transfers from your Regular Savings, Market Rate Savings, FlexSmartSM Money Market or Teachers Deposit Fund accounts will be limited to a total of six (6) in any one month, with the exception to make a loan payment at the Credit Union. You may transfer or withdraw up to the available balance in your account or up to the available credit limit on a line of credit or credit card at the time of the transfer, except as limited under this Agreement, or your loan agreements or Visa Credit Card Agreement. The Credit Union reserves the right to refuse any transaction that would draw upon insufficient or unavailable funds, lower an account below a required balance, or otherwise require us to increase our required reserve on the account.

2. Account Information/Ownership. The account balance and transaction history may be limited to recent account information involving your accounts. Also, the availability of funds for transfer or withdrawal may be limited due to the processing time for any ATM, Remote Deposit transactions and our Funds Availability Policy. You represent that you are the legal owner of the accounts and other financial information which may be accessed via Mobile Banking. You represent and agree that all information you provide to us in connection with Mobile Banking is accurate, current and complete, and that you have the right to provide such information to us for the purpose of operating the Mobile Banking service. You agree to not misrepresent your identity or your account information. You agree to keep your account information up to date and accurate.

3. Proprietary Rights. You may not copy, reproduce, distribute, or create derivative works from this content. Further, you agree not to reverse engineer or reverse compile any Mobile Banking technology, including, but not limited to, any Software or other mobile phone applications associated with the Mobile Banking service.

4. User Conduct. You agree not to use Mobile Banking or the content or information delivered through Mobile Banking in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy, including any rights in the Software; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of Mobile Access to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer

protection, unfair competition, anti-discrimination or false advertising); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to Mobile Banking; (i) interfere with or disrupt the use of Mobile Banking by any other user; or (k) use Mobile Banking in such a manner as to gain unauthorized entry or access to the computer systems of others.

5. No Commercial Use or Resale. You agree that the Mobile Banking services are for personal use only. You agree not to resell or make commercial use of Mobile Banking.

6. Indemnification. Unless caused by our intentional misconduct or gross negligence, you agree to protect and fully compensate us and service providers from any and all third party claims, liability, damages, expenses and costs (including, but not limited to, reasonable attorney's fees) caused by or arising from your improper use of the Mobile Banking software or your infringement, or infringement by any other user of your account, of any intellectual property or other right of anyone.

7. Additional Service Limitations. Neither we nor our service providers can always foresee or anticipate technical or other difficulties related to Mobile Banking. These difficulties may result in loss of data, personalization settings or other Mobile Banking interruptions. Neither we nor any of our service providers assume responsibility for the timeliness, deletion, misdelivery or failure to store any user data, communications or personalization settings in connection with your use of Mobile Banking. Neither we nor any of our service providers assume responsibility for the operation, security, functionality or availability of any Internet Enabled device or mobile network which you utilize to access Mobile Banking. You agree to exercise caution when utilizing the Mobile Banking application on your Internet Enabled device and to use good judgment and discretion when obtaining or transmitting information. Financial information shown on Mobile Banking reflects the most recent account information available through Mobile Banking, and may not be current. You agree that neither we nor our service providers will be liable for any delays in the content, or for any actions you take in reliance thereon. If you need current account information you agree to contact us directly.

8. Third Party Beneficiary. You agree that our service providers (including any provider of Software) may rely upon your agreements and representations, set forth in this subsection, and such service providers are, for the purposes of this subsection, third party beneficiaries with the power to enforce those provisions against you, as applicable.

8. PopmoneySM Payments Service

The Popmoney Payments Service (Popmoney Service) enables you use the Credit Union online banking service: (1) to initiate a payment transaction from an Eligible Transaction Account to an account at a U.S. financial institution; and/or (2) to receive a payment transaction from another person into an Eligible Transaction Account, in U.S. dollars. Although the ACH Network is often used to execute Popmoney Service payment transactions, other Payment Networks may be used to facilitate the execution and transmission of payment transactions. All payment transactions must be made through the Credit Union online banking service and are subject to the terms of this Agreement. Receipt of payment transactions may be made through the Credit Union online banking service subject to the terms of this Agreement. However, in some instances, receipt of payment transactions may be made through www.Popmoney.com (the “Popmoney Website”) and if you choose to initiate or receive a payment transaction at the Popmoney Website you agree that you shall be subject to the terms of other agreements, including, but not limited to, the “terms of use” for the Popmoney Website.

a. Definitions. “ACH Network” means the funds transfer system, governed by the NACHA Rules that provides funds transfer services to participating financial institutions.

“Eligible Transaction Account” is a transaction account (checking, money market or other direct deposit account, credit card account, or debit card account, including any required routing information) from which your payments as a Sender will be debited, any Popmoney Service fees will be automatically debited, or to which payments and credits to you will be credited.

“Payment Instruction” is the information provided by the Sender to the Popmoney Service for a payment to be made to a Receiver (such as, but not limited to, name, mobile telephone number, email address, and bank account and routing number information).

“Payment Network” means a payment network (such as the ACH Network or ACCEL / Exchange payment network) through which funds may be transferred.

“Receiver” is a person or business entity that is sent a payment transaction through the Popmoney Service.

“Sender” is a person or business entity that sends a payment transaction through the Popmoney Service.

b. Initiation of Payment Transactions. You may initiate (a) a one-time payment transaction to a Receiver for which processing shall be initiated immediately, (b) a one-time payment transaction to a Receiver for which processing shall be initiated at a later specified date up to one (1) year, and (c) a recurring series of payment transactions to a Receiver for which processing shall be initiated on the specified dates. Payment transactions initiated to Receivers are processed in two ways. You can provide all the required information about the Receiver, including his/her Eligible Transaction Account, necessary to complete an ACH Network transfer of funds. Alternatively, you can provide contact information about the Receiver (including an email address or mobile telephone number) and the Popmoney Service may contact the Receiver and request that the Receiver (i) provide information so that we may validate the identity of the Receiver at the Popmoney Website and then (ii) provide Eligible Transaction Account information in order to complete the payment transaction (a “Two-Step Transfer”). If the Receiver maintains an Eligible Transaction Account with an institution that participates in the Popmoney Service, the Receiver may access the Popmoney Service at his or her financial institution’s website or mobile application to complete the payment transaction and receive the payment.

You understand and agree that when you initiate a payment transaction from an Eligible Transaction Account using the Popmoney Service, the processing of the payment transaction will begin and the debiting of your Eligible Transaction Account will occur as early as the day of such initiation. However, the payment funds will be transferred into the Receiver’s Eligible Transaction Account no earlier than the next Business Day after you initiated the payment transaction. If you request a one-time payment transaction to be initiated on a specified date or a recurring series of payment transactions to be initiated on specified dates, then the processing of the payment transaction will begin on the specified date and the debiting of your Eligible Transaction Account will occur as early as the specified date(s). However, the payment funds will be transferred into the Receiver’s Eligible Transaction Account no earlier than the next Business Day following the specified date. In addition, in the case of all Two-Step Transfers, the deposit of the payment funds into the Receiver’s Eligible Transaction Account (even if debited or withdrawn from your Eligible Transaction Account) may be delayed if the Receiver has not provided the Popmoney Service with certain required

information such as his or her Eligible Transaction Account information.

c. Payment Authorization and Payment

Remittance. By providing us with names and telephone numbers, email addresses, and/or account information of Receivers to whom you wish to direct payments, you authorize us to follow the Payment Instructions that we receive through the Popmoney Service. When we receive a Payment Instruction from you, you authorize us to debit your Eligible Transaction Account and remit funds on your behalf. You also authorize us to credit your Eligible Transaction Account for the receipt of payments, including but not limited to those payments returned to us from Receivers to whom you sent payment(s) or cancelled and returned to you because the processing of the payment transaction could not be completed. It is the responsibility of the Sender and the Receiver to ensure the accuracy of any information or payment instructions (including but not limited to the Payment Instructions and name, telephone number and/or email address that the Sender enters for the Receiver to whom you are sending the payment transaction), and for informing us as soon as possible if they become aware that this information is inaccurate. Neither the Sender nor Receiver may use a P.O. Box as a postal address. We will make a reasonable effort to stop or recover a payment transaction made to the wrong person or entity once informed, but we do not guarantee such stoppage or recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by the Sender or Receiver.

We will use reasonable efforts to complete all your payment transactions properly. However, we shall incur no liability if we are unable to complete any transaction because of the existence of any one or more of the following circumstances:

1. If, through no fault of ours, the Eligible Transaction Account does not contain sufficient funds to complete the payment transaction or the payment transaction would exceed the credit limit of your overdraft account;
2. The Popmoney Service is not working properly and you know or have been advised by us about the malfunction before you execute the payment transaction;
3. The payment is refused;
4. You have not provided us with the correct information, including but not limited to the correct Payment Instructions or Eligible Transaction Account information, or the correct name and address or mobile phone number of the Receiver

to whom you are initiating a payment transaction;
and/or,

5. Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution, or interference from an outside force) prevent the proper execution of the payment transaction and we have taken reasonable precautions to avoid those circumstances.

d. Receiving Payments. If another person wants to send you a payment transaction using the Popmoney Service to an Eligible Transaction Account you hold with us, he or she can do that from an Eligible Transaction Account at a financial institution that participates in the Popmoney Service or at the Popmoney Website. You understand and agree that there may be a delay between the time you are notified of the pending payment transaction and the deposit of the payment funds into your Eligible Transaction Account, and you may be required to take additional steps to facilitate the deposit of the payment of funds into your Eligible Transaction Account. You authorize the Sender, the financial institution which holds the Sender's Eligible Transaction Account and the Popmoney Website to send emails to you and text messages to your mobile phone in connection with the Sender's initiation of payment transactions to you, and, as a Receiver, you may also receive electronic gift cards or requests from others for payment through the Popmoney Service.

e. Payment Methods and Amounts. We impose limits on the amount of money or gift card value you can send or receive. These limits may be adjusted from time-to-time at our sole discretion. You may log in to the Site to view your individual transaction limits. We also reserve the right to select the method in which to remit funds on your behalf, and the method to return funds to you in the event that your Eligible Transaction Account is closed or otherwise unavailable to us. These payment methods may include, but may not be limited to, an electronic or paper check payment.

f. Receipts and Transaction History. You may view your transaction history by logging into the online banking service and viewing your transaction history.

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

h. Service Providers. We are offering you the Popmoney Service through one or more service providers with whom we have contracted some or all of the service on our behalf. You agree that we have the

right under this Agreement to delegate to our service providers certain rights and performance obligations that we have under this Agreement, and that our service providers will be intended third party beneficiaries of this Agreement and will be entitled to the applicable rights and protections that this Agreement provides to us.

i. Prohibited Payments. The following types of payments are prohibited and we have the right but not the obligation to monitor for, block and/or reverse such payments:

- Payments to or from persons or entities located in prohibited territories;
- Payments that violate any law;
- Payments for donations or payments to an unauthorized charity or non-profit organization
- Payments that violate any terms in this Agreement; and
- Payments related to tax or court ordered obligations, gambling, any unlawful activity, or any objectionable purpose as we reasonably determine.

In no event shall we be obligated to research or resolve or be liable for any claims or damages resulting from your scheduling of prohibited payments.

9. External Transfer Service

The External Transfer Service enables you to transfer funds: (i) between your Accounts that you maintain with us; and (ii) between your Account(s) that you maintain with us and your Account(s) that are maintained by other financial institutions.

a. Definitions. “Account” means a checking, money market or savings accounts.

“Recipient Account” is the account to which your funds will be credited.

“Sender” means the Transaction Account holder initiating a transfer through the External Transfer Service.

“Transaction Account” is the Account from which your funds will be debited, your Account-to-Account Service fees will be automatically debited, or to which funds will be returned.

“Transfer Instruction” is the information provided by you to the Account-to-Account Service for a transfer of funds to a Recipient Account.

b. Transfer Authorization and Processing. You represent and warrant that you are the sole owner (and not a joint tenant) of the Transaction Account and the Recipient Account and that you have all necessary legal right, power and authority to transfer funds from the Transaction Account to the Recipient Account. Further,

you represent and warrant that the Recipient Account is located in the United States. When we receive a Transfer Instruction from you, you authorize us to debit your Transaction Account and remit funds on your behalf to the Recipient Account designated by you and to debit one of your Accounts. You also authorize us to reverse a transfer from your Recipient Account if the debit is returned from the Transaction Account for any reason, including but not limited to nonsufficient funds.

c. Transfer Methods and Amounts. We may, at our sole discretion, impose limits on the amount of money you can transfer through our Account-to-Account Service. We also reserve the right to select the method in which to transfer funds on your behalf, and the method to return funds to you in the event that the Recipient Account is closed or otherwise unavailable to us.

d. Transfer Cancellation Requests and Refused Transfers. You may cancel a transfer at any time until it begins processing. We will, to the extent permitted by law, make reasonable attempts to return any unclaimed, refused, refunded, prohibited, or denied transfer to your Transaction Account. If this is unsuccessful (for example, the Transaction Account has been closed) we will make reasonable attempts to mail you a paper check. If after ninety (90) days (or longer, depending on our then-current standard for unclaimed checks) that check has not been cashed, we will stop payment on it and transfer funds to an “unclaimed funds” account, and will subsequently handle the unclaimed funds as required or otherwise permitted by applicable law.

e. Stop Payment Requests. If you as a Sender desire to stop any transfer that has already been processed, you must contact us. Although we will make a reasonable effort to accommodate your request, we will have no liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each request will be the current charge for such service as set out in the applicable fee schedule.

f. Your Responsibilities for Accurate Information. Your enrollment in the Account-to-Account Service may not be fulfilled if we cannot verify your identity or other necessary information. Through your enrollment in the Account-to-Account Service, you agree that we reserve the right to request a review of your credit rating at our own expense through an authorized bureau. It is your responsibility to ensure the accuracy of any information that you enter into the Account-to-Account Service, and for informing us as soon as possible if you become aware that this information is inaccurate. You may not use a P.O. Box

as a postal address. We will make a reasonable effort to stop or recover a transfer made to the wrong Recipient Account once informed, but we do not guarantee such recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by you.

We will use reasonable efforts to make all your transfers properly. However, we shall incur no liability if we are unable to complete any transfers initiated by you because of the existence of any one or more of the following circumstances:

1. If, through no fault of ours, the Transaction Account does not contain sufficient funds to complete the transfer or the transfer would exceed the credit limit of your overdraft account;
2. The Account-to-Account Service is not working properly and you know or have been advised by us about the malfunction before you execute the transaction;
3. The transfer is refused;
4. You as a Sender have not provided us with the correct information, including but not limited to the correct Transaction Account or Recipient Account information; and/or,
5. Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution(s), or interference from an outside force) prevent the proper execution of the transfer and we have taken reasonable precautions to avoid those circumstances.

g. Failed Or Returned Transfers. In using the Account-to-Account Service, you are requesting us to make transfers for you from your Transaction Account. If we are unable to complete the transfer for any reason associated with your Transaction Account (for example, there are insufficient funds in your Transaction Account to cover the transaction), the transfer may not be completed. In some instances, you will receive a return notice from us. In each such case, you agree that: (a) You will reimburse us immediately upon demand the transfer amount that has been returned to us; (b) For any amount not reimbursed to us within fifteen (15) days of the initial notification, a late charge equal to one and a half percent (1.5%) monthly interest or the legal maximum, whichever rate is lower, for any unpaid amounts may be imposed; (c) You may be assessed a fee by us if the transfer is returned because you have insufficient funds in your Transaction Account to cover the requested transfer or if we cannot otherwise collect the funds from you; the fee amount will be as set forth in your fee schedule from us or your

Account agreement with us. You hereby authorize us to deduct these amounts from your designated Transaction Account by ACH debit; (d) You will reimburse us for any fees or costs we or they incur in attempting to collect the amount of the return from you; and, (e) We are authorized to report the facts concerning the return to any credit reporting agency.

h. Refused Transfers. We reserve the right to refuse any transfer to a Recipient Account. We will notify you promptly if we decide to refuse to transfer funds to a Recipient Account. This notification is not required if you attempt to make a prohibited transfer under this Agreement.

i. Returned Transfers. In using the Account-to-Account Service, you understand transfers may be returned for various reasons such as, but not limited to, Recipient Account number is not valid. We will use reasonable efforts to research and correct the transfer to the intended Recipient Account or void the transfer and credit your Transaction Account. You may receive notification from us.

j. Service Providers Refused Transfers. We are offering you the Account-to-Account Service through one or more service providers with whom we have contracted some or all of the service on our behalf. You agree that we have the right under this Agreement to delegate to our service providers certain rights and performance obligations that we have under this Agreement, and that our service providers will be intended third party beneficiaries of this Agreement and will be entitled to the applicable rights and protections that this Agreement provides to us.

10. Account Aggregation

a. Description of Service. The Account Aggregation service allows you to access and collect the account information of your accounts at other financial institutions within the Online Banking service. The Account Aggregation service is offered through our third party service provider, who acts on behalf of the Credit Union.

b. Terms of Service.

1. Authorization to Access Third Party Accounts. You understand and agree that, in order to provide the Service, it is necessary for us to access third party websites and databases containing information regarding your accounts and financial relationships as designated by you (“Third Party Accounts”), on your behalf, to retrieve information as requested or authorized by you. By using the Service, you agree to authorize us to access such Third Party Accounts to retrieve such information as requested or authorized by you, or for any

other purpose authorized by this Agreement. You represent to us that you have the right to authorize and permit us access to your Third Party Accounts and information. You hereby expressly authorize and permit us to use information submitted by you including account passwords and user names to access your Third Party Accounts to provide the Service. You understand and agree that at all times your relationship with each Third Party Account provider is independent of the Credit Union and your use of the Service. You acknowledge and agree that when we access and retrieve information from the third party accounts, we and our service provider are acting as your agent, and not as the agent of or on behalf of the third party.

2. Credit Union Responsibilities. We will not be responsible for any acts or omissions by the financial institution or other provider of any Third Party Account, including without limitation any modification, interruption or discontinuance of any Third Party Account by such provider. You agree that the Credit Union shall not be liable for any costs, fees, losses or damages of any kind incurred as a result of (1) access to the third party accounts by us or our service provider; (2) our retrieval of or inability to retrieve information from the third party accounts; (3) any inaccuracy, incompleteness or misinformation contained in content retrieved from the third party accounts and (4) any charges imposed by the provider of any third party account.

3. Your Responsibilities. You agree 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 agree you will not use the Service in any manner that could damage, disable, overburden, or impair account aggregation or interfere with any other party's use and enjoyment of account aggregation. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through account aggregation. You agree that these warranties and representations will remain in full force and effect even if this Agreement terminates for any reason. You understand and agree that the Service is provided "as-is." We assume no responsibility for the timeliness, deletion, misdelivery or failure to store any user communications or personalization settings. You understand and expressly agree that use of the Service is at your sole risk, that any material and/or data downloaded or otherwise obtained through the use of the service is 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 of such material and/or data.

c. Discontinuing Service. You must notify us if you wish to discontinue using Account Aggregation; you may send us an email or call us as provided in this Agreement. We reserve the right to discontinue the Service at any time if you fail to follow the terms of service.

11. Security of Access Code

The Card PIN's, Online and Mobile Banking Passwords and Telephone Teller Access Codes ("access code") are for your security. Your access code is confidential and should not be disclosed to third parties or recorded. You are responsible for safekeeping your access code. You agree not to disclose or otherwise make your access code and Internet Enabled or Mobile Device available to anyone not authorized by you to sign on your accounts. If you authorize anyone to have or use your access code and Internet Enabled or Mobile Device, you understand that person may use the Online Banking, Bill Pay or Mobile Banking service to access and review all of your account information and execute account transactions. Therefore, we are entitled to act on transaction instructions received using your access code and you agree that the use of your access code will have the same effect as your signature authorizing transactions.

If you authorize anyone to use your access code in any manner, that authority will be considered unlimited in amount and manner until you specifically revoke such authority by notifying the Credit Union and changing your access code immediately. You are responsible for any transactions made by such persons until you notify us that transactions and access by that person are no longer authorized and your access code is changed. If you fail to change your access code or maintain the security of your access code and the Credit Union suffers a loss, we may terminate your electronic services immediately.

12. Member Liability

You are responsible for all transfers you authorize using your EFT services under this Agreement. If you permit other persons to use an EFT service, Card or Access Code you are responsible for any transactions they authorize or conduct on any of your accounts. Tell us at once if you believe anyone has used your Account, Card or Access Code without your authority or if you believe that an electronic funds transfer has been made without your permission. Calling Member Services is the best way of keeping your possible losses down. For Visa Debit Card purchase transactions, if you notify us of your lost or stolen card, you may not be liable for any losses provided you were not grossly negligent (for example allowing any other individual access to your PIN and/or Card) or fraudulent in handling your Card and you provide us with a written statement regarding your unauthorized Card claim, otherwise the following

Exhibit B

liability limits will apply. For all other EFT transactions except electronic check transactions, if you tell us of the unauthorized use of your account within two (2) business days, you can lose no more than \$50 if someone accessed your account without your permission. If you do not tell us within two (2) business days after you learn of the unauthorized use of your account or EFT service, and we can prove that we could have stopped someone from accessing your account without your permission if you had told us, you could lose as much as \$500. Also, if your statement shows EFT transfers that you did not make including made by Card, Access Code or other means, tell us at once. If you do not tell us within sixty (60) days after the statement was mailed or became available to you, you may be liable for the following amounts if we can prove that we could have stopped someone from making the transfers if you had told us in time: (i) for unauthorized debit card purchase transactions -- up to the limits set forth above and (ii) for all other unauthorized EFT transactions -- up to the full amount of the loss. If extenuating circumstances kept you from telling us, we may extend the time periods.

If you believe your Card has been lost or stolen or that someone has transferred or may transfer money from your account without your permission, call:

(503) 228-7077 local (800) 527-3932 toll free

or write: OnPoint Community Credit Union

Attn: Member Services

PO Box 3750

Portland, OR 97208-3750

13. Business Days

Our business days are Monday through Friday, excluding holidays.

14. Fees and Charges

You agree to pay the fees and charges for EFT services as set forth on the Deposit Rate Sheet/Fee Schedule. From time to time, the charges may be changed. We will notify you of any changes as required by law. If you request a transfer or check withdrawal from your line of credit or credit card account, such transactions may be subject to finance charges and fees under the terms and conditions of your Loan Account Agreement, Overdraft Protection Personal Line of Credit Agreement or Visa Credit Card Agreement.

If you use an ATM that is not operated by us, you may be charged an ATM surcharge by the ATM operator or an ATM network utilized for such a transaction and OnPoint Community Credit Union. The ATM surcharge will be debited from your account if you elect to complete the transaction. You may use your ATM Card or Visa Debit Card surcharge free when you use an OnPoint ATM or one connected to the MoneyPass or CO-OP networks.

15. Right to Receive Documentation of Transfers

a. Periodic Statements. All EFT transactions will be recorded on your periodic statement. You will receive a statement monthly.

b. Direct Deposits. If you have arranged to have a direct deposit made to your account at least once every sixty (60) days from the same source and you do not receive a receipt (such as a pay stub), you can find out whether or not the deposit has been made through Online or Mobile Banking or by calling Telephone Teller or Member Services.

c. Terminal Receipt. You will receive a receipt at the time you make a transaction using an ATM, POS terminal or with a participating Visa merchant, with the exception of some electronic terminals that will not provide receipts for transactions of \$15 or less, or at ATM's where you have elected not to receive a transaction receipt.

16. Account Information Disclosure

We may disclose EFT information to third parties about your account or the transfers you make:

- a.** As necessary to complete transfers;
- b.** To verify the existence of sufficient funds to cover specific transactions upon the request of an authorized party to the transaction;
- c.** To comply with government agency or court orders;
- d.** If you give us your written permission.

You agree that the Credit Union may collect and retain data related to your account transactions, including but not limited to: transaction types, amounts, locations, timing, online uses, etc. to better understand your transactional behavior. You understand and agree the Credit Union may analyze your transaction data and share the data with its contracted service providers to assist with data analytics, so the Credit Union can tailor its services and offerings to you on a personal basis. Any data we share with others will be governed by our existing Privacy Policy.

17. Call Recording

We may record telephone calls for quality assurance purposes, instruction of payment orders and related acts. Failure to do so shall not be deemed a failure to exercise reasonable care or good faith. By calling, you agree to indemnify and hold OnPoint harmless against any costs, expenses, damages, and liabilities, including attorney's fees that may incur as a result of such recording or the use thereof.

18. Credit Union Liability for Failure to Make Transactions

If we do not complete a transfer to or from your consumer account on time or in the correct amount according to our agreement with you, we will be liable for your

losses or damages. (A consumer account is defined as an account belonging to a natural person and used primarily for personal, family, or household purposes.) Our sole responsibility for an error in a transfer will be to correct the error.

For Online and Mobile Banking services, you agree that neither we nor the service providers shall be responsible for any loss, property damage or loss, whether caused by the equipment, software, Credit Union, or by online browser or internet access providers, mobile phone providers or by online service providers or by an agent or subcontractor of any of the foregoing. Nor shall we or the service providers be responsible for any direct, indirect, special or consequential economic or other damages arising in any way out of the installation, download, use, or maintenance of the equipment, software, the Credit Union Online or Mobile Banking services, Internet browser or access software. In this regard, although we have taken measures to provide security for communications from you to us via the Credit Union Online and Mobile Banking services and may have referred to such services as “secured”, we cannot and do not provide any warranty or guarantee of such security. In states that do not allow the exclusion or limitation of such damages, our liability is limited to the extent permitted by applicable law.

Additionally, the Credit Union will not be liable for the following:

- a.** If, through no fault of ours, you do not have enough money in your account to complete a transaction, your account is closed, or the transaction amount would exceed the credit limit on your line of credit or Visa Credit Card.
- b.** If you used the wrong PIN, Access Code, or member/account number, or you have not properly followed any applicable computer, Internet, mobile device or Credit Union instructions for performing the transaction.
- c.** If the terminal where you are making the transaction does not have enough cash or was not working properly and you knew about the problem when you started the transaction.
- d.** If your Internet enabled or mobile device fails or malfunctions, or the Online or Mobile Banking service was not properly working and such problem was or should have been apparent when you attempted such transaction.
- e.** If, through no fault of ours, a bill payment or EFT transaction does not reach a particular creditor and a fee, penalty, or interest is assessed against you.
- f.** If circumstances beyond our control (such as fire, flood, postal strikes, equipment or power failure) prevent the transaction.

- g.** If the money in your account is subject to legal process or other claim, or if your account is frozen because of a delinquent loan, overdrawn account, or suspected fraud or dispute.
- h.** If the error was caused by a system beyond the Credit Union's control such as the ATM network, telecommunications system, mobile phone service provider or Internet service provider.
- i.** If you have not given the Credit Union complete, correct, or current information so the Credit Union can process a transaction
- j.** If anyone refuses to honor your Visa Debit Card or ATM Card.
- k.** The ATM machine may retain your card in certain instances, in which event you may contact the Credit Union about its replacement.
- l.** If there are other exceptions as established by the Credit Union.

19. Preauthorized Electronic Funds Transfers

a. Stop Payment Right. If you have arranged in advance to make regular EFT transactions out of your account(s), you may stop payment of preauthorized transfers (excluding Online and Mobile Banking Bill Payments) from your account. You must notify the Credit Union orally or in writing at any time up to three (3) business days before the scheduled date of the transfer. The Credit Union may require written confirmation of the stop payment order to be made within fourteen (14) days of any oral notification. If we do require the written confirmation, the oral stop payment order shall cease to be binding fourteen (14) days after it has been made.

b. Notice of Varying Amounts. If these payments may vary in amount, the person you are going to pay is required to tell you ten (10) days before each payment, when the payment will be made and how much it will be. You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment or when the amount would fall outside certain limits that you set.

c. Liability for Failure to Stop Payment of Preauthorized Transfers. If you order us to stop one of these payments three (3) business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

20. Termination of EFT Service

You agree that we may terminate this Agreement and your use of your ATM/Visa Debit Card and EFT services, if you or any authorized user of your ATM/Visa Debit Card, PIN or Access Code breach this or any other agreement with us or we have reason to believe that there has been an unauthorized use of your card, PIN or Access Code.

You or any other party to your account can terminate this Agreement by notifying us in writing. Termination of service will be effective the first business day following receipt of your written notice. Termination of this Agreement will not affect the rights and responsibilities of the parties under this Agreement for transactions initiated before termination.

21. Notices

The Credit Union reserves the right to change the terms and conditions upon which EFT services are offered. The Credit Union will mail notice to you at least thirty (30) days before the effective date of any EFT change, as required by law. Use of this EFT service is subject to existing regulations governing the Credit Union account and any future changes to those regulations.

22. Statement Errors

If you notice an error or have questions about your electronic transfers, contact Member Services or write us at the address set forth in Section 12 above as soon as you can. We must hear from you no later than sixty (60) days after we sent or made the first statement available to you on which the problem appears.

- a.** Tell us your name and member/account number.
- b.** Describe the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- c.** Tell us the dollar amount of the suspected error. The following two paragraphs apply only to consumer accounts (an account belonging to a natural person and used primarily for personal, family, or household purposes):

If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) business days. We will tell you the results of our investigation within ten (10) business days after we hear from you and will correct any error promptly. For errors related to transactions occurring within thirty (30) days after the first deposit to the account (new accounts), we will tell you the results of our investigation within twenty (20) business days. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question (ninety (90) calendar days for POS transaction errors, new account transaction errors, or errors involving transactions initiated outside the United States). If we decide to do this, we will re-credit your account within ten (10) business days (5 business days for OnPoint Community Credit Union Visa Debit Card purchase transactions) for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do

not receive it within ten (10) business days, we may not re-credit your account.

If we decide after our investigation that an error did not occur, we will deliver or mail to you an explanation of our findings within three (3) business days after the conclusion of our investigation. If you request, we will provide copies of documents (to the extent possible without violating other members' rights to privacy) relied upon to conclude that the error did not occur.

23. ATM Safety Notice

The following information is a list of safety precautions regarding the use of Automated Teller Machine (ATM) and Night Deposit Facilities.

- Be aware of your surroundings, particularly at night.
- Consider having someone accompany you when the ATM or night deposit facility is used after dark.
- If another person is uncomfortably close to you at the time of your transaction, ask the person to step back before you complete your transaction.
- Refrain from displaying your cash at the ATM or night deposit facility. As soon as your transaction is completed, place your money in your purse or wallet. Count the cash later in the safety of your car or home. When depositing cash at the night drop, have a supply of deposit envelopes at home or the office. Prepare your deposit before going to the ATM or night deposit facility, and conceal the deposit in a pocket or purse until you reach the ATM or night deposit facility and begin your transaction.
- If you notice anything suspicious at the ATM or night deposit facility, consider using another ATM or night deposit facility or coming back later. If you are in the middle of a transaction and you notice something suspicious, cancel the transaction, take your ATM or Visa Debit Card and deposit, and leave.
- If you are followed after making a transaction, go to the nearest public area where people are located.
- Do not write your personal identification number (PIN) on your ATM or Visa Debit Card. Do not keep a record of your PIN any place where it might be available to others.
- Report all crimes to law enforcement officials immediately.
- Do not leave your transaction receipt at the ATM. Protect your account information.

Member Services

Mon-Fri 7:00 am-7:00 pm
Saturday 9:00 am-1:00 pm

P.O. Box 3750, Portland, OR 97208-3750
503.228.7077 800.527.3932 FAX 503.273.2698

24-Hour Loan Decisions

www.onpointcu.com/loanapplication

OnPoint Mortgage

503.273.1755 or 800.527.3932 ext. 5220

24-Hour Credit Card Support

866.820.3101

Insurance Services

800.523.3068

Branches

Visit our website at www.onpointcu.com for branch hours and locations.

Online Banking

www.onpointcu.com



Federally Insured by NCUA.
Equal Housing Opportunity.

8/18 8MAA

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF MULTNOMAH

CINDY ADKINS, TIMOTHY SOUTH,
and PAITON CAMPBELL, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

ONPOINT COMMUNITY CREDIT UNION,

Defendant.

Case No. 21CV06289

**FIRST AMENDED CLASS ACTION
COMPLAINT AND DEMAND FOR JURY
TRIAL**

BREACH OF CONTRACT; BREACH OF
COVENANT OF GOOD FAITH AND FAIR
DEALING; UNLAWFUL TRADE
PRACTICES ACT (ORS 646.608)

CLAIMS NOT SUBJECT TO MANDATORY
ARBITRATION

Filing fee \$884.00 pursuant to ORS
21.160(1)(d)

1.

Plaintiffs, Cindy Adkins, Timothy South and Paiton Campbell, individually and on behalf of the classes of persons preliminarily defined below (the “Classes”), make the following allegations based upon information and belief, except as to allegations specifically pertaining to Plaintiffs, which are based on personal knowledge.

PRELIMINARY STATEMENT

2.

Plaintiffs bring this action against Defendant OnPoint Community Credit Union (“OnPoint” or “Defendant”), arising from its routine practices of (1) assessing and collecting multiple \$30 fees on the same item and (2) assessing two ATM Withdrawal/Inquiry Fees (“OON Fees”) per transaction. The practices at issue in this case breach consumers’ contracts and the covenant of

1 good faith and fair dealing, and violate the Oregon Unlawful Trade Practices Act, ORS 646.605 *et*
2 *seq.* (“UTPA”).

3 3.

4 Plaintiffs and other customers have been injured by OnPoint’s practices. Plaintiffs, individually
5 and on behalf of the classes of individuals preliminarily defined below, seek damages, restitution,
6 and injunctive and declaratory relief for OnPoint’s breach of contract and the duty of good faith
7 and fair dealing and/or unjust enrichment, and violation of the Oregon Unlawful Trade Practices
8 Act, ORS 646.608 *et seq.* (the “UPTA”).

9 **PARTIES**

10 4.

11 Plaintiff Adkins is a citizen and resident of Wilsonville, Oregon and has had a checking account
12 with OnPoint at all times material hereto.

13 5.

14 Plaintiff South is a citizen and resident of Beaverton, Oregon and has had a checking account
15 with OnPoint at all times material hereto.

16 6.

17 Plaintiff Campbell is a citizen and resident of Vancouver, Washington and has had a checking
18 account with OnPoint at all times material hereto.

19 7.

20 OnPoint is the largest credit union in Oregon with its headquarters and principal place of
21 business in Portland, Multnomah County, Oregon. OnPoint has \$4.4 billion in assets and provides
22 banking services to 315,000 members throughout Oregon, including in this County. Among other
23 things, OnPoint is engaged in the business of providing retail banking services to consumers,
24 including Plaintiffs and members of the putative classes.

25 ///

JURISDICTION AND VENUE

8.

This Court has jurisdiction over this matter and venue is proper because OnPoint is headquartered in Multnomah County and conducts regular, sustained business in Multnomah County.

BACKGROUND FACTS

**OnPoint Improperly Charges Two Or More Fees on the Same Item
Overview of Claim**

9.

Overdraft fees and insufficient funds fees (“NSF fees”) are among the primary fee generators for banks. According to a banking industry market research company, Moebs Services, in 2018 alone, banks generated an estimated \$34.5 billion from overdraft fees. Overdraft Revenue Inches Up in 2018, <https://bit.ly/3cbHNV>.

10.

Unfortunately, the customers who are assessed these fees are the most vulnerable customers. Younger, lower-income, and non-white account holders are among those who were more likely to be assessed overdraft fees. Overdrawn: Consumer Experiences with Overdraft, Pew Charitable Trusts 8 (June 2014), <https://bit.ly/3ksKD0I>.

11.

OnPoint unlawfully maximizes its already profitable fees through its deceptive and contractually-prohibited practice of charging multiple NSF fees, or an NSF fee followed by an overdraft fee, on an item.

12.

Unbeknownst to consumers, each time OnPoint reprocesses an electronic payment item, ACH item, or check for payment after it was initially rejected for insufficient funds, OnPoint chooses to treat it as a new and unique item that is subject to yet another fee. But OnPoint’s contract

1 never states that this counterintuitive and deceptive result could be possible and, in fact, promises
2 the opposite.

3 13.

4 The Federal Deposit Insurance Corporation (the “FDIC”) has expressed concern
5 with the practice of assessing multiple fees on an item. In 2012, the FDIC determined that one
6 bank’s assessment of more than one NSF Fee on the same item was a “deceptive and unfair act.”
7 In the Matter of Higher One, Inc., Consent Order, Consent Order, FDIC-1 1-700b, FDIC-1 1-704k,
8 2012 WL 7186313.

9 14.

10 Plaintiffs have OnPoint checking accounts, which are governed by OnPoint’s standardized
11 “Personal Fee Schedule,” attached hereto as Exhibit A (“Fee Schedule”) and the “Membership
12 Account Agreement,” attached hereto as Exhibit B (“Account Agreement”) (collectively, “the
13 Contract”).

14 15.

15 The Contract allows OnPoint to take certain steps when paying a check or an electronic
16 item. Specifically, OnPoint may (a) pay the item and charge a *single* \$30 fee; or (b) reject the item
17 and charge a *single* \$30 fee. Ex. A.

18 16.

19 In contrast to its account documents, however, OnPoint regularly assesses two or more fees
20 on the *same* item.

21 17.

22 Plaintiffs do not dispute Defendant’s right to reject an item and charge a single fee, but
23 OnPoint unlawfully maximizes its already profitable fees by unlawfully assessing *multiple* fees on
24 the same item.

25 ///

18.

The Contract indicates that only a *single* fee will be charged “per item,” however many times that item is reprocessed. Ex. B. An item, whether it be a check or an electronic payment item, reprocessed after an initial return for insufficient funds, especially through no action by the customer, cannot and does not fairly become a new, unique item for fee assessment purposes.

19.

This abusive practice is not universal in the financial services industry. Indeed, major banks like Chase—the largest consumer bank in the country—do not undertake the practice of charging more than one fee on the same item when it is reprocessed. Instead, Chase charges one fee even if an item is reprocessed for payment multiple times.

20.

The Contract never authorizes its practice of charging multiple fees on the same item. To the contrary, the Contract indicates it will only charge a single fee on the same item.

The Imposition of Multiple Fees on a Single Item Violates Defendant’s Express Promises and Representations

21.

The Contract provides the general terms of Plaintiffs’ relationship with OnPoint, and therein OnPoint makes explicit promises and representations regarding how transactions will be processed, as well as when fees may be assessed.

22.

OnPoint’s Fee Schedule promises that, at most, a single fee may be assessed on each item:

Returned Funds Fees

NSF Fee (items returned)	\$30.00
Overdraft Fee (item paid)	\$30.00

Fee Schedule, Ex. A at 2.

///

1 23.

2 The Contract thus promises that a “fee”—singular—will be assessed on the same item,
3 when in fact OnPoint regularly charges two or more fees on the same item.

4 24.

5 OnPoint’s Account Agreement document reinforces the promise to only assess a single fee
6 on a single item:

7 If we do not pay the overdraft, there is a **NSF/Returned Item fee per check or**
8 **item.**

9 Ex. B at 16 - 17 (emphasis added).

10 25.

11 Taken together, the above promise can only mean that a single fee will be charged on the
12 item.

13 26.

14 The same “item” on an account cannot conceivably become a new one each time it is
15 rejected for payment then reprocessed, especially when—as here—Plaintiffs took no action to
16 resubmit it.

17 27.

18 There is zero indication anywhere in the account documents that the same “item” is eligible
19 to incur multiple fees.

20 28.

21 Even if OnPoint reprocesses an instruction for payment, it is still the same “item.” Its
22 reprocessing is simply another attempt to effectuate an account holder’s original order or
23 instruction.

24 29.

25 The Contract never discusses a circumstance where OnPoint may assess multiple fees for
26

1 a single check, electronic payment transaction, or ACH transaction that was returned for
2 insufficient funds and later reprocessed one or more times and returned again.

3 30.

4 In sum, OnPoint promises that one \$30 fee will be assessed per item, and this term must
5 mean all iterations of the same instruction for payment. As such, OnPoint breached its contract
6 when it charged more than one fee per item.

7 31.

8 Reasonable consumers understand any given authorization for payment to be one, singular
9 “item,” as that term is used in the Contract.

10 32.

11 Taken together, the representations and omissions identified above convey to customers
12 that all submissions for payment of the same item will be treated as the same “item,” which
13 Defendant will either authorize (resulting in an overdraft item) or reject (resulting in a returned
14 item) when it decides there are insufficient funds in the account. Nowhere does Defendant disclose
15 that it will treat each reprocessing of a check, electronic payment item, or ACH item as a separate
16 item, subject to additional fees, nor do Defendant’s customers ever agree to such fee practices.

17 33.

18 Customers reasonably understand, based on the language of the account documents, that
19 OnPoint’s reprocessing of checks, electronic payment transactions, and ACH transactions are
20 simply additional attempts to complete the original order or instruction for payment, and as such,
21 will not trigger fees. In other words, it is always the same item.

22 34.

23 Banks and credit unions like OnPoint that employ this abusive practice require their
24 accountholders to expressly authorize it—something OnPoint never did until February 1, 2021
25 where it disclosed in its Fee Schedule, for the first time, that fees are charged “per presentment.”
26

1 35.

2 For example, First Citizens Bank, a major institution in the Carolinas, engages in the same
3 abusive practice as OnPoint, but at least expressly states:

4 Because we may charge a service fee for an NSF item each time it is presented, **we**
5 **may charge you more than one service fee for any given item.** All fees are
6 charged during evening posting. When we charge a fee for NSF items, the charge
7 reduces the available balance in your account and may put your account into (or
8 further into) overdraft.

9 *Deposit Account Agreement*, First Citizen's Bank (Oct. 2020), <https://bit.ly/2GJjSqq> (emphasis
10 added).

11 36.

12 First Hawaiian Bank engages in the same abusive practices as OnPoint, but at least
13 currently discloses it in its online banking agreement, in all capital letters, as follows:

14 **YOU AGREE THAT MULTIPLE ATTEMPTS MAY BE MADE TO SUBMIT A
15 RETURNED ITEM FOR PAYMENT AND THAT MULTIPLE FEES MAY BE
16 CHARGED TO YOU AS A RESULT OF A RETURNED ITEM AND
17 RESUBMISSION.**

18 *Terms and Conditions of FHB Online Services*, First Hawaiian Bank 40, <https://bit.ly/30ObGMp>
19 (last visited Jan. 26, 2021) (emphasis added).

20 37.

21 Klein Bank similarly states in its online banking agreement:

22 [W]e will charge you an NSF/Overdraft Fee each time: (1) an item is submitted to
23 us for payment from your Account when, at the time of posting, your Account is
24 overdrawn or would be overdrawn if we paid the item (whether or not we in fact
25 pay it); or (2) we return, reverse, or decline to pay an item for any other reason
26 authorized by the Terms and Conditions of your account. For these purposes, an
item includes a check, an ATM or debit card transaction, an ACH transaction, or
other withdrawal, transfer or debit. Your account is overdrawn if your Available
Balance is less than zero. **We will charge an NSF/Overdraft Fee as provided in
this section regardless of the number of times an item is submitted or
resubmitted to us for payment, and regardless of whether we pay the item or
return, reverse, or decline to pay the item.**

1
2 *Online Access Agreement*, Klein Bank 17 (Jan. 2013), <https://bit.ly/2Fevj8W> (emphasis added).

3 38.

4 Central Pacific Bank, a leading bank in Hawai'i, states in its Fee Schedule under the
5 "Multiple NSF Fees" subsection:

6 Items and transactions (such as, for example, checks and electronic
7 transactions/payments) returned unpaid due to insufficient/non-sufficient ("NSF")
8 funds in your account, **may be resubmitted one or more times for payment, and**
9 **a \$32 fee will be imposed on you each time an item and transaction resubmitted**
10 **for payment is returned due to insufficient/nonsufficient funds.**

11 *Miscellaneous Fee Schedule*, Central Pacific Bank (Oct. 20, 2020), <https://bit.ly/3o2b9j1>
(emphasis added).

12 39.

13 BP Credit Union likewise states:

14 We may charge a fee each time an item is submitted or resubmitted for payment;
15 therefore, **you may be assessed more than one fee as a result of a returned item**
16 **and resubmission(s) of the returned item.**

17 *Membership and Account Agreement*, BP Federal Credit Union (Jul. 2019), <https://bit.ly/3o1AsBE>
(emphasis added).

18 40.

19 Regions Bank states in their deposit agreement:

20 If an item is presented for payment on your account at a time when there is an
21 insufficient balance of available funds in your account to pay the item in full, you
22 agree to pay us our charge for items drawn against insufficient or unavailable funds,
23 whether or not we pay the item. **If any item is presented again after having**
24 **previously been returned unpaid by us, you agree to pay this charge for each**
25 **time the item is presented for payment and the balance of available funds in**
26 **your account is insufficient to pay the item.**

25 *Deposit Agreement*, Regions Bank (Jun. 2018), <https://bit.ly/3qB9Qcd> (emphasis added).

1 41.

2 First Financial Bank states in their disclosures of charges document:

3 Merchants or payees may present an item multiple times for payment if the initial
4 or subsequent presentment is rejected due to insufficient or other reason
(representation). **Each presentment is considered an item and will be charged
5 accordingly.**

6 *Special Handling/Electronic Banking Disclosures of Charges*, First Financial Bank (Aug. 2020),
7 <https://bit.ly/3p2ULA1> (emphasis added).

8 42.

9 Andrews Federal Credit Union states in their Terms and Conditions:

10 You understand and agree that a merchant or other entity may make multiple
11 attempts to resubmit a returned item for payment. **Consequently, because we may
12 charge a service fee for an NSF item each time it is presented, we may charge
13 you more than one service fee for any given item. Therefore, multiple fees may
14 be charged to you as a result of a returned item and resubmission regardless
15 of the number of times an item is submitted or resubmitted to use for payment,
and regardless of whether we pay the item or return, reverse, or decline to pay
16 the item.** When we charge a fee for NSF items, the charge reduces the available
17 balance in your account and may put your account into (or further into) overdraft.

18 *Terms & Conditions*, Andrews Federal Credit Union (Aug. 2020), <https://bit.ly/2KwRFFj>
(emphasis added).

19 43.

20 Parkside Credit Union states in its Membership and Account Agreement:

21 If the Credit Union returns the item, you will be assessed an NSF Fee. Note that the
22 Credit Union has no control over how many times an intended payee may resubmit
23 the same check or other item to us for payment. **In the event the same check or
24 other item is presented for payment on more than one occasion, your account
25 will be subject to an additional charge on each occasion that the item is
26 presented for payment.** There is no limit to the total fees the Credit Union may
charge you for overdrawing your account.

Membership and Account Agreement, Parkside Credit Union, <https://bit.ly/3qGTgHV>
(emphasis added).

1 44.

2 Because OnPoint provided no such disclosures until February 1, 2021, its customers never
3 agreed to OnPoint’s multiple fee practice prior to that date.

4 **Plaintiffs’ Experience**

5 45.

6 In support of Plaintiffs’ claims, Plaintiffs offer examples of fees that should not have been
7 assessed against their checking accounts. As alleged below, OnPoint: (a) reprocessed a previously
8 declined item; and (b) charged a fee upon reprocessing.

9 46.

10 On or around January 8, 2015, Plaintiff Adkins attempted a \$150 payment via check.

11 47.

12 OnPoint rejected payment of the item due to insufficient funds in Plaintiff Adkins’ account
13 and charged a \$30 “NSF Fee (Item Returned)” for doing so. Plaintiff Adkins does not dispute this
14 initial fee, as it is allowed by OnPoint’s account documents.

15 48.

16 Unbeknownst to Plaintiff Adkins and without Plaintiff Adkins’ request to OnPoint to
17 reprocess the item, on January 13, 2015, OnPoint processed the same item yet again, rejected the
18 item again for insufficient funds, and charged Plaintiff Adkins another \$30 “NSF Fee (Item
19 Returned).”

20 49.

21 *In sum, OnPoint charged Plaintiff Adkins \$60 in fees to attempt to process a single item.*

22 50.

23 Similarly, on or around November 30, 2020, Plaintiff South attempted a payment via ACH
24 to a company called FUTU.

25 ///

1 51.

2 OnPoint rejected payment of the item due to insufficient funds in Plaintiff South’s account
3 and charged a \$30 “NSF Fee (Item Returned)” for doing so. Plaintiff South does not dispute this
4 initial fee, as it is allowed by OnPoint’s account documents.

5 52.

6 Unbeknownst to Plaintiff South and without Plaintiff South’s request to OnPoint to
7 reprocess the item, on December 2, 2020, OnPoint processed the same item yet again, and this
8 time paid the item into overdraft, charging Plaintiff South another \$30 fee.

9 53.

10 *In sum, OnPoint charged Plaintiff South \$60 in fees to attempt to process a single item.*

11 54.

12 On or around August 19, 2020 Plaintiff Campbell attempted a payment to PayPal.

13 55.

14 OnPoint rejected payment of the item due to insufficient funds in Plaintiff Campbell’s
15 account and charged a \$30 “NSF Fee (Item Returned)” for doing so. Plaintiff Campbell does not
16 dispute this initial fee, as it is allowed by OnPoint’s account documents.

17 56.

18 Unbeknownst to Plaintiff Campbell and without Plaintiff Campbell’s request to OnPoint
19 to reprocess the item, on August 21, 2020, OnPoint processed the same item yet again, rejected
20 the payment of the item, and assessed Plaintiff Campbell another \$30 Fee.

21 57.

22 Then, unbeknownst to Plaintiff Campbell and without Plaintiff Campbell’s request to
23 OnPoint to reprocess the item, on August 25, 2020, OnPoint processed the same item for a third
24 time, rejected the payment of the item, and assessed Plaintiff Campbell *another* \$30 fee.

25 ///

1 58.

2 *In sum, OnPoint charged Plaintiff Campbell \$90 in fees to attempt to process a single item.*

3 59.

4 Plaintiff Campbell was also assessed multiple fees on the same item on August 17, 2020
5 and August 19, 2020.

6 60.

7 The improper fees charged by OnPoint were not “errors” such as a “statement” error” and
8 were not caused by “circumstances beyond the Credit Union’s control,” but rather were intentional
9 charges made by OnPoint as part of its standard processing of transactions. Ex. B at 16.

10 61.

11 Plaintiffs therefore had no duty to report the fees as “errors” because they were not “errors,”
12 but were systematic and intentional assessment of fees according to OnPoint’s standard practices.

13 62.

14 Moreover, any such reporting would have been futile as OnPoint had made a decision to
15 charge the fees in this specific manner to maximize profits at the expense of customers.

16 **A. The Imposition of Multiple Fees on a Single Item Breaches Defendant’s Duty of**
17 **Good Faith and Fair Dealing**

18 63.

19 Parties to a contract are required not only to adhere to the express conditions in the contract,
20 but also to act in good faith when they are invested with a discretionary power over the other party.
21 This creates an implied promise to act in accordance with the parties’ reasonable expectations and
22 means that OnPoint is prohibited from exercising its discretion to enrich itself and gouge its
23 customers. Indeed, OnPoint has a duty to honor transaction requests in a way that is fair to
24 Plaintiffs and its other customers and is prohibited from exercising its discretion to pile on ever
25 greater penalties on the depositor.

26 ///

1 64.

2 Here—in the adhesion agreements OnPoint foisted on Plaintiffs and its other customers—
3 OnPoint has provided itself numerous discretionary powers affecting customers’ accounts. But
4 instead of exercising that discretion in good faith and consistent with consumers’ reasonable
5 expectations, OnPoint abuses that discretion to take money out of consumers’ accounts without
6 their permission and contrary to their reasonable expectations that they will not be charged
7 multiple fees for the same item.

8 65.

9 When OnPoint charges multiple fees on an item, it uses its discretion to define the meaning
10 of “item” in a way that violates common sense and reasonable consumer expectations. OnPoint
11 uses its contractual discretion to define that term to choose a meaning that directly causes more
12 fees.

13 66.

14 In addition, OnPoint exercises its discretion in its own favor and to the prejudice of
15 Plaintiffs and its other customers when it reprocesses a transaction when it knows a customer’s
16 account lacks funds and then charges additional fees on a single item. Further, OnPoint abuses the
17 power it has over customers and their bank accounts and acts contrary to their reasonable
18 expectations under the account documents. This is a breach of OnPoint’s duty to engage in fair
19 dealing and to act in good faith.

20 67.

21 It was bad faith and totally outside of Plaintiffs’ reasonable expectations for OnPoint to use
22 its discretion to assess two or more fees for a single attempted payment.

23 68.

24 OnPoint abuses its discretion and acts in bad faith by defining contract terms in an
25 unreasonable way that violates common sense and by charging multiple fees on the same item.
26

1 69.

2 Moreover, OnPoint provides itself discretion to refuse to reprocess transactions that are
3 initially rejected. It abuses that discretion when it repeatedly reprocesses transactions when it
4 knows that the customer has insufficient funds in their account to pay the transaction and charges
5 additional fees each time.

6 **OnPoint Improperly Charges Two OON Fees Per Transaction**

7 **Mechanics of Domestic Out of Network ATM Withdrawals**

8 70.

9 When consumers use ATMs not owned by their own bank, federal law requires the owners
10 of those out-of-network ATMs to inform users of the amount of the usage fees charged by the
11 ATM owner. *See* 15 U.S.C. § 1693b(d)(3).

12 71.

13 Thus, it is standard at ATMs in the United States that when a consumer uses an ATM not
14 owned by his home bank, a message is displayed on the screen stating that usage of the ATM will
15 cost a specified amount to proceed with a withdrawal of funds, and that such a fee is in addition to
16 a fee that may be assessed by a consumer's financial institution for use of the ATM.

17 72.

18 That message appears only after a user has decided to perform a cash withdrawal and
19 entered the amount of cash he or she would like to withdraw.

20 73.

21 Through repeated exposure to such fee warning messages, consumers are accustomed to
22 being warned of fee assessments at out-of-network ATMs - and to being provided with the
23 opportunity to decide whether the fees charged are reasonable - before proceeding with their cash
24 withdrawal.

25 ///

1 74.

2 OnPoint knows this—that consumers expect a fair fee disclosure at the ATM— and has
3 designed a scheme to assess OON Fees on balance inquiries and exploit consumers’ reasonable
4 expectation that they will be provided an opportunity to cancel actions before being assessed a fee.
5 That scheme involves assessing fees for the mere act of checking a balance before proceeding with
6 a cash withdrawal.

7 75.

8 The ATM screen does not disclose that a balance inquiry alone will incur a usage fee, and
9 indeed ATM owners in the United States in general do not charge usage fees for balance inquiries.
10 Thus, there is simply no warning at the ATM that a balance inquiry alone could incur a fee.

11 76.

12 As a result, reasonable consumers have zero expectation that their home bank will charge
13 a separate fee for a balance inquiry, especially one that precedes a cash withdrawal at the same
14 ATM.

15 77.

16 If a bank is going to charge such a surprising fee, it must fully and fairly disclose such a
17 fee in its account documentation. OnPoint did the opposite—providing express and implied
18 indications in its contract that balance inquires would not incur OON Fees.

19 **Defendant’s Account Contract**

20 78.

21 Plaintiffs Campbell and South have OnPoint Bank checking accounts, which are governed
22 by the Contract.

23 79.

24 OnPoint issues debit cards to its checking account customers, including Plaintiffs Campbell
25 and South, which allows its customers to have electronic access to their checking accounts for
26

1 purchases, payments, and ATM withdrawals at both Defendant and non-Defendant ATMs.

2 80.

3 Against the backdrop of the reasonable consumer expectations and federal law above,
4 Defendant’s contractual disclosures deceive consumers and reinforce the reasonable
5 understanding that no fee will be assessed for a balance inquiry—especially since ATM users are
6 not warned beforehand.

7 81.

8 Defendant’s disclosures also reinforce the reasonable understanding that there can be no
9 balance inquiry fee when such an inquiry is in conjunction with a cash withdrawal at the same
10 ATM.

11 82.

12 At the time of the relevant transactions, OnPoint’s Fee Schedule stated:

13 ATM Withdrawal/Inquiry\$2.00
14 (No charge for OnPoint, MoneyPass or CO-OP ATMs, Free with Interest
15 Checking)

15 Ex. A at 2.

16 83.

17 In short, Defendant states that it may impose a *single* \$2.00 OON Fee on an ATM use.

18 84.

19 The Electronic Funds Transfer Disclosure states:
20 ATMs. If you use an ATM operated by any other institution or network, you may
21 be charge a fee by that entity and the Credit Union.

21 Ex. B at 28 (emphasis added).

22 85.

23 When a cash withdrawal is made at the same time as a balance inquiry at an out of network
24 ATM, Defendant’s account documents indicate to reasonable consumers that those functions count
25 as a single transaction triggering a single OON Fee assessment of \$2.
26

1 86.

2 Defendant and its customers, including Plaintiffs Campbell and South, contractually agree
3 that should the customer make a balance inquiry and a cash withdrawal, the customer will pay a
4 fee of no more than \$2.

5 87.

6 Moreover, accountholders using a non-OnPoint ATM are never warned that they will
7 receive two separate fees from OnPoint—plus another one from the ATM owner—when they
8 check their balance before proceeding with a cash withdrawal at the same ATM. Yet that is exactly
9 what happens.

10 88.

11 As discussed *supra*, ATMs do not warn that such a balance inquiry will be the basis for a
12 fee, either from the ATM owner or from the consumer's own bank. Defendant's disclosures do
13 nothing to disabuse consumers of the reasonable expectation that a balance inquiry will not incur
14 a separate fee when it precedes a cash withdrawal at the same ATM, and never state outright that
15 such a fee will be assessed even when conducted absent a subsequent cash withdrawal. Again, the
16 Fee Schedule says nothing more than \$2 per "withdrawal/inquiry."

17 89.

18 Moreover, reasonable consumers like Plaintiffs Campbell and South do not understand—
19 and are never warned—that a mere balance inquiry (in which no funds are transferred in any way)
20 counts on its own as a separate "withdrawal/inquiry" that could be the basis for an independent
21 OON Fee by OnPoint.

22 **Plaintiff Campbell's and Plaintiff South's Domestic Out of Network ATM Withdrawals**

23 90.

24 As an example, on December 1, 2017, Plaintiff Campbell withdrew cash from an out
25 of network ATM. Prior to withdrawing the cash, Plaintiff Campbell was prompted to check her
26

1 balance, and she did so. The ATM owner charged Plaintiff Campbell a usage fee for the cash
2 withdrawal but did not charge a fee for the balance inquiry. OnPoint, however, charged Plaintiff
3 Campbell *two* OON Fees of \$2 each—one for the withdrawal and one for the “balance inquiry.”

4 91.

5 These improper fees were also charged to Plaintiff Campbell on February 29, 2020, June
6 28, 2020, and July 7, 2020.

7 92.

8 OnPoint’s contract does not disclose that a \$2 balance inquiry fee will be charged by
9 anyone, much less by OnPoint itself, when a balance inquiry precedes a cash withdrawal at the
10 same out of network ATM.

11 93.

12 OnPoint’s contract does not disclose that Defendant imposes a fee on balance inquiries at
13 all.

14 94.

15 On January 19, 2020, Plaintiff South withdrew cash from an out of network ATM. Prior to
16 withdrawing the cash, Plaintiff South was prompted to check his balance, and he did so. The ATM
17 owner charged Plaintiff South a usage fee for the cash withdrawal but did not charge a fee for the
18 balance inquiry. OnPoint, however, charged Plaintiff South *two* OON Fees of \$2 each—one for
19 the withdrawal and one for the “balance inquiry.”

20 95.

21 OnPoint’s contract does not disclose that a \$2 balance inquiry fee will be charged by
22 anyone, much less by OnPoint itself, when a balance inquiry precedes a cash withdrawal at the
23 same out of network ATM.

24 96.

25 OnPoint’s contract does not disclose that Defendant imposes a fee on balance inquiries at
26

1 all.

2 **CLASS ACTION ALLEGATIONS**

3 97.

4 *Description of the Classes:* Plaintiffs bring this action individually and as a class action on
5 behalf of the following proposed classes of persons:

6 The Multiple Fee Class: All citizens of Oregon who, during the
7 applicable statute of limitations, were OnPoint checking
8 accountholders and were charged multiple fees on the same item.

9 The OON Fee Class: All citizens of Oregon who, during the
10 applicable statute of limitations, were OnPoint checking
11 accountholders and were charged improper out-of-network ATM
12 fees.

13 98.

14 Plaintiffs reserve the right to modify or amend the definition of the Classes as this litigation
15 proceeds.

16 99.

17 Excluded from the Classes are OnPoint's officers, directors, affiliates, legal
18 representatives, employees, successors, subsidiaries, and assigns. Also excluded from the Classes
19 are any judge, justice, or judicial officer presiding over this matter and the members of their
20 immediate families and judicial staff.

21 100.

22 The time period for the Classes is the number of years immediately preceding the date on
23 which this Complaint was filed as allowed by the applicable statute of limitations, going forward
24 into the future until such time as OnPoint remedies the conduct complained of herein.

25 101.

26 *Numerosity:* The members of the proposed Classes are so numerous that individual joinder
of all members is impracticable. ORCP 32A(1). The exact number and identities of the members

1 of the proposed Classes are unknown at this time and can be ascertained only through appropriate
2 discovery. Plaintiffs estimate the number of members in each Class to be in the thousands.

3 102.

4 *Commonality:* There are one or more questions of law or fact common to Plaintiffs and
5 the Classes. ORCP 32A(2). Common questions of law and fact include whether OnPoint:

- 6 a. Imposed more than one fee on the same item;
7 b. Improperly imposed OON Fees;
8 c. Breached its contract with Plaintiffs and members of the Classes;
9 d. Breached the covenant of good faith and fair dealing imposed on it;
10 e. Violated the UTPA;
11 f. The proper method or methods by which to measure damages; and
12 g. The declaratory and injunctive relief to which the Classes are entitled.

13 103.

14 *Typicality:* Plaintiffs' claims are typical of the claims of the members of the Classes. ORCP
15 32A(3). Plaintiffs and all members of the Classes have been similarly affected by OnPoint's
16 actions.

17 104.

18 *Adequacy of Representation:* Plaintiffs will fairly and adequately represent and protect the
19 interests of the Classes. ORCP 32A(4). Plaintiffs have retained counsel with substantial experience
20 in prosecuting complex and consumer class action litigation. Plaintiffs and Plaintiffs' counsel are
21 committed to vigorously prosecuting this action on behalf of the Classes and have the financial
22 resources to do so.

23 105.

24 *Prelitigation Notice.* Plaintiffs complied with the prelitigation notice provision of ORCP
25 32H and 32A(5).

26

106.

1
2 A class is action is superior to other available methods for the fair and efficient adjudication
3 of the controversy, ORCP 32B, in that:

- 4 a) Prosecution of separate actions by individual members of the classes creates risks
5 of inconsistent or varying adjudications with respect to members of the class which
6 would establish incompatible standards of conduct (ORCP 32B(1)(a));
- 7 b) Prosecution of separate actions by individual members of the classes creates risks
8 of adjudications with respect to members of the class which would as a practical
9 matter be dispositive of the interest of the other members not parties to the
10 adjudications or substantially impair or impede their ability to protect their rights
11 (ORCP 32B(1)(b));
- 12 c) The relief sought includes injunctive relief or corresponding declaratory relief with
13 respect to the class as a whole (ORCP 32B(2));
- 14 d) Common questions of law or fact predominate over any questions affecting only
15 individual members (ORCP 32B(3));
- 16 e) Individual members of the class have little interest in controlling the prosecution of
17 the separate actions (ORCP 32B(4));
- 18 f) Plaintiffs are aware of no other litigation already commenced by members of the
19 class against this defendant (ORCP 32B(5));
- 20 g) It is desirable to concentrate the litigation of these claims in one forum, and this
21 court is well suited to handle the complexities of a case of this kind (ORCP 32B(6));
- 22 h) There are few or no difficulties likely to be encountered in the management of this
23 class action and to the extent such difficulties exist, they will not be eliminated or
24 significantly reduced if the controversy is adjudicated by other available means
25 (ORCP 32B(7)); and
26

1 i) When compared to the complexities and costs of this litigation, the claims of the
2 individual class members are sufficient in amount or interests to afford significant
3 relief to the class (ORCP 32B(8)).

4 **FIRST CLAIM FOR RELIEF**

5 **(Breach of Contract and Breach of the Covenant of Good Faith and Fair Dealing)**
6 **(On Behalf of Plaintiffs and the Multiple Fee Class)**

7 107.

8 Plaintiffs incorporate the preceding allegations by reference as if fully set forth herein.

9 108.

10 Plaintiffs and OnPoint have contracted for bank account deposit, checking, ATM, and debit
11 card services. *See* Exs. A and B.

12 109.

13 OnPoint mischaracterized in the account documents its true fee practices and breached the
14 express terms of the account documents.

15 110.

16 No contract provision authorizes OnPoint to charge more than one fee on the same item.

17 111.

18 Under Oregon law, good faith is an element of every contract pertaining to the assessment
19 of overdraft fees. Good faith is also mandated by the Uniform Commercial Code (“UCC”), which
20 covers banking transactions. Whether by common law or statute, all contracts impose upon each
21 party a duty of good faith and fair dealing. Good faith and fair dealing, in connection with
22 executing contracts and discharging performance and other duties according to their terms, means
23 preserving the spirit—not merely the letter—of the bargain. Put differently, the parties to a contract
24 are mutually obligated to comply with the substance of their contract in addition to its form.
25 Evading the spirit of the bargain and abusing the power to specify terms constitute examples of
26 bad faith in the performance of contracts.

1 112.

2 Subterfuge and evasion violate the obligation of good faith in performance even when an
3 actor believes their conduct to be justified. A lack of good faith may be overt or may consist of
4 inaction, and fair dealing may require more than honesty. Examples of violations of good faith and
5 fair dealing are willful rendering of imperfect performance, abuse of a power to specify terms, and
6 interference with or failure to cooperate in the other party's performance.

7 113.

8 OnPoint has breached the covenant of good faith and fair dealing through its overdraft
9 policies and practices as alleged herein.

10 114.

11 OnPoint harms consumers by abusing its contractual discretion in a number of ways that
12 no reasonable customer would anticipate.

13 115.

14 Plaintiffs and members of the Multiple Fee Class have performed all, or substantially all,
15 of the obligations imposed on them by the account documents.

16 116.

17 Plaintiffs and members of the Multiple Fee Class have sustained damages as a result of
18 OnPoint's breach of the contract and breach of the covenant of good faith and fair dealing.

19 **SECOND CLAIM FOR RELIEF**

20 **Breach of Contract, Including Breach of the Covenant of Good Faith and Fair Dealing**
21 **(On Behalf of Plaintiff Campbell, Plaintiff South, and the OON Fee Class)**

22 117.

23 Plaintiff Campbell and Plaintiff South incorporate by reference the preceding paragraphs.

24 118.

25 Plaintiffs Campbell and South and OnPoint have contracted for banking services, as
26 embodied in OnPoint's account documents. *See* Exs. A and B.

1 119.

2 All contracts entered between Plaintiffs Campbell and South and the OON Fee Class and
3 OnPoint are identical or substantively identical because ONPOINT's form contracts were used
4 uniformly.

5 120.

6 OnPoint has breached the express terms of its own agreements as described herein.

7 121.

8 Under Oregon law, good faith is an element of every contract between banks and their
9 customers because banks are inherently in a superior position to their checking account holders
10 and, from this superior vantage point, they offer customers contracts of adhesion, often with terms
11 not readily discernible to a layperson.

12 122.

13 Good faith and fair dealing, in connection with executing contracts and discharging
14 performance and other duties according to their terms, means preserving the spirit—not merely
15 the letter—of the bargain. Put differently, the parties to a contract are mutually obligated to comply
16 with the substance of their contract in addition to its form. Evading the spirit of the bargain and
17 abusing the power to specify terms constitute examples of bad faith in the performance of
18 contracts.

19 123.

20 Subterfuge and evasion violate the obligation of good faith in performance even when an
21 actor believes their conduct to be justified. Bad faith may be overt or may consist of inaction, and
22 fair dealing may require more than honesty. Examples of bad faith are evasion of the spirit of the
23 bargain and abuse of a power to specify terms.

24 ///

25 ///

26

1 124.

2 OnPoint abused the discretion it granted to itself when it charged OON Fees that are not
3 authorized by the Contract.

4 125.

5 In these and other ways, OnPoint violated its duty of good faith and fair dealing.

6 126.

7 OnPoint willfully engaged in the foregoing conduct for the purpose of (1) gaining
8 unwarranted contractual and legal advantages; and (2) unfairly and unconscionably maximizing
9 fee revenue from Plaintiffs Campbell and South and other members of the Class.

10 127.

11 Plaintiffs Campbell and South and members of the OON Fee Class have performed all, or
12 substantially all, of the obligations imposed on them under the Contract.

13 128.

14 Plaintiffs Campbell and South and members of the OON Fee Class have sustained damages
15 as a result of OnPoint's breaches of the parties' contracts and breaches of contract through
16 violations of the covenant of good faith and fair dealing.

17 **THIRD CLAIM FOR RELIEF**

18 **Oregon Unlawful Trade Practices Act**
19 **(On Behalf of Plaintiffs and the Classes)**

20 129.

21 Plaintiffs incorporate by reference the preceding paragraphs.

22 130.

23 OnPoint violated the Oregon Unlawful Trade Practices Act, ORS § 646.608 in one or more
24 of the following ways:

- 25 a. In failing to disclose that OnPoint would assess multiple fees on the same item and
26 improper OON Fees, in violation of ORS § 646.608(1)(e) and (1)(k);

- b. In failing to disclose material known defects or known material nonconformity upon tender or delivery, in violation of ORS § 646.608(1)(t);
- c. In making false or misleading affirmative representations concerning the nature of the transaction or obligation incurred, in violation of ORS § 646.608(1)(k); and
- d. In affirmatively representing that its services have characteristics, benefits, and qualities that they do not have, in violation of ORS § 646.608(1)(e).

131.

As a result of these violations, Plaintiffs and the Classes suffered ascertainable losses.

First Count-Reckless or Knowing Violation

132.

OnPoint acted recklessly or knowingly used or employed an unlawful method, act, or practice in violation of ORS § 646.608.

133.

Plaintiffs and members of the Classes are entitled to an injunction and equitable relief requiring repayment of monies overcharged, the recovery of statutory damages of \$200 per consumer, as well as attorney fees. ORS 646.638.

Second Count-Willful Violation

134.

OnPoint willfully used or employed an unlawful method, act, or practices in violation of ORS 646.608. Plaintiffs and members of the class are entitled to an injunction and equitable relief requiring repayment of monies overcharged. Plaintiffs are entitled to actual damages and attorney fees. ORS 646.638(1).

///

///

///

135.

1
2 Plaintiffs and members of the Classes are entitled to recover actual damages in amounts to
3 be proved at trial, as well as attorneys' fees. ORS § 646.638. Plaintiffs are entitled to an injunction
4 to stop future violations and disgorgement of profits.

5 **REQUEST FOR RELIEF**

6 **WHEREFORE**, Plaintiffs and the Class demand a jury trial on all claims so triable and
7 judgment including the following:

- 8 a. Certify this case as a class action, designating Plaintiffs as the Class
9 Representatives and designating the undersigned as Class Counsel;
- 10 b. Enjoin OnPoint from engaging in the practices outlined herein;
- 11 c. Class damages in the form of refunds of improper OON Fees assessed by
12 OnPoint, as well as prejudgment interest, in amounts to be proved at trial;
- 13 d. Class damages in the form of refunds of multiple fees assessed on an item, as well
14 as prejudgment interest, in amounts to be proved at trial;
- 15 e. On Plaintiffs' first count of their third claim (Unlawful Trade Practices Act-
16 reckless or knowing violation): class damages of \$200 per class member, attorney
17 fees, disgorgement of profits, and an injunction or order requiring cessation of the
18 practices;
- 19 f. On Plaintiffs' second count of their third claim (Unlawful Trade Practices Act-
20 willful violation): class damages of refunds of improper OON Fees assessed by
21 OnPoint and multiple fees on an item, as well as prejudgment interest,
22 disgorgement of profits, attorney fees, and an injunction or order requiring
23 cessation of the practices;
- 24 g. Class damages in the form of refunds;
- 25
26

- 1 h. Require OnPoint to restore to Plaintiffs and the class monies illegally charged;
2 and
3 i. Grant such other relief as the Court deems just and proper.

4 **JURY DEMAND**

5 Plaintiffs, by counsel, demand trial by jury.

6
7 Dated: April 1, 2021

8 DAVID F. SUGERMAN ATTORNEY, PC

9
10 By: /s/ Nadia H. Dahab

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*Pro Hac Vice Motion Forthcoming
Of Trial Attorneys for Plaintiffs

- 1 h. Require OnPoint to restore to Plaintiffs and the class monies illegally charged;
2 and
3 i. Grant such other relief as the Court deems just and proper.

4 **JURY DEMAND**

5 Plaintiffs, by counsel, demand trial by jury.

6
7 Dated: April 1, 2021

8 SUGERMAN LAW OFFICE

9
10 By: /s/ Nadia H. Dahab

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*Pro Hac Vice Motion Forthcoming
Of Trial Attorneys for Plaintiffs

EXHIBIT A

http://www.onpointcu.com/personal/rates/personal-fee-schedule.html

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8 captures

9 Nov 2015 - 30 Jul 2016

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> Personal Fee Schedule

Personal Fee Schedule

11-09-2015

Membership Fees

Membership Fee (one time fee, waived if under 18) \$10.00

Minimum Balance Required to Maintain an Active Membership \$5.00

Checking Minimum Opening Deposit

Basic Checking, eChecking, Access Account \$50.00

Monthly Service Fees

FlexSmart Money Market Account (if below \$1,000 minimum balance) \$10.00

Interest Checking (if below \$500 average monthly \$7.00)

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About this capture

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USA Checking (annual fee on anniversary date) \$25.00

Card Fees (Debit, Credit, Gift, and ATM)

ATM Withdrawal/Inquiry (No charge for OnPoint, MoneyPass or CO-OP ATMs, Free with Interest Checking)	\$2.00
Card Replacement (First replacement per year is free)	\$5.00
Card/Pin Rush Delivery (Domestic)	\$25.00
Card/Pin Rush Delivery (International)	\$65.00
Visa Gift Card Processing Fee	\$4.95
Visa Reloadable Prepaid Card (Purchase or replacement)	\$15.00
Visa Reloadable Prepaid Card (Reload Fee)	\$2.00
Visa Foreign Transaction	Up to 1% of transaction amount

Online Banking Fees

Online Banking	Free
Bill Payment monthly fee (first 3 months waived, free with Interest Checking and eChecking)	\$3.95
Same Day Bill Payment	\$12.95
Overnight Check Bill Payment	\$12.95
Popmoney Express Delivery (per transfer)	\$3.00
Popmoney Standard Delivery	Free

Returned Funds Fees

Check sent for Collections - Domestic (per check)	\$20.00
Check Sent for Collections -International (per check, \$250.00 US equivalent minimum)	\$75.00
Returned Deposit (per check or ACH item)	\$15.00
Foreign Returned Item (per item)	\$30.00
NSF Fee (items returned)	\$30.00
Overdraft Fee (item paid)	\$30.00
Overdraft Transfer Service (per transfer, 1st each month refunded)	\$3.00

Exhibit 1

Loan Fees

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About this capture

Fixed Portion Conversion to Line of Credit	\$50.00
Personal Line of Credit Annual Fee	\$24.00
Deed of Trust Reconveyance Fee (Oregon)	\$80.00
Deed of Trust Reconveyance Fee (Washington)	\$115.00
Loan Subordination Fee (per request)	\$150.00
Rate Reduction/Modification (Auto Loan)	\$150.00
Verification of Deposit/Loan (per request)	\$25.00
Skip Pay (when offered, per loan)	\$35.00
Phone Payment by Credit Card	
\$0 - \$100 transaction amount	Free
\$100.01 - \$400 transaction amount	\$10.00
\$400.01 - \$1,500 transaction amount	\$20.00
\$1,500.01 - \$3,000 transaction amount	\$50.00
Foreign Currency Fees	
Foreign Fund Check	Free
Foreign Check in US Dollar (including Canada)	\$5.00
Foreign Currency Exchange (orders under \$300 US dollars)	\$10.00
Foreign Currency Exchange (orders over \$300 US dollars)	Free
Foreign Currency Expedited Delivery (standard overnight)	\$10.00
Foreign Currency Expedited Delivery (priority overnight)	\$15.00
Wire Transfer Fees (per wire)	
Incoming (all)	\$8.00
Domestic (outgoing)	\$20.00
Foreign (outgoing - foreign currency)	\$25.00
Foreign (outgoing - US dollars)	\$40.00
Research and Legal Fees	
Account Reconciliation/Research (per hour)	\$25.00
Garnishment/Levy Processing (per order)	\$50.00

Exhibit 1

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About this capture

Photocopies of Visa Card Purchases (per item) \$12.00

Miscellaneous Fees

Cashier's Check (free with Interest Checking or when accessing OnPoint loan products) \$5.00

Check Printing (first order free with Interest Checking) Varies

Inactive Account (per month, balances less than \$150) \$5.00

Special Item Handling Prices vary based on request

Stop Payment (including payments made through Bill Payment) \$25.00

Unknown Address (per month) \$5.00

This Fee Schedule sets forth current conditions, rates, fees and charges applicable to your Savings, Checking, IRA, TDF and Certificate of Deposit Accounts at OnPoint at this time. The Credit Union may offer other rates and fees or amend the rates and fees contained in this schedule from time to time. Each account holder agrees to the terms set forth on this Fee Schedule and acknowledges that it is a part of the Membership and Account Agreement.

▲ TOP

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Careers at OnPoint

PO BOX 3750
Portland, OR 97208

Routing Number (ABA/RTN) 323075880

Loans Accounts Convenience

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Mortgages Deposit Rates Locations & ATMs

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EXHIBIT B

Membership
Account
Agreement



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Welcome to OnPoint Community Credit Union. We are pleased to have you as a member.

This is the contract between you and OnPoint Community Credit Union. When you become a member you agree to the terms and conditions described in this booklet. These terms and conditions apply whether the account is opened in person, by mail, by telephone, or electronically. Please read this Agreement carefully and keep it for your records.

This Agreement is the contract of deposit that covers your and our rights and responsibilities concerning Membership and Account(s) offered to you. In this Agreement, the words "you" and "yours" mean those who sign the Membership Application / Update, Fiduciary Accounts Membership Application / Update or Contribution Account Application / Update ("Application"), assert any ownership in an account or use any access device for any account. The words "we," "us," and "our" mean OnPoint Community Credit Union ("Credit Union"). The word "account" means any one or more savings, checking or certificate of deposit accounts you have with the Credit Union.

The classification and form of ownership of your accounts (including certificate of deposit) are designated on your Application. By signing the Application that is a part of this Agreement or by applying for membership electronically, each of you, jointly and severally, agree to the terms and conditions in this Agreement, including the Funds Availability Policy, Electronic Funds Transfer Agreement, and the Truth-in-Savings Disclosures (Rate and Fee Schedule) incorporated in or accompanying this Agreement, any account receipt, the Credit Union's Bylaws and policies, and any amendments which collectively govern your Membership and Accounts. You agree that additional accounts and services you request in the future will be governed by this Agreement, as amended from time to time.

Important Information about Procedures for Opening New Accounts. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. When you open an account, we will ask you your name, address, date of birth and other information that will allow us to identify you. We will also ask to see your driver's license or other identifying documents.

I. Membership And Accounts

1. Membership Eligibility

To be eligible for membership in the Credit Union you must be an individual or entity qualifying within the Credit Union's field of membership and must purchase and maintain a membership deposit as required by the Credit Union's Bylaws. You authorize us to check financial information data, and employment history about you by any means allowed by law, including obtaining a credit report or credit score from any consumer reporting agency to verify your eligibility for any accounts and services we offer or you request.

a. Always a Member. Once you join OnPoint Community Credit Union you are a member for life provided you comply with the terms of this Agreement and maintain a minimum deposit of \$5 in Savings. If you leave your job or move from the area, you can still use the Credit Union, provided you keep your account open. (See Sections 26 & 27 of this Agreement.)

b. Voting. The Credit Union is owned and operated by our members. Each member may cast one ballot to elect our Board of Directors. Members must be at least 18 years of age or older in order to cast a vote. Joint owners are not eligible to vote.

2. Individual Accounts

An individual account is an account owned by one depositor including any individual qualified for Credit Union membership. If the account is an individual account, the interest of a deceased individual owner will pass, subject to applicable law, to the payable on death ("POD") beneficiary or decedent's estate, if applicable.

3. Joint Accounts

An account owned by the member and one or more persons is a joint account. The Member is the person so identified on the Application. A Joint Owner is not a member of OnPoint Community Credit Union and does not become a member as a result of being designated a joint owner.

a. Rights of Survivorship. If your account is a joint account, the account is owned as a joint account with rights of survivorship. Upon the death of one of the joint account owners, that person's interest will become the property of the surviving joint account owners.

b. Rights of Joint Account Owners. Any joint account owner is authorized and deemed to act for the other owner(s) and the Credit Union may accept orders and instructions regarding the account and requests for future services from any account owner. Each account owner guarantees the signature of the other owners. Any account owner may withdraw all funds in the account, stop payment on items drawn

on an account, withdraw, or pledge all or any part of the deposits of any account and use any access device issued for the account without the consent of the other account owner(s) and the Credit Union shall have no duty to notify any other joint account owner(s). If the Credit Union receives written notice of a dispute between account owners or receives inconsistent instructions from them, the Credit Union may suspend or terminate the account, require a Court order to act, or require that all joint account owners agree in writing to any transaction concerning the account.

c. Joint Account Owner Liability. If any item deposited in a joint account is returned unpaid or an account is overdrawn, or if we do not receive final payment on any transaction, each of the multiple account owners and authorized users is jointly and severally liable to the Credit Union for the amount of the returned item, overdraft, or unpaid amount and any charges, or liability for any transaction performed by an authorized user, regardless of who created or performed the overdraft, deposited or cashed the item or benefited from the transaction. If any account owner is indebted to the Credit Union, the Credit Union may enforce its rights against any or all funds in the joint account regardless of who contributed the funds to the joint account.

4. POD Designations

A Payable on Death (POD) designation is an instruction to the Credit Union that a single or multiple party account so designated is payable to the owner(s) during his, her or their lifetimes and, when the last account owner dies, is payable to any named and surviving POD/payee. Accounts payable to more than one POD payee are owned jointly and equally, unless otherwise designated, by such beneficiaries with rights of survivorship. Any POD payee designation shall not apply to IRA or HSA accounts which shall be governed by a separate beneficiary designation. We are not obligated to notify any payee of the existence of any account or the vesting of the payee's interest in any account, except as otherwise provided by law.

5. Accounts for Minors

The Credit Union reserves the right to limit the accounts and services that are available to minors. For any account established by or for a minor, the minor account owner must have a joint account owner who is a parent or legal guardian of the minor, as approved by the Credit Union, who shall be jointly and severally liable to the Credit Union. For a joint account, all funds in the account shall be owned as a joint account with rights of survivorship. The Credit Union may make payments of funds directly to the minor without regard to his or her minority. The Credit Union has no duty to inquire about the use or purpose of any transaction by the minor or joint account owner. The minor's tax identification number must

be shown on the Application. The Credit Union will not remove joint owners when the minor reaches age eighteen (18). Once the minor reaches age eighteen (18), the joint owners may remove themselves by providing written notice to the Credit Union. However, when the minor reaches age eighteen (18), the minor may open new accounts without regard to any restrictions on, or ownership and access arrangements of, existing accounts.

6. Uniform Transfer to Minor Accounts

A Uniform Transfer to Minor (Custodial) Account (UTTMA) is an account established by an individual as a custodian on behalf of a minor (a person under twenty-one (21) years of age). The custodian shall open the account in the name of the minor, include the minor's tax identification number, and must sign his or her own name, as custodian on the Application. The custodian has possession and control of the account for the exclusive right and benefit of the minor and, barring a court order otherwise, is the only party entitled to make withdrawals from, or close the account. The custodian may name a successor custodian. In the event of the custodian's death, the Credit Union may place an administrative hold on the account until it receives instructions from any person authorized by law to withdraw funds or a court order authorizing such withdrawal. It is the legal responsibility of the custodian to change the status of the account when the minor reaches age twenty-one (21).

7. Accounts for Formal Trusts

An account for a formal trust is held by one or more trustees of a trust for the benefit of one or more beneficiaries pursuant to a revocable or irrevocable trust agreement. Upon request of the Credit Union, the trustee shall sign a Fiduciary Accounts Membership Application/Update and provide any other evidence of the trustee's authority the Credit Union requires. Trustee warrants that a valid formal trust has been created, is currently existing, and that the trustor is eligible for membership in the Credit Union. The Credit Union does not act as a trustee and is under no obligation to inquire as to the powers or duties of the trustee(s). Trustee agrees to notify the Credit Union in writing if a change of trustee occurs. The Credit Union may withhold payment of funds to any party until proper evidence of authority is provided. The Credit Union may rely upon the directions of any one trustee until a written notice of revocation of the trust is received. Funds may be released to any one trustee acting alone or with a co-trustee. The trustee(s) agrees to indemnify and hold the Credit Union harmless of any liability, claim, damage or loss arising as a result of unauthorized acts of any trustee or former trustee or acts of any trustee upon which the Credit Union relies prior to notice of revocation of the trust. This Agreement shall be binding on the trust, any trustee, successor trustee and beneficiaries.

8. Fiduciary Accounts

A fiduciary account is an account opened by an executor, administrator, personal representative, guardian, conservator, or other fiduciary in such capacity authorized under a will, court order or trust instrument establishing the fiduciary relationship trustee or a Representative Payee authorized by the Social Security Administration or other designated fiduciary ("fiduciary"). The account owner is the estate, guardianship, conservatorship, trust or Social Security Administration benefit recipient and is the sole owner of this account. The fiduciary is authorized to act on behalf of the account owner but has no ownership interest in the account. The fiduciary is the only authorized party to transact on this account. The fiduciary is expressly authorized to endorse all items payable to or owned by the account owner for deposit with or collection by the Credit Union and to execute such other agreements and to perform any other account transaction under the Agreement. The fiduciary is authorized to receive account information from the Credit Union, either orally or in writing, and any information related to the account. The authority given to the fiduciary shall remain in full force until a court order, termination of the account or written notice of revocation is received by the Credit Union either by a court appointed representative of the account owner or by the Social Security Administration, as applicable. Any such notice shall not affect any items in process at the time notice is given. The fiduciary will notify the Credit Union of any change in the account owner's status affecting the deposit relationship between the account owner and the Credit Union. The fiduciary warrants that all actions he or she takes regarding the account will be for the sole benefit of the account owner and that the fiduciary will not conduct any transaction on the account that will personally benefit the fiduciary or will not comply with the terms of the applicable laws, will, court order, or instrument establishing the fiduciary relationship. The Credit Union may rely upon these representations and shall have no duty to examine such authorizing documents for compliance or inquire as to the powers and duties of the fiduciary and shall have no notice of any breach of fiduciary duties by the fiduciary unless the Credit Union has actual notice of wrongdoing. The account owner agrees that the Credit Union shall not be liable for any losses due to the account owner's failure to notify the Credit Union of any unauthorized acts of the fiduciary or changes to the relationship between the fiduciary and account owner. The account owner and fiduciary agree to indemnify and hold the Credit Union harmless of any claim or liability as a result of unauthorized acts of the fiduciary upon which the Credit Union relies prior to any actual notice of any account change or change of the fiduciary.

9. Deposit Requirements

Funds may be deposited to any account in any manner approved by the Credit Union in accordance with the requirements set forth on the Deposit Rate Sheet/

Fee Schedule. All accounts are non-assignable and nonnegotiable to third parties. Certificate of Deposit accounts are governed by the terms of this Agreement and the terms and disclosures on your Certificate of Deposit Receipt for each account, which is incorporated herein by this reference. Individual Retirement Accounts and Health Savings Accounts are governed by the terms of the Agreement and by a separate IRA/HSA account agreement and disclosure statement included with your IRA/HSA application, which are incorporated herein by this reference. You agree not to deposit any substitute check or similar item that you have created, or for which no financial institution has provided any substitute check, warranties and indemnity. If you do so, you agree to indemnify the Credit Union for all losses the Credit Union incurs in connection with the substitute check or item.

You agree not to deposit any substitute check without our consent.

a. Endorsements. You authorize the Credit Union, in its discretion, to accept transfers, checks, drafts and other items for deposit into any of your accounts, whether or not they are endorsed by all payees. You authorize the Credit Union to supply missing endorsements if the Credit Union chooses to supply such endorsements. The Credit Union reserves the right to refuse to accept third party checks or to verify all endorsements on third party checks presented. If an insurance, government, and certain other checks or drafts require an endorsement as set forth on the back of the check, the Credit Union may require endorsement as set forth on the check. Endorsements must be placed in the space on the back of the check between the top edge and 1 1/2 (one and one half) inches from the top edge. The Credit Union may accept drafts or checks with endorsements outside this space. However, if any such endorsement or other markings you or any prior endorser make on the check cause any delay or error in processing the item for payment, you will be responsible for any loss incurred by the Credit Union due to the delay or error.

b. Collection of Items. The Credit Union shall not be responsible for deposits made by mail or at an unstaffed facility until the Credit Union actually receives them. In handling items for deposit or collection, the Credit Union only acts as your agent and assumes no responsibility beyond the exercise of ordinary care. The Credit Union will not be liable for default or negligence of any correspondent or for loss in transit, and each correspondent will only be liable for its own negligence. The Credit Union reserves the right to send any item for collection. We normally credit your account after we receive payment of collection items, but if we do credit your account and then do not receive payment, we will charge your account. For our

collection fees, refer to the Deposit Rate Sheets/Fee Schedule.

c. Final Payment. All items or Automated Clearing House (“ACH”) transfers credited to your account are provisional and subject to our receipt of final payment. If final payment is not received, we reserve the right to charge your account for the amount of those items or ACH transfers and impose a return charge on your account. After we have received final payment, we refer to these deposits as collected items. If the Credit Union incurs any fee to collect any item, the Credit Union may charge such fee to your account. The Credit Union reserves the right to refuse or to return all or any item or funds transfer. The Credit Union shall have the right to charge back against your account all previously deposited items or other items endorsed by you that are returned to the Credit Union unpaid, regardless of whether the amount of the item has been available for your use.

d. Direct Deposits. The Credit Union may offer direct deposit options allowing you to preauthorize deposits (i.e., payroll, retirement, Social Security or other government benefits) or preauthorize transfers from other accounts at the Credit Union. You must authorize any direct deposits to your accounts by a separate authorization form. If applicable, you must notify the Credit Union at least thirty (30) days prior to any direct deposit or preauthorized transfer if you wish to cancel or change the direct deposit or direct transfer option. Upon a filing of bankruptcy, if you fail to cancel any direct deposit authorization, you instruct your employer and the Credit Union to make and apply direct deposits in accordance with your authorization on file with the Credit Union. If the Credit Union is required to reimburse the U.S. Government for any benefit payment directly deposited into your account for any reason, you agree the Credit Union may deduct the amount returned from any of your accounts, unless prohibited by law.

e. Crediting of Deposits. Deposits made on Saturdays, Sundays, and Credit Union holidays will be credited to your account on the next business day. Ask for our current deposit cutoff time. Deposits received at unstaffed facilities, such as night depositories, will be credited on the day funds are removed and processed by the Credit Union. For deposits at ATMs, unstaffed facilities, or any other means except in-person deposits made to a Credit Union employee, any credit that we provide before we have removed and processed the deposit is subject to adjustment based on our verification of the items deposited. Items drawn from an institution located outside the United States are handled on a collection basis only. Amounts, less any associated collection costs, will be credited to your

account when we receive final payment. You waive any notice of nonpayment, dishonor, or protest regarding any items credited to or charged against your account.

f. Transactions by Mail. Except as otherwise provided in this Agreement, the Credit Union may permit you to make deposits, transfers, and withdrawal requests by mail. You must provide specific information instructing us how to process the transactions. Such transactions will be posted to your account as of the day the transaction is processed at the Credit Union. If you make a deposit or payment, which is not accompanied by instructions how or where it is to be credited, we may apply it to any loan or deposit account you maintain with us, at our discretion, and this may delay the crediting of such a deposit or payment.

10. Account Access

a. Authorized Signature. We require your authorized signature on your Application before we will honor transactions on your account(s). The Credit Union is authorized to recognize your signature, but will not be liable for refusing to honor any item or instruction of yours if it believes in good faith that the signature on such item or instruction is not genuine. If you have authorized the use of a facsimile signature, the Credit Union may honor any transaction that appears to bear your facsimile signature even if it was made by an unauthorized person. If you give your member/account number to a third person, you authorize us to honor transactions initiated by the third person even if you did not specifically authorize a particular transaction. The Credit Union may refuse to accept any item for deposit. You agree that your electronic consent is your electronic signature which specifically records your signature and constitutes your agreement to the terms and conditions of this Agreement. You agree your electronic signature captured and stored as an image by electronic means shall be sufficient to evidence of your assent to be contractually bound by the Agreement and shall constitute a valid signature for purposes of any provision of this Agreement.

b. Access Options. You may make withdrawals or transfers from your account in any manner which is permitted by the Credit Union (i.e., check, ATM, debit card, in person, electronically, Internet Enabled Device, mail, wire transfer, automatic transfer, or telephone). If the Credit Union accepts any check that is not drawn on a check form provided by or through the Credit Union, you will be responsible for any loss incurred by the Credit Union for handling the check. The Credit Union may return as unpaid any check that is not drawn on the check form provided by the Credit Union.

c. ACH & Domestic Wire Transfers. If offered, you may initiate or receive credits or debits to your account via wire transfer or ACH ("Automated Clearing House") transfer. You agree that if you receive funds by a wire or ACH transfer, the Credit Union is not required to notify you at the time the funds are received. Instead, the transfer will be shown on your periodic statement. The Credit Union may provisionally credit your account for an ACH transfer before it receives final settlement for the transfer. You agree that if the Credit Union does not receive final settlement for a transfer, it may reverse the provisional credit to your account, or you will refund the amount to the Credit Union. The Credit Union may require that wire transfers be authorized in writing. When you initiate a wire transfer, you may identify either the recipient or any financial institution by name and by account or identifying number. The Credit Union (and other institutions) may rely on the account or other identifying number you give as the proper identification number, even if it identifies a different party or institution. The Credit Union reserves the right to confirm or verify information on all wire requests prior to sending the wire. Once the Credit Union has sent an outgoing wire, the transfer is final and cannot be stopped. If you provide incomplete or inaccurate transfer instructions, written or oral, the Credit Union will not be responsible for any resulting wire transfer losses, delays or failed transactions. You understand international wire transfers may not be completed for up to four weeks or longer. Terms and conditions for international wire transfers will be provided at the time of the transfer transaction. Wire transfers are governed by the Uniform Commercial Code Section 4A, and (if the transfer is cleared through the Federal Reserve) by Federal Reserve Regulation J. International wire transfers are governed by the Bureau of Consumer Financial Protection Regulation E. ACH transactions are governed by the rules of the National Automated Clearing House Association. The origination of ACH transactions to or from the consumer's account must comply with provisions of U.S. Law. You agree that the authorized transfer to/from your account must comply with all applicable federal and state laws or regulations including OFAC (Office of Foreign Asset Control) regulations.

d. Credit Union Examination. The Credit Union may disregard information on any check other than the signature of the drawer and amount of the item and any magnetic encoded information. You agree the Credit Union does not fail to exercise ordinary care in paying an item solely because its procedures do not provide for sight examination of items.

e. Electronic Check Transactions.

1. Electronic Checks. If you authorize a merchant to electronically debit your checking account using the routing, account and serial number of your check to initiate the transfer, whether the check is blank, partially or fully completed and signed, such

authorization is an electronic check conversion. An electronic check conversion is an electronic funds transfer ("EFT") subject to the terms of Part III. Electronic Funds Transfer Agreement. You authorize us to honor any electronic check conversion from your checking account just the same as a regular written check.

2. Electronic Re-presented Checks. If you write a check on a personal account that we return unpaid because of insufficient or uncollected funds, the payee or any subsequent holder of the check may re-present the check to us, through an electronic instruction ("Electronic Represented Check") to charge your account for the amount of the check. If we receive an electronic represented check, we will pay or return the electronic represented check as if the original paper check was presented to us. Any collection fee you authorize the merchant to debit from your account is an electronic funds transfer subject to the terms of Part III. Electronic Funds Transfer Agreement. If you want to reverse an electronic re-presented check, you must give us an affidavit within 15 days after we send or make available to you the periodic statement that reflects payment of that electronic re-presented check. In your affidavit, you must declare and swear under oath that the electronic re-presented check was ineligible or unauthorized. If we receive a proper notice or affidavit from you within the 15-day period, we will re-credit your account with the amount of the charge. If you wish to stop payment of any electronic re-presented check, you must follow the procedures contained in this Agreement for stopping payment of checks, not the procedures for stopping payment on electronic loan or bill payments. If you ask us to request the depositor's bank to send us the original paper check or a copy of the paper check, and we provide it to you, you agree that you will not seek to have your account re-credited due to a prior stop payment order or if for any other reason the item is deemed ineligible for collection.

f. International ACH Transactions. You understand that in the event an International ACH Transaction ("IAT") Entry that is transmitted to or from any of your accounts is identified and designated by the Credit Union's screening criteria for review and examination under the OFAC Rules and Regulations ("OFAC Rules"). The settlement of such an IAT Entry may be delayed or suspended pending the Credit Union's review of the IAT Entry, and may be terminated under applicable OFAC Rules. You acknowledge that we may be required to place an indefinite hold on the funds covered by the IAT Entry if the IAT Entry is required to be terminated under

the OFAC Rules. You agree that any delay described above will be a permissible delay under the regulations applicable to the availability of funds held in deposit accounts. In the event an IAT Entry is delayed or terminated, we will provide you such notice as may be required by applicable laws and regulations.

11. Account Rates and Fees

The Credit Union's payment of earnings on any account is subject to the account rates and fees, payment and balance requirements as set forth on the Deposit Rate Sheet/Fee Schedule. You agree the Credit Union may impose fees and charges for the deposit account services provided by the Credit Union. A current Deposit Rate Sheet/Fee Schedule has been provided to you separately. You agree the Credit Union may change the Deposit Rate Sheet/Fee Schedule from time to time and you will be notified of such changes as required by law.

12. Transaction Limitations

a. Withdrawal Restrictions. The Credit Union will permit a withdrawal only if you have sufficient available funds in your account to cover the full amount of the withdrawal or have an established overdraft protection plan. Checks or other transfer or payment orders which are drawn against insufficient available funds will be subject to a service charge, set forth in the Rate and Fee Schedule. If there are sufficient available funds to cover some but not all of your withdrawal orders, the Credit Union may allow those withdrawals for which there are sufficient available funds in any order at the Credit Union's discretion.

The Credit Union may also refuse to allow a withdrawal in other cases; for example: any dispute between the owners about the account (unless a court has ordered the Credit Union to allow the withdrawal); a legal garnishment or attachment is served; the account secures an obligation to the Credit Union; any required documentation has not been presented; or you fail to repay a Credit Union loan on time. The Credit Union reserves the right to require members to give notice in writing of any intended withdrawals from any account (except checks) of not less than 7 days and up to 60 days, as required by law, before such withdrawal.

b. Transfer Limitations. For Regular Savings, Market Rate Savings, FlexSmartSM Money Markets, and Teachers Deposit Fund Accounts, you may make up to six (6) pre-authorized, automatic, overdraft, Online and Mobile Banking, External Transfer, Popmoney, telephonic or audio response transfers to another account of yours or to a third party during any calendar month. A preauthorized transfer includes any arrangement with the Credit Union to pay a third party from the member's account upon oral or written orders, including orders received through the automated clearing house (ACH). In addition, there is no limit

on the number of transfers you may make to another Credit Union account or withdrawals (checks mailed directly to you) when such transfer or withdrawal is initiated in person, by mail or at an ATM. If a transfer request would exceed the transfer limitations set forth above in any month, the Credit Union may refuse or reverse the transfer, and your account will be subject to suspension or closure by the Credit Union, and the Credit Union may impose a charge.

The limit of six (6) transfers per month applies to the following types of transactions:

1. Automatic overdraft transfers from Savings to a Checking Account.
2. Telephone requests, including Telephone Teller, to transfer funds from Savings to other accounts.
3. Transfer requests, made through Online Banking, Mobile Banking, External Transfer or Popmoney to transfer funds from Savings to other accounts.
4. Pre-authorized arrangements to transfer funds from Savings to a third party, such as your automobile insurance company or health club, and other electronic transfers.

c. Transaction Limitations. The Credit Union reserves the right to limit the volume of checks or cash deposited and/or the number of deposits per day. If the transactions on your account exceed the volume or amount considered normal for consumer activity, the Credit Union may impose an excess transaction fee, limit your account activity or close your account.

In order to reduce Credit Union reserve requirements, Checking account balances are reported as two subaccounts, a checking and savings subaccount. For reporting purposes only, the Credit Union may make up to six (6) transfers per month between the savings and checking subaccounts. This reporting structure does not affect the balance, interest earnings, statement activity or NCUA insurance applicable to your Checking account.

13. Administrative Account Freezes

If this Membership and Account Agreement or any other loan/line of credit or other service agreement is breached by an authorized signer, borrower or designee, OnPoint may restrict access to your account or electronic services connected to your account. This includes ATM, debit card and/or online and mobile banking access. Restrictions may be placed without providing you prior notice and will be confirmed by written notification. Such restrictions may remain in place until the delinquency or other matter has been resolved.

14. Overdrafts

a. Your Overdraft Liability. If on any day, the available funds in your checking account are not sufficient to cover checks and other items posted to

your account, those checks and items will be handled in accordance with our overdraft procedures and the terms of this Agreement. The available balance is your account balance minus any account holds and is impacted by pending debit card transactions or checks, preauthorized items, service charges as disclosed in the Rate and Fee Schedule, deposit holds or holds placed due to notification of previously deposited items being returned unpaid. The Credit Union's determination of an insufficient account balance is made at the time the check or item is presented to us, which may be later than the time you conduct the transaction. The Credit Union has no duty to notify you of a check or item that will overdraw your account. If we pay an item that overdraws your account, you are liable for and agree to pay the overdraft amount and any fees immediately. You will be subject to a charge for each item whether paid or returned as set forth in the Rate and Fee Schedule. We reserve the right to pursue collection of previously dishonored items at any time, including giving a payer bank extra time beyond any midnight deadline limits.

b. Overdraft Transfers. We will cover overdrafts on your checking account by making transfers from any savings account of yours or a loan advance on your line of credit or credit card account, as you have previously authorized, and transferring amounts to cover an overdraft to your checking account. You will be subject to a charge for each overdraft transfer whether the associated item is paid or unpaid as set forth in the Rate and Fee Schedule. You may cancel this overdraft transfer service at any time by notifying us in time to take action prior to a transfer being made.

c. Overdraft Protection. We offer a discretionary overdraft protection service (Overdraft Protection) to cover overdrafts. The Overdraft Protection service is offered to all eligible checking account owners, unless revoked by OnPoint. The service will be provided under the following terms and conditions.

1. Discretionary Service. The Overdraft Protection service will be provided once your checking account is opened and will continue as long as the account is maintained in good standing with the Credit Union. The Overdraft Protection service is provided only if you have no authorized savings or loan account funds available to transfer. Under the Overdraft Protection service, we are not obligated to pay any check or item presented for payment if your account does not contain sufficient available funds. We may, as a discretionary service and not as a right of yours or our obligation to you, pay overdrafts up to an overdraft limit under the terms of this service and subject to this Agreement. This overdraft service is not a line of credit, is not guaranteed, and is

independent of any loan arrangement you may have with us. We may refuse to pay an overdraft for you at any time, even if we have previously paid overdrafts for you. We will notify you by mail (or email, if you have requested) of any insufficient funds, checks, or items paid or unpaid and returned that you may have. However, we will not notify you before we pay or return any item.

2. Overdraft Transactions Covered. If on any day you do not have available funds in your account, the following transactions, which may result in an insufficient or negative balance ("overdrafts"), may be covered under our service: checks, debit card purchases, online or other electronic funds transfers, ACH debits and other payments or withdrawals authorized by you, account service charges, pre-authorized drafts, and any other items that may be posted to your account. If we pay an item, we will pay the item in the order it is presented or received by us, regardless of amount and in accordance with our normal operating procedures for such checks, items or transactions.

3. Overdraft Limit/Available Balance. We may pay overdrafts up to your available overdraft limit provided you continue to qualify for the service. The Credit Union's fees and charges and each paid check or item will be included in this limit. This overdraft balance will not be included or reflected in your actual or "available balance" of your account provided by a teller, at ATM or POS facilities, through online services or on your periodic statements.

4. Overdraft Fees. There is an Overdraft Fee for each paid overdraft check or item. If we do not pay the overdraft, there is a NSF/Returned Item fee per check or item. There is no limit on the number of overdrafts paid or overdraft fees incurred on any one day. These fees are set forth in our Rate and Fee Schedule.

5. Member Repayment Responsibility. You agree your overdraft balance, including applicable overdraft fees, is due and payable upon demand. If there is more than one owner on an account, all owners are jointly and severally liable for repayment of the overdraft balance. If you fail to repay your overdraft balance within 7 days of notice from us, we may immediately suspend the Overdraft Protection service. Accounts may be closed for failure to repay overdraft balances and we will report account closures to consumer reporting agencies.

15. Postdated and Staledated Items

You authorize us to accept and pay any check, even if the check is postdated (presented for payment before its date), or staledated (presented for payment more than six months

after its date). You also agree not to deposit checks, drafts, or other items before they are properly payable. The Credit Union is under no obligation to you to pay any check that is presented more than six (6) months after its date. If you don't want us to pay a postdated or staledated check, you must notify us of the check and place a stop payment order on it. (See the Stop Payment Orders section.)

16. Stop Payment Orders

a. Stop Payment Request. You may ask the Credit Union to stop payment on any check drawn upon or ACH debit scheduled from your checking or savings account. This does not apply to bill payment items. You may request a stop payment by telephone, by mail or in person. For checks, the stop payment will be effective if the Credit Union receives the order in time for the Credit Union to act upon the order. For ACH debits, the stop payment order must be received at least three (3) banking days before the scheduled date of the transfer. You must state the number of the account, date and the exact amount of the check or ACH and the number of the check or originator of the ACH debit.

If you give the Credit Union incorrect or incomplete information, the Credit Union will not be responsible for failing to stop payment on the item. If the stop payment order is not received in time for the Credit Union to act upon the order, the Credit Union will not be liable to you or to any other party for payment of the item. If we re-credit your account after paying a check over a valid and timely stop payment order, you agree to sign a statement describing the dispute with the payee, to transfer all of your rights against the payee or other holders of the check to the Credit Union, and to assist the Credit Union in legal action taken against the person.

b. Duration of Order. If you make an oral stop payment order, we reserve the right to require your written confirmation within fourteen (14) days. A check stop payment order will be effective for twelve (12) months and may be renewed orally or in writing. An ACH stop payment will be effective indefinitely, unless you request it to be removed in writing. The Credit Union is not obligated to notify you when a stop payment order expires.

c. Liability. The Credit Union may charge a fee for each stop payment order requested, as set forth on the Deposit Rate Sheet/Fee Schedule. You may not stop payment on any cashier's check, or other check or payment guaranteed by the Credit Union. You should be aware that while payment of the item may be stopped, you may remain liable to any person, including the Credit Union, who is a holder of the item despite the stop payment order. You agree to indemnify

and hold the Credit Union harmless from all costs; including attorney fees, damages or claims related to the Credit Union's action in refusing payment of an item, including claims of any multiple party account owner, payee, or endorsee in failing to stop payment of an item as a result of incorrect information provided by you.

17. Lost Items

The Credit Union, in receiving items from you for withdrawal or deposit, acts only as your agent and reserves the right to reverse the credit for any deposited items or to charge your account for the items should they become lost in the collection process.

18. Credit Union's Liability for Errors

If the Credit Union does not properly complete a transaction according to this Agreement, the Credit Union will be liable for your losses or damages not to exceed the amount of the transaction, except as otherwise provided by law. The Credit Union will not be liable if: (a) through no fault of the Credit Union, your account does not contain enough money to make the transaction; (b) circumstances beyond the Credit Union's control prevent the transaction; (c) your loss is caused by your negligence or the negligence of another financial institution; or (d) the money in your account is subject to legal process or other claim. The Credit Union will not be liable for consequential damages except liability for wrongful dishonor. The Credit Union's actions will constitute the exercise of ordinary care if such actions or non-actions are consistent with applicable state law, Federal Reserve regulations and operating letters, clearinghouse rules, and general banking practices followed in the area serviced by the Credit Union. You grant the Credit Union the right, in making payments of deposited funds, to rely exclusively on the type and ownership of the account and the terms of this Agreement. Any conflict between oral representations by you or Credit Union employees and any written form will be resolved by reference to this Agreement and any other applicable written agreement.

19. Credit Union Lien and Security Interest

To the extent you owe the Credit Union money as a borrower, guarantor, endorser or otherwise, the Credit Union has a lien on any or all of the funds in any account (excluding IRA/HSA funds) in which you have an ownership interest at the Credit Union, regardless of the source of the funds. The Credit Union may apply these funds in any order to pay off your indebtedness. If the Credit Union chooses not to enforce its lien, the Credit Union does not waive its right to enforce the lien at a later time. In addition, you grant the Credit Union a consensual security interest in your accounts and agree the Credit Union may use the funds from your accounts to pay any debt or amount owed the Credit Union, except obligations secured by your dwelling, unless prohibited by applicable law. All accounts are nonassignable and nontransferable to third parties.

20. Legal Process

If any legal action, such as a levy, garnishment, or attachment, is brought against your account, the Credit Union may refuse to pay out any money from your account until the issue is resolved. If the Credit Union incurs any expenses or attorney fees in responding to legal process, such expenses may be charged against your account without prior notice to you, unless prohibited by law. Any legal process against your account is subject to the Credit Union's lien and security interest.

21. Account Information

Upon your request, the Credit Union will inform you of the name and address of each credit reporting agency from which the Credit Union obtains a credit report in connection with your account. The Credit Union agrees not to disclose information to third parties about your account regarding any transaction or balances except as provided in our Privacy Policy and in accordance with applicable law.

You authorize us to disclose information about your account to credit reporting agencies and to other persons or agencies who, in our judgment, have a legitimate purpose for obtaining information. You authorize us to disclose information about your account to an account verification service and/or credit reporting agency if we close your account due to unsatisfactory handling, fraud, attempted fraud, or criminal activity.

You agree we may exchange credit report information with others regarding any update or renewal of or additional accounts and services we may offer or extend in the future, or for any other legitimate business purpose. You agree we may share your account information and any information you provide to us with any Credit Union affiliate and others for the purpose of considering your eligibility for their products and services, including financial, insurance, and investment products.

22. Notices

a. Name or Address Changes. It is your responsibility to notify the Credit Union upon a change of address or change of name. The Credit Union is only required to attempt to communicate with you at the most recent address you have provided us. Notice of change of address may be given by writing the Credit Union, calling Member Services, or by providing notice in person to a Credit Union employee. If you do not notify us of your current address we may impose a service fee as set forth on the Deposit Rate Sheet/Fee Schedule. The Credit Union may accept a Notice of Address Change from the U.S. Postal Service as your most recent address for sending statements and notices to you.

b. Notice of Amendments. Except as otherwise prohibited by applicable law, the terms of this Agreement are subject to change at any time. The Credit Union will notify you of any changes in account terms, rates, or fees as required by law. You may make changes in account ownership, such as adding or removing a joint account owner, and you acknowledge that the Credit Union may require a new Membership Application/Update to be completed before any change in ownership becomes effective. However, the removal of any joint owner will not be effective without the joint owners' authorized termination. The Credit Union reserves the right to waive any term in this Agreement. Any such waiver shall not affect the Credit Union's right to enforce any right in the future.

c. Effect of Notice. Any written notice you give to the Credit Union is effective when it is actually received by the Credit Union. Any written notice the Credit Union gives to you is effective when it is deposited in the U.S. Mail, postage prepaid and addressed to you at your statement mailing address. Notice to any one account owner is considered notice to all owners of the account.

d. Negative Information Notice. We may report information about your loan, share or deposit accounts to credit bureaus. Late payments, missed payments, or other defaults on your accounts may be reflected in your credit report.

23. Taxpayer Identification Numbers and Backup Withholding

If your account is or becomes subject to backup withholding, the Credit Union is required by law to withhold and pay to the Internal Revenue Service (IRS) a required percentage of payments of interest and certain other payments under certain conditions. Your failure to furnish a correct taxpayer identification number (TIN) or meet other applicable requirements may result in backup withholding as well as civil or criminal penalties. The Credit Union may suspend the opening of your account until an accurate TIN is provided.

24. Statements

a. Contents. You will receive a periodic statement of all transactions and activity on your account during each statement period. You agree that only one statement is necessary for a multiple party account. For checking accounts, you understand that when paid, your original check becomes property of the Credit Union and may not be returned to you. You agree to keep a copy or carbon copy of your original check in order to verify its validity. If you request us to provide you with an original check or sufficient copy, you agree that we may provide an electronic image of the original check or sufficient copy if you have agreed to receive

account information or statements electronically. Copies will be retained by the Credit Union, and made available upon your request for a fee as set out in the Deposit Rate Sheets/Fee Schedule. You understand statements and checks are considered to have been made available to you on the date the statement is mailed or the information is otherwise made available to you. Statements will be mailed to the last address you have provided to us or as we have otherwise agreed.

b. Examination. You are responsible for examining each statement and reporting any irregularities to the Credit Union. The Credit Union will not be responsible for any forged or altered item or unauthorized endorsement on any item drawn on your account if (1) you did not exercise reasonable care in promptly examining the statement to discover any irregularities; (2) you fail to notify the Credit Union within thirty (30) calendar days of the mailing date of the earliest statement and availability of checks containing any forgery, alteration, or unauthorized signature on the front or back of an item; or (3) any items are forged or altered in a manner not detectable by a reasonable person, including the unauthorized use of facsimile signature machine or stamp

c. Notification of Errors. You agree that the Credit Union's retention of checks does not alter or waive your responsibility to examine your statements and all transactions included or the time limit for notifying the Credit Union of any errors. The statement will be considered correct for all purposes, and the Credit Union will not be liable for any payment made or charged to your account unless you notify the Credit Union in writing within the above time limit after the statement is made available to you.

d. Electronic Statements (E-Statements). If your statement is provided electronically, you will be sent an email that will direct you to the website where you may access, review, print and otherwise copy/download your periodic statements using procedures we authorize. Emails from us will be sent to the email address provided by the account owner.

25. Inactive and Abandoned Accounts

If you have an account that you have not made a withdrawal from, deposit to, or transfer involving your account for more than one (1) year, the Credit Union may classify your account as an inactive account and may charge a service fee as allowed by applicable law and set forth on the Deposit Rate Sheet/ Fee Schedule. The Credit Union will notify you at your last known address prior to imposing any fee as required by law. If a deposit or withdrawal has not been made on the account or the Credit Union has had no other contact with you for three (3) years or as required by the Uniform Unclaimed Property Act,

the account will be presumed to be abandoned. Funds in abandoned accounts will be remitted in accordance with state law. Once funds have been turned over to the state, the Credit Union has no further liability to you for such funds and if you choose to reclaim such funds, you must apply to the appropriate state agency.

26. Death of Account Owner

The Credit Union may require the survivor or other claimant to the account to produce certain documents before releasing the funds in the account. The Credit Union may continue to honor all transfers, withdrawals, deposits and other transactions on the account until the Credit Union learns of an account owner's death. You agree that the Credit Union can require that anyone who claims funds in your account after your death to indemnify the Credit Union for any losses resulting from honoring that claim. Deceased individuals should be removed from the membership within a reasonable period of time. If the deceased member was the Primary account holder, we may require closure of the membership within a period of six (6) months.

27. Termination of Account

The Credit Union may terminate your account at any time without notice to you or may require you to close your account and apply for a new account if (1) there is a change in owners or authorized signers; (2) there has been a forgery or fraud reported or committed involving your account; (3) there is a dispute as to the ownership of the funds in the account; (4) any account checks are lost or stolen; (5) there are excessive returned unpaid items not covered by an overdraft protection plan; or (6) there has been any misrepresentation or any other abuse of any of your accounts. You may terminate your account at any time by notifying the Credit Union in writing. The Credit Union is not responsible for payment of any check, withdrawal, or other item once your account is terminated; however, if the Credit Union honors a transaction after termination, you agree to reimburse the Credit Union for payment.

28. Termination of Membership

You may terminate your membership at the Credit Union after giving written notice of your intent to withdraw from membership. We may suspend all of your account access and services and expel you from membership for any reason allowed by applicable law, including failure to comply with our bylaws; causing a loss to the membership; causing willful destruction or damage to Credit Union property or acting without civility in dealings with Credit Union members, officers and employees.

29. Special Account Instructions

You may request the Credit Union to facilitate certain trust, will, or court-ordered account arrangements. However, because the Credit Union does not give legal advice, we cannot counsel you as to which account arrangement most appropriately meets the specific requirements of your

trust or court order. If you ask us to follow instructions that we believe might expose us to claims, suits, or any liability, whether directly or indirectly, we may refuse to follow your instructions or may require a bond or other protection. We may ask for your promise to defend the Credit Union against any claims and pay all legal fees and costs associated with the defense. In the event the Credit Union brings legal action to enforce this Agreement, the prevailing party shall be entitled, subject to applicable law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal. Any item presented with a full payment legend must be presented in person to a Credit Union officer; otherwise, payment is accepted with full reservation of rights. Account changes requested by you, or any account owner, such as adding or closing an account or service, must be evidenced by a signed Application and accepted by the Credit Union. The Credit Union will not recognize the authority of someone to whom you have given power of attorney without written authorization and a copy of the Power of Attorney on record at the Credit Union. You understand that the Credit Union may choose to retain electronic or imaged copies of any original documents, and you agree that an electronic or imaged copy is valid as an original.

30. Severability

In the event that any paragraph of this Agreement or any portion thereof is held by a court to be invalid or unenforceable for any reason, the other paragraphs and portions of this Agreement shall not be invalid or unenforceable and will continue in full force and effect.

31. Enforcement

You agree to be liable to the Credit Union for any liability, loss, or expense as provided in this Agreement that the Credit Union incurs as a result of any dispute involving your accounts or services. You authorize the Credit Union to deduct any such liability, loss, or expense from your account without prior notice to you. In the event either party brings a legal action to enforce the Agreement or collect any overdrawn funds on accounts accessed under this Agreement, the prevailing party shall be entitled, subject to applicable law, to payment by the other party of its reasonable attorney's fees and costs, including fees on any appeal, bankruptcy proceedings, and any post-judgment collection actions, if applicable.

32. Governing Law

This Agreement is governed by the Bylaws of the Credit Union, federal laws and regulations, the laws and regulations of the State of Oregon and local clearinghouse rules, as amended from time to time. Any disputes regarding this Agreement shall be subject to the jurisdiction of the court of the county in which the Credit Union administrative offices are located.

II. FUNDS AVAILABILITY POLICY

1. General Policy

We reserve the right to place reasonable holds on funds deposited via Mobile Deposit or any deposit to savings accounts, to the extent permitted by law. For checking accounts, our funds availability policy is set forth below.

Our policy is to make funds from your deposits available to you on the same business day we receive your deposit.

Electronic deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written. For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before 5:30 p.m. on Monday through Thursday or 6:00 p.m. on Fridays, on days that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after the cutoff hours or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

2. Reservation of Right to Hold

In some cases, we will not make all of the funds that you deposit by check available to you on the same business day of your deposit. Depending on the type of check that you deposit, or if you deposit checks at an ATM, funds may not be available until the fifth business day after the day of your deposit. However, the first \$200.00 of your deposit into your checking account may be available on the same business day. If we are not going to make all of the funds from your deposit available on the same business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

3. Holds on Other Funds

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it. If we accept for deposit a check that is drawn on another financial institution, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

4. Longer Delays May Apply

We may delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons:

- a.** We believe a check you deposit will not be paid.
- b.** You deposit checks totaling more than \$5,000 on any one day.
- c.** You deposit a check that has been returned unpaid.
- d.** You have overdrawn your account repeatedly in the last six months.
- e.** There is an emergency, such as failure of communications or computer equipment. We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the seventh business day after the day of your deposit.

5. Deposits at Automated Teller Machines (ATMs)

Funds from deposits at all ATMs in excess of your daily limit in one day may not be available until the second business day after the day of deposit. All ATMs that we own or operate are identified as our machines. Funds from deposits (cash or checks) made at ATMs we do not own or operate may not be available until the fifth business day after the day of your deposit. The amount available for immediate withdrawal from an ATM deposit varies with your card limits.

6. Special Rules for New Accounts

The following special rules may apply during the first thirty (30) days your account is open:

- a.** Funds from electronic direct deposits will be available on the day we receive the deposit.
- b.** Funds from deposits of wire transfers, and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's and federal, state, and local government checks will be available on the next business day following the date of the deposit if the deposit meets certain conditions (for example, the checks must be payable to you). The excess over \$5,000 may not be available until the seventh business day after the day of your deposit.
- c.** Funds from all other check deposits may not be available until the seventh business day after the day of your deposit.

III. ELECTRONIC FUNDS TRANSFERS

The following terms set forth your and our additional rights and responsibilities concerning electronic funds transfers. Terms and conditions set forth elsewhere in this Agreement shall also apply to your electronic funds transfer service.

Electronic funds transfers (“EFTs”) are electronically initiated transfers of money through preauthorized deposits and payments, Visa Debit Card, automated teller machines (“ATMs”), point of sale (POS), telephone services provided by Member Service staff, audio response (“Telephone Teller”), and Online and Mobile Banking, Account-to-Account and Popmoney Funds transfers services involving your deposit accounts at the Credit Union.

1. Visa Debit/ATM Card and POS Services

a. Visa Debit Card. If we approve your Application for a Visa Debit Card, you may use your card to purchase goods and services any place your Visa Debit Card is honored by participating merchants. Funds to cover your Visa Debit Card purchases will be deducted from your checking account. If the balance in your account is not sufficient to pay the transaction amount, the Credit Union may terminate all services under this Agreement, unless you have an approved Overdraft Protection Agreement with us. You do not have the right to stop payment on Visa Debit Card transactions other than preauthorized transfers under Section 18, which follows.

Visa purchases are limited to the balance available in your account and our daily purchase limits. Point of Sale and Visa Debit Card purchases have a combined daily purchase limit amount. You are solely responsible for any disputes you may have with merchandise or services received using the Visa Debit Card. We are not responsible for any damages, liability, or settlement resolution as a result of the misrepresentation of quality, price, or warranty of goods or services by a merchant. We deduct the amount of your transaction, including any charges imposed by the merchant or financial institution, from the deposit account you’ve designated for this service. We may debit or place a hold on your account for a transaction either on the day it is presented to us for payment, by electronic or other means, or on the day we receive notice of the transaction whichever is earlier even though the transaction may not be actually posted to your account until a later date. When you use your Visa Debit Card for a Visa transaction, if the merchant requests preauthorization for this transaction, we will place a three (3) business day hold on your account for the amount of the preauthorization request (which may vary in some cases from the amount of the actual purchase, depending on the merchant’s request). If on the business day the transaction posts to your account, the 3 business day hold has not expired, both the amount of the hold and the amount of the transaction reduce the balance available in your account.

b. ATMs. You may use your ATM Card or Visa Debit Card along with your Personal Identification Number ("PIN") at ATMs that are part of the networks listed on the back of your card, and such other machines or facilities as the Credit Union may designate. At the present time, you may use your card to:

- Make deposits to your checking and savings accounts.
- Withdraw cash from your checking and savings accounts.
- Access an established Line of Credit. (Any advances accessed by this card are governed by your Loan Account Agreement.)
- Make balance inquiries on your checking, savings, and Personal Line of Credit balances.

Cash withdrawals from ATMs can be made as often as you like. You may withdraw up to your maximum daily limit per day using your ATM Card or Visa Debit Card, subject to sufficient funds in your account and our daily withdrawal limits. ATM deposits are generally credited on the day of deposit. In the event that network or systems access is interrupted, there may be a delay between the time a deposit (either cash or check) is made and when it will be available for withdrawal. (See our Funds Availability Policy.) Deposits in excess of our daily deposit limits, may not be accepted at ATMs not owned or operated by the Credit Union. *NOTICE: You may use your ATM Card or Visa Debit Card free of any fees when you use an OnPoint ATM, or one connected to the MoneyPass or CO-OP networks. If you use an ATM operated by any other institution or network, you may be charged a fee by that entity and the Credit Union.*

c. Point of Sale (POS). You may use your ATM Card or Visa Debit Card together with your PIN to pay for purchases from merchants who have agreed to accept the card at such POS terminals as the Credit Union may designate. POS transactions will be withdrawn from your checking account. You may make purchases through point of sale terminals up to your maximum daily limit using your ATM Card or Visa Debit Card, subject to sufficient funds in your account and our daily purchase limits. Point of Sale and Visa Debit Card purchases have a combined daily purchase limit amount up to your maximum daily limit.

d. Limitations on Card Use

1. Non-Visa Debit Transactions. Some merchants may permit you to initiate debit and bill payment transactions with your card using either the Visa network or another network shown on your card, such as the MoneyPass, CO-OP, Plus, Star or Interlink networks. The Credit union will honor your debit transactions processed by any of these networks.

Transactions processed over the Visa network do not require you to use your PIN to validate the transaction. Generally, you will sign a receipt, provide your card number (e.g. internet, mail, or telephone transactions), or swipe your card at a terminal. Also, there are certain protections and rights such as the zero liability protections in the section Member Liability, applicable only to Visa processed transactions.

Transactions processed over other networks may not require you to use your PIN in order to validate a transaction. Generally, you enter your card number or swipe your card and provide or enter a PIN. However, some merchants may not require you to provide a PIN, and allow you to choose whether the transaction is processed by Visa or another network. Provisions applicable only to Visa transactions (such as Visa's zero liability protections) will not apply to non-Visa debit transactions and the liability rules for other EFTs in the section titled "Member Liability" will apply.

2. **Illegal Use of Internet Gambling.** You agree that all transactions that you initiate by use of your Visa Debit Card are legal in the jurisdiction where you live and/or where the transaction occurred. Internet gambling may be illegal in the jurisdiction in which you are located, including the United States. Your Visa Debit Card may only be used for legal transactions. Display of a payment card logo by an online merchant does not mean that internet gambling transactions are lawful in all jurisdictions in which you may be located. We have restricted all online gambling transactions with the Visa Debit Card.

3. **International Transactions.** Purchases and cash advances with your Visa Debit Card made in foreign countries and foreign currencies will be billed to you in U.S. dollars. The currency conversion rate for international transactions is established by Visa International, Inc. In addition, you will be assessed a Visa Foreign Transaction Fee on any card purchase, cash advance, web initiated transaction or ATM/POS transaction, made in or processed through a foreign country. See our Rate and Fee Schedule for the current Visa Foreign Transaction Fee.

2. Preauthorized Electronic Funds Transfers and Direct Deposits

Preauthorized electronic funds transfers may be made into or from your Credit Union accounts. These may include preauthorized electronic funds transfers made to an account from a third party (such as Social Security or your employer) or from an account to a third party (such as a mortgage payment, insurance premium payment or a converted check). If electronic funds transfers are made into or from your account, those payments may be affected

by a change in your account status or if you transfer or close your account.

3. Telephone Teller

If approved for Telephone Teller service, you may choose an account Access Code. You must use your Access Code along with your member/account number to access your accounts. At the present time you may use the Telephone Teller service to:

- Obtain balance information from your deposit and loan accounts.
- Obtain the transaction history on your checking, savings, Market Rate Savings, Teachers Deposit Fund, IRA Savings Account and loan accounts.
- Verify certain account information, including if a particular check has cleared your account, the date of your last deposit or loan payment, and loan payoff amounts.
- Transfer funds between your savings, checking and loan accounts.
- Transfer funds to accounts of other members (advance authorization required).
- Request a withdrawal from your savings, checking, Market Rate Savings, or Teachers Deposit Fund or an advance from your line of credit account by check mailed to you at your mailing address on file.
- Verify the total interest you earned on your deposit accounts, and the interest you paid on your consumer loan and Home Equity loan accounts during the prior calendar year.

Your accounts can be accessed under Telephone Teller service via a touch-tone telephone only. Not all push-button phones are touch-tone. Converters may be purchased for pulse and rotary dial phones. Telephone Teller service will be available for your convenience seven (7) days per week. This service may be interrupted for a short time each day for data processing. While there is no limit to the number of inquiries, transfers, or withdrawal requests you may make in any one day, there are certain limitations on transfers from Savings, Market Rate Savings, and Teachers Deposit Fund accounts. No transfer or withdrawal may exceed the available funds in your account. Cashier's checks can be made payable only to the primary account owner and will be processed and mailed to your address on file. The Credit Union reserves the right to refuse any transaction which would draw upon insufficient funds, exceed a credit limit, lower an account below a required balance, or otherwise require us to increase our required reserves on the account.

4. Electronic Check Transactions

You authorize us to honor any electronic check conversion transaction and represented check fee debit transactions you authorize ("Electronic Check Transactions"). You agree that your authorization for an electronic check transaction occurs when you initiate such a transaction after receiving any notice regarding the merchant's right to process the transaction, including any written sign provided by the merchant at the time of your transaction. All terms governing electronic funds transfer services will apply to electronic check transactions, except the \$50 and \$500 limits of liability for unauthorized transactions in Section 12. You remain responsible for notifying us of any unauthorized electronic check transaction shown on your statement.

5. Online Banking Services

a. Online Banking Services. Upon approval, you may use an Internet Enabled Device to access your accounts. You must use your User ID and Online Banking Password to access your accounts. Online Banking credentials are individually owned. You will need an Internet Enabled Device to access the Internet. You are responsible for the installation, maintenance and operation of your Internet Enabled Device. The Credit Union will not be responsible for any errors or failures involving your Internet Enabled Device or Internet Connection. At present time, you may use Online Banking Service to:

- Review account balance and transaction history for your deposit and loan accounts.
- Review information on your loan account including payoff amounts on some loans, due dates, and balance information.
- Transfer funds between your savings, checking and loan accounts.
- Transfer funds to accounts of other members.
- Make bill payments from your authorized funding accounts up to our standard per-check limit.
- Receive periodic (monthly) electronic statements.
- Communicate with the Credit Union using the secure message center.
- Transfer funds to other people and request transfers from other people using Popmoney.
- Transfer funds between your own accounts at different financial institutions using the External Transfer service.
- View your accounts with participating financial institutions using external Linked Accounts.
- Initiate Domestic Wires (upon approval)

- Initiate ACH transactions (upon approval)
- Initiate Tax Payments (upon approval)
- Deposit Checks via Scanner and mobile device (upon approval)
- Set up travel notifications on OnPoint debit and credit cards.
- Temporarily freeze and unfreeze OnPoint credit cards.

Transactions involving your deposit accounts will be subject to the terms of your Membership and Account Agreement. Transactions involving a line of credit or loan account will be subject to your Loan Agreement and Disclosures, as applicable. Transactions involving your Credit Card account will be subject to your Visa Credit Card Agreement.

b. Online Banking Service Limitations. The following limitations on Online Banking transactions may apply:

1. Transfers. You may make transfers to other accounts of yours as often as you like. However, transfers from your Regular Savings, Market Rate Savings, FlexSmartSM Money Market or Teachers Deposit Fund accounts will be limited to a total of six (6) in any one month, with the exception to make a loan payment at the Credit Union. You may transfer or withdraw up to the available balance in your account or up to the available credit limit on a line of credit or credit card at the time of the transfer, except as limited under this Agreement or your loan or Visa Credit Card agreements. The Credit Union reserves the right to refuse any transaction that would draw upon insufficient or unavailable funds, lower an account below a required balance, or otherwise require us to increase our required reserve on the account.
2. Account Information. The account balance and transaction history may be limited to recent account information involving your accounts. Also, the availability of funds for transfer or withdrawal may be limited due to the processing time for any ATM, Mobile Deposit transactions and our Funds Availability Policy.
3. E-Mail and Secure Message Center. The Credit Union may not immediately receive E-mail or Secure Message communications that you send and the Credit Union will not take action based on E-mail or Secure Message requests until the Credit Union actually receives your message and has a reasonable opportunity to act. We reserve the right to require any stop payment notices to be put in writing and we may refuse to send certain information through

unsecure e-mail communications. If you need to contact the Credit Union immediately regarding an unauthorized transaction or stop payment request, you may call the Credit Union at the telephone number set forth in Section 12.

6. Bill Pay Services

When you apply for the bill payment service ("Bill Pay") you must designate your preferred checking account as the account from which payments that you authorize will be deducted. You will be given the ability to set up merchants, institutions or individuals that you would like to pay. All payees must be in the United States. We reserve the right to not allow the designation of a particular merchant or institution. Your enrollment in Bill Pay may not be fulfilled if we cannot verify your identity or other necessary information. In order to verify ownership of the Payment Account(s) or Billing Account, we may issue offsetting debits and credits to the Payment Account and Billing Account and require confirmation of these transactions from you. Through your enrollment in Bill Pay, you agree that we may request and review your credit report from a credit reporting agency. In addition, you agree that we may obtain financial information regarding your account from a payee or your financial institution to resolve payment posting problems or for verification

a. Service Access. Upon approval, you may use your personal computer to access your accounts. You must use your user ID along with your Online Banking password to access your accounts. The Bill Payment service is accessible seven (7) days a week, 24 hours a day. However, from time to time, some or all of the Credit Union's Bill Payment services may not be available due to system maintenance. You will need a personal computer, Internet access and an appropriate web browser (such as Safari, Google Chrome or Microsoft Internet Explorer). The online address for the Bill Payment service is www.onpointeu.com. You are responsible for the installation, maintenance and operation of your computer. The Credit Union will not be responsible for any errors or failures involving any internet service provider, telephone service or your equipment.

b. Service Definitions. "Payee" is the person or entity to which you wish a bill payment to be directed or is the person or entity from which you receive electronic bills, as the case may be.

"Payment Instruction" is the information provided by you to the Credit Union for a bill payment to be made to the Payee (such as, but not limited to, Payee name, Payee account number, and Scheduled Payment Date).

"Payment Account" is the checking account from which bill payments will be debited.

“Billing Account” is the checking account from which all service fees will be automatically debited.

“Business Day” is every Monday through Friday, excluding Federal Reserve holidays.

“Scheduled Payment Date” is the day you want your Payee to receive your bill payment and is also the day your Payment Account will be debited, unless the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the previous Business Day.

“Due Date” is the date reflected on your Payee statement for which the payment is due. It is not the late date or grace period.

“Scheduled Payment” is a payment that has been scheduled through the Bill Pay Service but has not begun processing.

c. Payment Scheduling. The earliest possible Scheduled Payment Date for each Payee (typically four (4) or fewer Business Days from the current date) will be designated within the application when you are scheduling the payment. Therefore, you will not be permitted to select a Scheduled Payment Date less than the earliest possible Scheduled Payment Date designated for each Payee. When scheduling payments you must select a Scheduled Payment Date that is no later than the actual Due Date reflected on your Payee statement unless the Due Date falls on a non-Business Day. If the actual Due Date falls on a non-Business Day, you must select a Scheduled Payment Due Date that is at least one (1) Business Day before the actual Due Date. Scheduled Payment Dates should be prior to any late date or grace period.

d. Bill Pay Transactions. You authorize us to process Bill Pay transactions from your checking account. You or any persons who you have authorized to use your Bill Pay service or Password can perform the following Bill Pay transactions:

- **Make Bill Payments.** Pay any designated merchant, institution or individual in accordance with this agreement, a fixed recurring amount or a variable amount from your designated checking account.
- **Obtain Information.** Obtain information (payee information, payment status information, etc.) about your bill payment account status.
- **Bill Pay Payment Transactions.** You authorize us to process bill payments from your designated account. You may use the Bill Pay service to initiate different types of payment transactions.

e. Payment Transactions. You may use Bill Pay to initiate three different types of bill payment transactions:

- “Today” payments are payments initiated today with today’s transfer date. Payments can be canceled or changed through Bill Pay until funds are withdrawn from the account.
- “Future” payments are payments initiated by setting the payment amount and future payment date. Payments can be canceled or changed through Bill Pay until funds are withdrawn from the account.
- “Recurring” payments are payments that reoccur on a preset date with a fixed amount. You have the option in Bill Pay to set recurring payments to continue indefinitely or to stop on a specific date. Payments can be canceled or changed through Bill Pay until funds are withdrawn from the account.

f. Number and Authorized Payees. You may schedule payments with payees located in the United States. You may not make payments to federal, state or local governments or other categories of payees we designate from time to time. When you submit a Bill Pay transaction, you authorize us to transfer funds from your checking account. We will process Bill Pay transactions only to those payees the Credit Union has designated, payees you authorize and payees for whom the Credit Union has the proper payee member number. The Credit Union will not process any Bill Pay transfer if we know the required transaction information is incomplete. In any event, the Credit Union will not be liable for any transaction that contains incorrect information that the Credit Union was not responsible for entering or knowing. If there are insufficient funds in your account to process the Bill Pay transaction, we may refuse to process the transaction or we may process the transaction and transfer funds from any overdraft protection account you have authorized. The Credit Union reserves the right to refuse to process transactions that reasonably appear to the Credit Union to be fraudulent or erroneous.

g. Service Guarantee. Due to circumstances beyond the control of the Credit Union, particularly delays in handling and posting payments by Payees or financial institutions, some transactions may take longer to be credited to your account. The Credit Union will bear responsibility for any late payment related charges up to \$50.00 should a payment post after its Due Date as long as the payment was scheduled in accordance with the guidelines described under “Payment Scheduling” in this Agreement.

h. Bill Payment Authorization and Payment Remittance. By providing the Credit Union with names and account information of Payees to whom you wish to direct payments, you authorize the Credit Union to follow the Payment Instructions that it receives through the payment system. In order to

process payments more efficiently and effectively, the Credit Union may edit or alter payment data or data formats in accordance with Payee directives.

When the Credit Union receives a Payment Instruction, you authorize the Credit Union and its processing agents to debit your Payment Account and remit funds on your behalf so that the funds arrive as soon as reasonably possible after the Scheduled Payment Date designated by you. You also authorize the Credit Union and its processing agents to credit your Payment Account for payments returned to the Credit Union by the United States Postal Service or Payee, or payments remitted to you on behalf of another authorized user of the Bill Pay Service.

The Credit Union will use its best efforts to make all your payments properly. However, the Credit Union shall incur no liability and any Service Guarantee shall be void if the Credit Union is unable to complete any payments initiated by you because of the existence of any one or more of the following circumstances:

1. If, through no fault of the Credit Union, your Payment Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of your overdraft account;
2. The payment processing center is not working properly and you know or have been advised by the Credit Union about the malfunction before you execute the transaction;
3. You have not provided the Credit Union with the correct Payment Account information, or the correct name, address, phone number, or account information for the Payee; and/or,
4. Circumstances beyond control of the Credit Union (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction and the Credit Union has taken reasonable precautions to avoid those circumstances.

Provided none of the foregoing exceptions are applicable, if the Credit Union causes an incorrect amount of funds to be removed from your Payment Account or causes funds from your Payment Account to be directed to a Payee which does not comply with your Payment Instructions, the Credit Union shall be responsible for returning the improperly transferred funds to your Payment Account, and for directing to the proper Payee any previously misdirected transactions, and, if applicable, for any late payment related charges.

i. Payment Methods. The Credit Union reserves the right to select the method in which to remit funds on your behalf to your Payee. These payment methods may include, but may not be limited to, an electronic payment, an electronic to check payment,

or a laser draft payment. (Funds remitted to the Payee are deducted from your Payment Account when the laser draft is presented to your financial institution for payment.)

j. Payment Cancellation Requests. You may cancel or edit any Scheduled Payment (including recurring payments) by following the directions within the application. There is no charge for canceling or editing a Scheduled Payment. Once the Credit Union has begun processing a payment it cannot be cancelled or edited, therefore a stop payment request must be submitted.

k. Stop Payment Requests. The Credit Union's ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. The Credit Union may also not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you desire to stop any payment that has already been processed, you must contact Customer Service. Although the Credit Union will make every effort to accommodate your request, the Credit Union will have no liability for failing to do so. The Credit Union may also require you to present your request in writing within fourteen (14) days. The charge for each stop payment request will be the current charge for such service as set out in the applicable fee schedule.

l. Prohibited Payments. Payments to Payees outside of the United States or its territories are prohibited through the Bill Pay Service.

m. Exception Payments. Tax payments and court ordered payments may be scheduled through the Bill Pay Service, however such payments are discouraged and must be scheduled at your own risk. In no event shall the Credit Union be liable for any claims or damages resulting from your scheduling of these types of payments. The Service Guarantee as it applies to any late payment related charges is void when these types of payments are scheduled and/or processed by the Credit Union. The Credit Union has no obligation to research or resolve any claim resulting from an exception payment. All research and resolution for any misapplied, misposted or misdirected payments will be the sole responsibility of you and not of the Credit Union.

n. Bill Delivery and Presentment. This feature is for the presentment of electronic bills only and it is your sole responsibility to contact your Payees directly if you do not receive your statements. In addition, if you elect to activate one of the Bill Pay Service electronic bill options, you also agree to the following:

1. Information provided to the Payee. We may, at the request of a Payee, provide to the Payee

your e-mail address, service address, or other data specifically requested by the Payee at the time of activating the electronic bill for that Payee, to inform you about any bill information. The Credit Union is unable to update or change your personal information such as, but not limited to, name, address, phone numbers and e-mail addresses, with the electronic Payee. Any changes will need to be made by contacting the Payee directly. Additionally it is your responsibility to maintain all usernames and passwords for all electronic Payee sites. You also agree not to use someone else's information to gain unauthorized access to another person's bill.

2. Activation. Upon activation of the electronic bill feature the Credit Union may notify the Payee of your request to receive electronic billing information. The presentment of your first electronic bill may vary from Payee to Payee and may take up to sixty (60) days, depending on the billing cycle of each Payee. Additionally, the ability to receive a paper copy of your statement(s) is at the sole discretion of the Payee. While your electronic bill feature is being activated it is your responsibility to keep your accounts current. Each electronic Payee reserves the right to accept or deny your request to receive electronic bills.

3. Authorization to Obtain Bill Data. By activating and using the electronic bill feature for a Payee you authorize us to obtain bill data from the Payee on your behalf. For some Payees, you will be asked to provide us with your user name and password for that Payee. By providing us with such information, you authorize us to use the information to obtain your bill data.

4. Notification. The Credit Union will use its best efforts to present all of your electronic bills promptly. In addition to notification within the Bill Pay Service, the Credit Union may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically logon to the Bill Pay Service and check on the delivery of new electronic bills. The time for notification may vary from Payee to Payee. You are responsible for ensuring timely payment of all bills.

5. Cancellation of Electronic Bill Notification. The electronic Payee reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Payee to Payee.

It may take up to sixty (60) days, depending on the billing cycle of each Payee. The Credit Union will notify your electronic Payee(s) as to the change in status of your account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. The Credit Union will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

6. Non-Delivery of Electronic Bill(s). You agree to hold the Credit Union harmless should the Payee fail to deliver your statement(s). You are responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Payee directly.

7. Accuracy and Dispute of Electronic Bill. The Credit Union is not responsible for the accuracy of your electronic bill(s). The Credit Union is only responsible for presenting the information we receive from the Payee. Any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail must be addressed with the Payee directly.

This Agreement does not alter your liability or obligations that currently exist between you and your Payees.

7. Mobile Banking Services

Mobile Banking is a personal financial information management service that allows you to access account information, make payments to individuals and merchants who have previously been set up through our online bill pay services and make other permitted financial transactions using compatible and supported mobile phones and/or other compatible and supported Internet Enabled devices (including phones, "Internet Enabled Devices"). We reserve the right to modify the scope of the Mobile Banking services at any time. We reserve the right to refuse to make any transaction you request through Mobile Banking. You agree and understand that Mobile Banking may not be accessible or may have limited utility over some mobile telephone networks, such as while roaming. The most up-to-date list of services which you may be able to access through Mobile Banking is posted on the Mobile Access enrollment website at www.onpointcu.com. When you register for Mobile Banking, designated accounts and payees (or billers) linked to your account through Online Banking will be accessible through the Mobile Banking service.

a. Mobile Banking Transactions. Upon approval, you may use your Internet Enabled device to access your accounts and loans. You must use your User ID and Online Banking password to access your accounts. You will need an Internet Enabled device with access

to the OnPoint Mobile Banking app or web browser version. You are responsible for the installation, maintenance and operation of your Internet Enabled device. You understand that the Mobile Banking Service may not be accessible or may have limited access over some mobile telephone networks, or based on the availability of mobile service. The Credit Union will not be responsible for errors or failures involving your Internet Enabled device or service. At present time, you may use Mobile Banking Service to:

- Review account balance and transaction history for your deposit and loan accounts.
- Review information on your loan account including payoff amounts, due dates, and balance information.
- Transfer funds between your savings, checking and loan accounts.
- Transfer funds to accounts of other members (advance authorization required).
- Make bill payments from your authorized funding accounts to payees, previously set up in Online Banking, up to our standard per-check limit.
- Transfer funds to other people and request transfers from other people using Popmoney.
- Transfer funds between your own accounts at different financial institutions using the External Transfer service.
- Locate an ATM.
- Locate an OnPoint branch.

b. Use of Services. Mobile Banking will not work unless you use it properly. You accept responsibility for making sure that you understand how to use Mobile Banking before you actually do so, and you use Mobile Banking in accordance with the online instructions posted on our website. You also accept responsibility for making sure that you know how to properly use your Internet Enabled device and the Mobile Banking software (“Software”) required to use the Service. The Software is provided by a service provider not affiliated with the Credit Union and you are solely responsible for entering a license agreement to use the software. We will not be liable to you for any losses caused by your failure to properly use the Mobile Banking service, the Software or your Internet Enabled device. You may experience technical or other difficulties related to the Mobile Banking service that may result in loss of data, personalization settings or other Mobile Access service interruptions. We assume no responsibility for the timeliness, deletion, misdelivery or failure to store any user data, communications or personalization settings in connection with your use of the Mobile Banking

service. We assume no responsibility for the operation, security, or functionality of any Internet Enabled device or mobile network which you utilize to access the Mobile Banking service. Financial information shown on the Mobile Banking service reflects the most recent account information available through the Mobile Banking service, you agree that we will not be liable for any delays in the content, or for any actions you take in reliance thereon. If you need current account information you agree to contact us directly.

c. Access to Accounts. By enrolling in the Mobile Banking service, you certify you are an owner, joint owner or custodian on the accounts represented in your enrollment. You understand that all owners of your accounts or anyone with whom you share your Password or any access code will be an Authorized User, and that authority will be considered unlimited in amount and manner with full authority to perform all transactions relating to the stated accounts, until you notify the Credit Union, in writing of the revocation of such authority. You agree that you are and will remain fully responsible for any transactions made by such persons on your accounts except transactions that occur after the Credit Union has been notified of any revocation of authority and has had a reasonable opportunity to act upon such notice.

d. Relationship to Other Agreements. You agree that when you use Mobile Banking, you will remain subject to the terms and conditions of all your existing agreements with us or any service providers of yours; including service carrier or provider and that this Agreement does not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of Mobile Banking (for example, your mobile service carrier or provider may impose data usage or text message charges for your use of or interaction with Mobile Banking, including while downloading the Software, receiving or sending Mobile Banking text messages, or other use of your Internet Enabled device when using the Software or other products and services provided by Mobile Banking), and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service carrier or provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your carrier or provider directly with your carrier or provider without involving us. You also agree that if you have any problems with Mobile Banking, you will contact us directly.

e. Mobile Banking Service Limitations and Conditions. When you use the Mobile Banking service to access accounts, you agree to the following limitations and conditions:

1. Transfers. You may make transfers to other accounts of yours as often as you like. However, transfers from your Regular Savings, Market Rate Savings, FlexSmartSM Money Market or Teachers Deposit Fund accounts will be limited to a total of six (6) in any one month, with the exception to make a loan payment at the Credit Union. You may transfer or withdraw up to the available balance in your account or up to the available credit limit on a line of credit or credit card at the time of the transfer, except as limited under this Agreement, or your loan agreements or Visa Credit Card Agreement. The Credit Union reserves the right to refuse any transaction that would draw upon insufficient or unavailable funds, lower an account below a required balance, or otherwise require us to increase our required reserve on the account.

2. Account Information/Ownership. The account balance and transaction history may be limited to recent account information involving your accounts. Also, the availability of funds for transfer or withdrawal may be limited due to the processing time for any ATM, Remote Deposit transactions and our Funds Availability Policy. You represent that you are the legal owner of the accounts and other financial information which may be accessed via Mobile Banking. You represent and agree that all information you provide to us in connection with Mobile Banking is accurate, current and complete, and that you have the right to provide such information to us for the purpose of operating the Mobile Banking service. You agree to not misrepresent your identity or your account information. You agree to keep your account information up to date and accurate.

3. Proprietary Rights. You may not copy, reproduce, distribute, or create derivative works from this content. Further, you agree not to reverse engineer or reverse compile any Mobile Banking technology, including, but not limited to, any Software or other mobile phone applications associated with the Mobile Banking service.

4. User Conduct. You agree not to use Mobile Banking or the content or information delivered through Mobile Banking in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy, including any rights in the Software; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of Mobile Access to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer

protection, unfair competition, anti-discrimination or false advertising); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to Mobile Banking; (i) interfere with or disrupt the use of Mobile Banking by any other user; or (k) use Mobile Banking in such a manner as to gain unauthorized entry or access to the computer systems of others.

5. No Commercial Use or Resale. You agree that the Mobile Banking services are for personal use only. You agree not to resell or make commercial use of Mobile Banking.

6. Indemnification. Unless caused by our intentional misconduct or gross negligence, you agree to protect and fully compensate us and service providers from any and all third party claims, liability, damages, expenses and costs (including, but not limited to, reasonable attorney's fees) caused by or arising from your improper use of the Mobile Banking software or your infringement, or infringement by any other user of your account, of any intellectual property or other right of anyone.

7. Additional Service Limitations. Neither we nor our service providers can always foresee or anticipate technical or other difficulties related to Mobile Banking. These difficulties may result in loss of data, personalization settings or other Mobile Banking interruptions. Neither we nor any of our service providers assume responsibility for the timeliness, deletion, misdelivery or failure to store any user data, communications or personalization settings in connection with your use of Mobile Banking. Neither we nor any of our service providers assume responsibility for the operation, security, functionality or availability of any Internet Enabled device or mobile network which you utilize to access Mobile Banking. You agree to exercise caution when utilizing the Mobile Banking application on your Internet Enabled device and to use good judgment and discretion when obtaining or transmitting information. Financial information shown on Mobile Banking reflects the most recent account information available through Mobile Banking, and may not be current. You agree that neither we nor our service providers will be liable for any delays in the content, or for any actions you take in reliance thereon. If you need current account information you agree to contact us directly.

8. **Third Party Beneficiary.** You agree that our service providers (including any provider of Software) may rely upon your agreements and representations, set forth in this subsection, and such service providers are, for the purposes of this subsection, third party beneficiaries with the power to enforce those provisions against you, as applicable.

8. PopmoneySM Payments Service

The Popmoney Payments Service (Popmoney Service) enables you use the Credit Union online banking service: (1) to initiate a payment transaction from an Eligible Transaction Account to an account at a U.S. financial institution; and/or (2) to receive a payment transaction from another person into an Eligible Transaction Account, in U.S. dollars. Although the ACH Network is often used to execute Popmoney Service payment transactions, other Payment Networks may be used to facilitate the execution and transmission of payment transactions. All payment transactions must be made through the Credit Union online banking service and are subject to the terms of this Agreement. Receipt of payment transactions may be made through the Credit Union online banking service subject to the terms of this Agreement. However, in some instances, receipt of payment transactions may be made through www.Popmoney.com (the "Popmoney Website") and if you choose to initiate or receive a payment transaction at the Popmoney Website you agree that you shall be subject to the terms of other agreements, including, but not limited to, the "terms of use" for the Popmoney Website.

a. Definitions. "ACH Network" means the funds transfer system, governed by the NACHA Rules that provides funds transfer services to participating financial institutions.

"Eligible Transaction Account" is a transaction account (checking, money market or other direct deposit account, credit card account, or debit card account, including any required routing information) from which your payments as a Sender will be debited, any Popmoney Service fees will be automatically debited, or to which payments and credits to you will be credited.

"Payment Instruction" is the information provided by the Sender to the Popmoney Service for a payment to be made to a Receiver (such as, but not limited to, name, mobile telephone number, email address, and bank account and routing number information).

"Payment Network" means a payment network (such as the ACH Network or ACCEL / Exchange payment network) through which funds may be transferred.

"Receiver" is a person or business entity that is sent a payment transaction through the Popmoney Service.

“Sender” is a person or business entity that sends a payment transaction through the Popmoney Service.

b. Initiation of Payment Transactions. You may initiate (a) a one-time payment transaction to a Receiver for which processing shall be initiated immediately, (b) a one-time payment transaction to a Receiver for which processing shall be initiated at a later specified date up to one (1) year, and (c) a recurring series of payment transactions to a Receiver for which processing shall be initiated on the specified dates. Payment transactions initiated to Receivers are processed in two ways. You can provide all the required information about the Receiver, including his/her Eligible Transaction Account, necessary to complete an ACH Network transfer of funds. Alternatively, you can provide contact information about the Receiver (including an email address or mobile telephone number) and the Popmoney Service may contact the Receiver and request that the Receiver (i) provide information so that we may validate the identity of the Receiver at the Popmoney Website and then (ii) provide Eligible Transaction Account information in order to complete the payment transaction (a “Two-Step Transfer”). If the Receiver maintains an Eligible Transaction Account with an institution that participates in the Popmoney Service, the Receiver may access the Popmoney Service at his or her financial institution’s website or mobile application to complete the payment transaction and receive the payment.

You understand and agree that when you initiate a payment transaction from an Eligible Transaction Account using the Popmoney Service, the processing of the payment transaction will begin and the debiting of your Eligible Transaction Account will occur as early as the day of such initiation. However, the payment funds will be transferred into the Receiver’s Eligible Transaction Account no earlier than the next Business Day after you initiated the payment transaction. If you request a one-time payment transaction to be initiated on a specified date or a recurring series of payment transactions to be initiated on specified dates, then the processing of the payment transaction will begin on the specified date and the debiting of your Eligible Transaction Account will occur as early as the specified date(s). However, the payment funds will be transferred into the Receiver’s Eligible Transaction Account no earlier than the next Business Day following the specified date. In addition, in the case of all Two-Step Transfers, the deposit of the payment funds into the Receiver’s Eligible Transaction Account (even if debited or withdrawn from your Eligible Transaction Account) may be delayed if the Receiver has not provided the Popmoney Service with certain required

information such as his or her Eligible Transaction Account information.

c. Payment Authorization and Payment

Remittance. By providing us with names and telephone numbers, email addresses, and/or account information of Receivers to whom you wish to direct payments, you authorize us to follow the Payment Instructions that we receive through the Popmoney Service. When we receive a Payment Instruction from you, you authorize us to debit your Eligible Transaction Account and remit funds on your behalf. You also authorize us to credit your Eligible Transaction Account for the receipt of payments, including but not limited to those payments returned to us from Receivers to whom you sent payment(s) or cancelled and returned to you because the processing of the payment transaction could not be completed. It is the responsibility of the Sender and the Receiver to ensure the accuracy of any information or payment instructions (including but not limited to the Payment Instructions and name, telephone number and/or email address that the Sender enters for the Receiver to whom you are sending the payment transaction), and for informing us as soon as possible if they become aware that this information is inaccurate. Neither the Sender nor Receiver may use a P.O. Box as a postal address. We will make a reasonable effort to stop or recover a payment transaction made to the wrong person or entity once informed, but we do not guarantee such stoppage or recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by the Sender or Receiver.

We will use reasonable efforts to complete all your payment transactions properly. However, we shall incur no liability if we are unable to complete any transaction because of the existence of any one or more of the following circumstances:

1. If, through no fault of ours, the Eligible Transaction Account does not contain sufficient funds to complete the payment transaction or the payment transaction would exceed the credit limit of your overdraft account;
2. The Popmoney Service is not working properly and you know or have been advised by us about the malfunction before you execute the payment transaction;
3. The payment is refused;
4. You have not provided us with the correct information, including but not limited to the correct Payment Instructions or Eligible Transaction Account information, or the correct name and address or mobile phone number of the Receiver

to whom you are initiating a payment transaction;
and/or,

5. Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution, or interference from an outside force) prevent the proper execution of the payment transaction and we have taken reasonable precautions to avoid those circumstances.

d. Receiving Payments. If another person wants to send you a payment transaction using the Popmoney Service to an Eligible Transaction Account you hold with us, he or she can do that from an Eligible Transaction Account at a financial institution that participates in the Popmoney Service or at the Popmoney Website. You understand and agree that there may be a delay between the time you are notified of the pending payment transaction and the deposit of the payment funds into your Eligible Transaction Account, and you may be required to take additional steps to facilitate the deposit of the payment of funds into your Eligible Transaction Account. You authorize the Sender, the financial institution which holds the Sender's Eligible Transaction Account and the Popmoney Website to send emails to you and text messages to your mobile phone in connection with the Sender's initiation of payment transactions to you, and, as a Receiver, you may also receive electronic gift cards or requests from others for payment through the Popmoney Service.

e. Payment Methods and Amounts. We impose limits on the amount of money or gift card value you can send or receive. These limits may be adjusted from time-to-time at our sole discretion. You may log in to the Site to view your individual transaction limits. We also reserve the right to select the method in which to remit funds on your behalf, and the method to return funds to you in the event that your Eligible Transaction Account is closed or otherwise unavailable to us. These payment methods may include, but may not be limited to, an electronic or paper check payment.

f. Receipts and Transaction History. You may view your transaction history by logging into the online banking service and viewing your transaction history.

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

h. Service Providers. We are offering you the Popmoney Service through one or more service providers with whom we have contracted some or all of the service on our behalf. You agree that we have the

right under this Agreement to delegate to our service providers certain rights and performance obligations that we have under this Agreement, and that our service providers will be intended third party beneficiaries of this Agreement and will be entitled to the applicable rights and protections that this Agreement provides to us.

i. Prohibited Payments. The following types of payments are prohibited and we have the right but not the obligation to monitor for, block and/or reverse such payments:

- Payments to or from persons or entities located in prohibited territories;
- Payments that violate any law;
- Payments for donations or payments to an unauthorized charity or non-profit organization
- Payments that violate any terms in this Agreement; and
- Payments related to tax or court ordered obligations, gambling, any unlawful activity, or any objectionable purpose as we reasonably determine.

In no event shall we be obligated to research or resolve or be liable for any claims or damages resulting from your scheduling of prohibited payments.

9. External Transfer Service

The External Transfer Service enables you to transfer funds: (i) between your Accounts that you maintain with us; and (ii) between your Account(s) that you maintain with us and your Account(s) that are maintained by other financial institutions.

a. Definitions. "Account" means a checking, money market or savings accounts.

"Recipient Account" is the account to which your funds will be credited.

"Sender" means the Transaction Account holder initiating a transfer through the External Transfer Service.

"Transaction Account" is the Account from which your funds will be debited, your Account-to-Account Service fees will be automatically debited, or to which funds will be returned.

"Transfer Instruction" is the information provided by you to the Account-to-Account Service for a transfer of funds to a Recipient Account.

b. Transfer Authorization and Processing. You represent and warrant that you are the sole owner (and not a joint tenant) of the Transaction Account and the Recipient Account and that you have all necessary legal right, power and authority to transfer funds from the Transaction Account to the Recipient Account. Further,

you represent and warrant that the Recipient Account is located in the United States. When we receive a Transfer Instruction from you, you authorize us to debit your Transaction Account and remit funds on your behalf to the Recipient Account designated by you and to debit one of your Accounts. You also authorize us to reverse a transfer from your Recipient Account if the debit is returned from the Transaction Account for any reason, including but not limited to nonsufficient funds.

c. Transfer Methods and Amounts. We may, at our sole discretion, impose limits on the amount of money you can transfer through our Account-to-Account Service. We also reserve the right to select the method in which to transfer funds on your behalf, and the method to return funds to you in the event that the Recipient Account is closed or otherwise unavailable to us.

d. Transfer Cancellation Requests and Refused Transfers. You may cancel a transfer at any time until it begins processing. We will, to the extent permitted by law, make reasonable attempts to return any unclaimed, refused, refunded, prohibited, or denied transfer to your Transaction Account. If this is unsuccessful (for example, the Transaction Account has been closed) we will make reasonable attempts to mail you a paper check. If after ninety (90) days (or longer, depending on our then-current standard for unclaimed checks) that check has not been cashed, we will stop payment on it and transfer funds to an "unclaimed funds" account, and will subsequently handle the unclaimed funds as required or otherwise permitted by applicable law.

e. Stop Payment Requests. If you as a Sender desire to stop any transfer that has already been processed, you must contact us. Although we will make a reasonable effort to accommodate your request, we will have no liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each request will be the current charge for such service as set out in the applicable fee schedule.

f. Your Responsibilities for Accurate Information. Your enrollment in the Account-to-Account Service may not be fulfilled if we cannot verify your identity or other necessary information. Through your enrollment in the Account-to-Account Service, you agree that we reserve the right to request a review of your credit rating at our own expense through an authorized bureau. It is your responsibility to ensure the accuracy of any information that you enter into the Account-to-Account Service, and for informing us as soon as possible if you become aware that this information is inaccurate. You may not use a P.O. Box

as a postal address. We will make a reasonable effort to stop or recover a transfer made to the wrong Recipient Account once informed, but we do not guarantee such recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by you.

We will use reasonable efforts to make all your transfers properly. However, we shall incur no liability if we are unable to complete any transfers initiated by you because of the existence of any one or more of the following circumstances:

1. If, through no fault of ours, the Transaction Account does not contain sufficient funds to complete the transfer or the transfer would exceed the credit limit of your overdraft account;
2. The Account-to-Account Service is not working properly and you know or have been advised by us about the malfunction before you execute the transaction;
3. The transfer is refused;
4. You as a Sender have not provided us with the correct information, including but not limited to the correct Transaction Account or Recipient Account information; and/or,
5. Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution(s), or interference from an outside force) prevent the proper execution of the transfer and we have taken reasonable precautions to avoid those circumstances.

g. Failed Or Returned Transfers. In using the Account-to-Account Service, you are requesting us to make transfers for you from your Transaction Account. If we are unable to complete the transfer for any reason associated with your Transaction Account (for example, there are insufficient funds in your Transaction Account to cover the transaction), the transfer may not be completed. In some instances, you will receive a return notice from us. In each such case, you agree that: (a) You will reimburse us immediately upon demand the transfer amount that has been returned to us; (b) For any amount not reimbursed to us within fifteen (15) days of the initial notification, a late charge equal to one and a half percent (1.5%) monthly interest or the legal maximum, whichever rate is lower, for any unpaid amounts may be imposed; (c) You may be assessed a fee by us if the transfer is returned because you have insufficient funds in your Transaction Account to cover the requested transfer or if we cannot otherwise collect the funds from you; the fee amount will be as set forth in your fee schedule from us or your

Account agreement with us. You hereby authorize us to deduct these amounts from your designated Transaction Account by ACH debit; (d) You will reimburse us for any fees or costs we or they incur in attempting to collect the amount of the return from you; and, (c) We are authorized to report the facts concerning the return to any credit reporting agency.

h. Refused Transfers. We reserve the right to refuse any transfer to a Recipient Account. We will notify you promptly if we decide to refuse to transfer funds to a Recipient Account. This notification is not required if you attempt to make a prohibited transfer under this Agreement.

i. Returned Transfers. In using the Account-to-Account Service, you understand transfers may be returned for various reasons such as, but not limited to, Recipient Account number is not valid. We will use reasonable efforts to research and correct the transfer to the intended Recipient Account or void the transfer and credit your Transaction Account. You may receive notification from us.

j. Service Providers Refused Transfers. We are offering you the Account-to-Account Service through one or more service providers with whom we have contracted some or all of the service on our behalf. You agree that we have the right under this Agreement to delegate to our service providers certain rights and performance obligations that we have under this Agreement, and that our service providers will be intended third party beneficiaries of this Agreement and will be entitled to the applicable rights and protections that this Agreement provides to us.

10. Account Aggregation

a. Description of Service. The Account Aggregation service allows you to access and collect the account information of your accounts at other financial institutions within the Online Banking service. The Account Aggregation service is offered through our third party service provider, who acts on behalf of the Credit Union.

b. Terms of Service.

1. **Authorization to Access Third Party Accounts.** You understand and agree that, in order to provide the Service, it is necessary for us to access third party websites and databases containing information regarding your accounts and financial relationships as designated by you ("Third Party Accounts"), on your behalf, to retrieve information as requested or authorized by you. By using the Service, you agree to authorize us to access such Third Party Accounts to retrieve such information as requested or authorized by you, or for any

other purpose authorized by this Agreement. You represent to us that you have the right to authorize and permit us access to your Third Party Accounts and information. You hereby expressly authorize and permit us to use information submitted by you including account passwords and user names to access your Third Party Accounts to provide the Service. You understand and agree that at all times your relationship with each Third Party Account provider is independent of the Credit Union and your use of the Service. You acknowledge and agree that when we access and retrieve information from the third party accounts, we and our service provider are acting as your agent, and not as the agent of or on behalf of the third party.

2. Credit Union Responsibilities. We will not be responsible for any acts or omissions by the financial institution or other provider of any Third Party Account, including without limitation any modification, interruption or discontinuance of any Third Party Account by such provider. You agree that the Credit Union shall not be liable for any costs, fees, losses or damages of any kind incurred as a result of (1) access to the third party accounts by us or our service provider; (2) our retrieval of or inability to retrieve information from the third party accounts; (3) any inaccuracy, incompleteness or misinformation contained in content retrieved from the third party accounts and (4) any charges imposed by the provider of any third party account.

3. Your Responsibilities. You agree 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 agree you will not use the Service in any manner that could damage, disable, overburden, or impair account aggregation or interfere with any other party's use and enjoyment of account aggregation. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through account aggregation. You agree that these warranties and representations will remain in full force and effect even if this Agreement terminates for any reason. You understand and agree that the Service is provided "as-is." We assume no responsibility for the timeliness, deletion, misdelivery or failure to store any user communications or personalization settings. You understand and expressly agree that use of the Service is at your sole risk, that any material and/or data downloaded or otherwise obtained through the use of the service is 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 of such material and/or data.

c. Discontinuing Service. You must notify us if you wish to discontinue using Account Aggregation; you may send us an email or call us as provided in this Agreement. We reserve the right to discontinue the Service at any time if you fail to follow the terms of service.

11. Security of Access Code

The Card PIN's, Online and Mobile Banking Passwords and Telephone Teller Access Codes ("access code") are for your security. Your access code is confidential and should not be disclosed to third parties or recorded. You are responsible for safekeeping your access code. You agree not to disclose or otherwise make your access code and Internet Enabled or Mobile Device available to anyone not authorized by you to sign on your accounts. If you authorize anyone to have or use your access code and Internet Enabled or Mobile Device, you understand that person may use the Online Banking, Bill Pay or Mobile Banking service to access and review all of your account information and execute account transactions. Therefore, we are entitled to act on transaction instructions received using your access code and you agree that the use of your access code will have the same effect as your signature authorizing transactions.

If you authorize anyone to use your access code in any manner, that authority will be considered unlimited in amount and manner until you specifically revoke such authority by notifying the Credit Union and changing your access code immediately. You are responsible for any transactions made by such persons until you notify us that transactions and access by that person are no longer authorized and your access code is changed. If you fail to change your access code or maintain the security of your access code and the Credit Union suffers a loss, we may terminate your electronic services immediately.

12. Member Liability

You are responsible for all transfers you authorize using your EFT services under this Agreement. If you permit other persons to use an EFT service, Card or Access Code you are responsible for any transactions they authorize or conduct on any of your accounts. Tell us at once if you believe anyone has used your Account, Card or Access Code without your authority or if you believe that an electronic funds transfer has been made without your permission. Calling Member Services is the best way of keeping your possible losses down. For Visa Debit Card purchase transactions, if you notify us of your lost or stolen card, you may not be liable for any losses provided you were not grossly negligent (for example allowing any other individual access to your PIN and/or Card) or fraudulent in handling your Card and you provide us with a written statement regarding your unauthorized Card claim, otherwise the following

liability limits will apply. For all other EFT transactions except electronic check transactions, if you tell us of the unauthorized use of your account within two (2) business days, you can lose no more than \$50 if someone accessed your account without your permission. If you do not tell us within two (2) business days after you learn of the unauthorized use of your account or EFT service, and we can prove that we could have stopped someone from accessing your account without your permission if you had told us, you could lose as much as \$500. Also, if your statement shows EFT transfers that you did not make including made by Card, Access Code or other means, tell us at once. If you do not tell us within sixty (60) days after the statement was mailed or became available to you, you may be liable for the following amounts if we can prove that we could have stopped someone from making the transfers if you had told us in time: (i) for unauthorized debit card purchase transactions -- up to the limits set forth above and (ii) for all other unauthorized EFT transactions -- up to the full amount of the loss. If extenuating circumstances kept you from telling us, we may extend the time periods.

If you believe your Card has been lost or stolen or that someone has transferred or may transfer money from your account without your permission, call:

(503) 228-7077 local (800) 527-3932 toll free

or write: OnPoint Community Credit Union

Attn: Member Services

PO Box 3750

Portland, OR 97208-3750

13. Business Days

Our business days are Monday through Friday, excluding holidays.

14. Fees and Charges

You agree to pay the fees and charges for EFT services as set forth on the Deposit Rate Sheet/Fee Schedule. From time to time, the charges may be changed. We will notify you of any changes as required by law. If you request a transfer or check withdrawal from your line of credit or credit card account, such transactions may be subject to finance charges and fees under the terms and conditions of your Loan Account Agreement, Overdraft Protection Personal Line of Credit Agreement or Visa Credit Card Agreement.

If you use an ATM that is not operated by us, you may be charged an ATM surcharge by the ATM operator or an ATM network utilized for such a transaction and OnPoint Community Credit Union. The ATM surcharge will be debited from your account if you elect to complete the transaction. You may use your ATM Card or Visa Debit Card surcharge free when you use an OnPoint ATM or one connected to the MoneyPass or CO-OP networks.

15. Right to Receive Documentation of Transfers

a. Periodic Statements. All EFT transactions will be recorded on your periodic statement. You will receive a statement monthly.

b. Direct Deposits. If you have arranged to have a direct deposit made to your account at least once every sixty (60) days from the same source and you do not receive a receipt (such as a pay stub), you can find out whether or not the deposit has been made through Online or Mobile Banking or by calling Telephone Teller or Member Services.

c. Terminal Receipt. You will receive a receipt at the time you make a transaction using an ATM, POS terminal or with a participating Visa merchant, with the exception of some electronic terminals that will not provide receipts for transactions of \$15 or less, or at ATM's where you have elected not to receive a transaction receipt.

16. Account Information Disclosure

We may disclose EFT information to third parties about your account or the transfers you make:

- a. As necessary to complete transfers;
- b. To verify the existence of sufficient funds to cover specific transactions upon the request of an authorized party to the transaction;
- c. To comply with government agency or court orders;
- d. If you give us your written permission.

You agree that the Credit Union may collect and retain data related to your account transactions, including but not limited to: transaction types, amounts, locations, timing, online uses, etc. to better understand your transactional behavior. You understand and agree the Credit Union may analyze your transaction data and share the data with its contracted service providers to assist with data analytics, so the Credit Union can tailor its services and offerings to you on a personal basis. Any data we share with others will be governed by our existing Privacy Policy.

17. Call Recording

We may record telephone calls for quality assurance purposes, instruction of payment orders and related acts. Failure to do so shall not be deemed a failure to exercise reasonable care or good faith. By calling, you agree to indemnify and hold OnPoint harmless against any costs, expenses, damages, and liabilities, including attorney's fees that may incur as a result of such recording or the use thereof.

18. Credit Union Liability for Failure to Make Transactions

If we do not complete a transfer to or from your consumer account on time or in the correct amount according to our agreement with you, we will be liable for your

losses or damages. (A consumer account is defined as an account belonging to a natural person and used primarily for personal, family, or household purposes.) Our sole responsibility for an error in a transfer will be to correct the error.

For Online and Mobile Banking services, you agree that neither we nor the service providers shall be responsible for any loss, property damage or loss, whether caused by the equipment, software, Credit Union, or by online browser or internet access providers, mobile phone providers or by online service providers or by an agent or subcontractor of any of the foregoing. Nor shall we or the service providers be responsible for any direct, indirect, special or consequential economic or other damages arising in any way out of the installation, download, use, or maintenance of the equipment, software, the Credit Union Online or Mobile Banking services, Internet browser or access software. In this regard, although we have taken measures to provide security for communications from you to us via the Credit Union Online and Mobile Banking services and may have referred to such services as "secured", we cannot and do not provide any warranty or guarantee of such security. In states that do not allow the exclusion or limitation of such damages, our liability is limited to the extent permitted by applicable law.

Additionally, the Credit Union will not be liable for the following:

- a.** If, through no fault of ours, you do not have enough money in your account to complete a transaction, your account is closed, or the transaction amount would exceed the credit limit on your line of credit or Visa Credit Card.
- b.** If you used the wrong PIN, Access Code, or member/account number, or you have not properly followed any applicable computer, Internet, mobile device or Credit Union instructions for performing the transaction.
- c.** If the terminal where you are making the transaction does not have enough cash or was not working properly and you knew about the problem when you started the transaction.
- d.** If your Internet enabled or mobile device fails or malfunctions, or the Online or Mobile Banking service was not properly working and such problem was or should have been apparent when you attempted such transaction.
- e.** If, through no fault of ours, a bill payment or EFT transaction does not reach a particular creditor and a fee, penalty, or interest is assessed against you.
- f.** If circumstances beyond our control (such as fire, flood, postal strikes, equipment or power failure) prevent the transaction.

- g.** If the money in your account is subject to legal process or other claim, or if your account is frozen because of a delinquent loan, overdrawn account, or suspected fraud or dispute.
- h.** If the error was caused by a system beyond the Credit Union's control such as the ATM network, telecommunications system, mobile phone service provider or Internet service provider.
- i.** If you have not given the Credit Union complete, correct, or current information so the Credit Union can process a transaction
- j.** If anyone refuses to honor your Visa Debit Card or ATM Card.
- k.** The ATM machine may retain your card in certain instances, in which event you may contact the Credit Union about its replacement.
- l.** If there are other exceptions as established by the Credit Union.

19. Preauthorized Electronic Funds Transfers

a. Stop Payment Right. If you have arranged in advance to make regular EFT transactions out of your account(s), you may stop payment of preauthorized transfers (excluding Online and Mobile Banking Bill Payments) from your account. You must notify the Credit Union orally or in writing at any time up to three (3) business days before the scheduled date of the transfer. The Credit Union may require written confirmation of the stop payment order to be made within fourteen (14) days of any oral notification. If we do require the written confirmation, the oral stop payment order shall cease to be binding fourteen (14) days after it has been made.

b. Notice of Varying Amounts. If these payments may vary in amount, the person you are going to pay is required to tell you ten (10) days before each payment, when the payment will be made and how much it will be. You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment or when the amount would fall outside certain limits that you set.

c. Liability for Failure to Stop Payment of Preauthorized Transfers. If you order us to stop one of these payments three (3) business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

20. Termination of EFT Service

You agree that we may terminate this Agreement and your use of your ATM/Visa Debit Card and EFT services, if you or any authorized user of your ATM/Visa Debit Card, PIN or Access Code breach this or any other agreement with us or we have reason to believe that there has been an unauthorized use of your card, PIN or Access Code.

You or any other party to your account can terminate this Agreement by notifying us in writing. Termination of service will be effective the first business day following receipt of your written notice. Termination of this Agreement will not affect the rights and responsibilities of the parties under this Agreement for transactions initiated before termination.

21. Notices

The Credit Union reserves the right to change the terms and conditions upon which EFT services are offered. The Credit Union will mail notice to you at least thirty (30) days before the effective date of any EFT change, as required by law. Use of this EFT service is subject to existing regulations governing the Credit Union account and any future changes to those regulations.

22. Statement Errors

If you notice an error or have questions about your electronic transfers, contact Member Services or write us at the address set forth in Section 12 above as soon as you can. We must hear from you no later than sixty (60) days after we sent or made the first statement available to you on which the problem appears.

- a. Tell us your name and member/account number.
- b. Describe the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- c. Tell us the dollar amount of the suspected error. The following two paragraphs apply only to consumer accounts (an account belonging to a natural person and used primarily for personal, family, or household purposes):

If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) business days. We will tell you the results of our investigation within ten (10) business days after we hear from you and will correct any error promptly. For errors related to transactions occurring within thirty (30) days after the first deposit to the account (new accounts), we will tell you the results of our investigation within twenty (20) business days. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question (ninety (90) calendar days for POS transaction errors, new account transaction errors, or errors involving transactions initiated outside the United States). If we decide to do this, we will re-credit your account within ten (10) business days (5 business days for OnPoint Community Credit Union Visa Debit Card purchase transactions) for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do

not receive it within ten (10) business days, we may not re-credit your account.

If we decide after our investigation that an error did not occur, we will deliver or mail to you an explanation of our findings within three (3) business days after the conclusion of our investigation. If you request, we will provide copies of documents (to the extent possible without violating other members' rights to privacy) relied upon to conclude that the error did not occur.

23. ATM Safety Notice

The following information is a list of safety precautions regarding the use of Automated Teller Machine (ATM) and Night Deposit Facilities.

- Be aware of your surroundings, particularly at night.
- Consider having someone accompany you when the ATM or night deposit facility is used after dark.
- If another person is uncomfortably close to you at the time of your transaction, ask the person to step back before you complete your transaction.
- Refrain from displaying your cash at the ATM or night deposit facility. As soon as your transaction is completed, place your money in your purse or wallet. Count the cash later in the safety of your car or home. When depositing cash at the night drop, have a supply of deposit envelopes at home or the office. Prepare your deposit before going to the ATM or night deposit facility, and conceal the deposit in a pocket or purse until you reach the ATM or night deposit facility and begin your transaction.
- If you notice anything suspicious at the ATM or night deposit facility, consider using another ATM or night deposit facility or coming back later. If you are in the middle of a transaction and you notice something suspicious, cancel the transaction, take your ATM or Visa Debit Card and deposit, and leave.
- If you are followed after making a transaction, go to the nearest public area where people are located.
- Do not write your personal identification number (PIN) on your ATM or Visa Debit Card. Do not keep a record of your PIN any place where it might be available to others.
- Report all crimes to law enforcement officials immediately.
- Do not leave your transaction receipt at the ATM. Protect your account information.

Member Services

Mon-Fri 7:00 am-7:00 pm
Saturday 9:00 am-1:00 pm

P.O. Box 3750, Portland, OR 97208-3750
503.228.7077 800.527.3932 FAX 503.273.2698

24-Hour Loan Decisions

www.onpointcu.com/loanapplication

OnPoint Mortgage

503.273.1755 or 800.527.3932 ext. 5220

24-Hour Credit Card Support

866.820.3101

Insurance Services

800.523.3068

Branches

Visit our website at www.onpointcu.com for branch hours and locations.

Online Banking

www.onpointcu.com



Federally Insured by NCUA.
Equal Housing Opportunity. 8/18 8MAA

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CINDY ADKINS, TIMOTHY SOUTH, and PAITON CAMPBELL

(b) County of Residence of First Listed Plaintiff Clackamas (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David F. Sugerman, David F. Sugerman Attorney, PC, 707 SW Washington St., Ste. 600, Portland, OR 97205, (503) 228-6474

DEFENDANTS

ONPOINT COMMUNITY CREDIT UNION

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Frederick B. Burnside, Tim Cunningham, Davis Wright Tremaine LLP, 1300 SW 5th Ave., Ste. 2400, Portland, OR 97201. (503) 241-2300

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABEAS CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Electronic Funds Transfer Act; 15 U.S.C. 1693m; 12 C.F.R. 1005.17; 28 U.S.C. 1332(d)
Brief description of cause: Breach of Contract; Breach of Covenant of Good Faith and Fair Dealings; Unlawful Trade Practices Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 4/15/21 SIGNATURE OF ATTORNEY OF RECORD s/ Tim Cunningham

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [OnPoint Community Credit Union Hit with Class Action Over Allegedly 'Improper' Fees](#)
