



BINDING ARBITRATION OF CLAIMS AND DISPUTES AND CLASS ACTION WAIVER PROVISIONS

Definitions

In this Agreement, the words “you,” “your,” and “yours” mean anyone who signs a Member Services Request or any other account opening document (Account Card), or for whom membership and/or service requests are approved through the Credit Union’s online application and authentication process. The words “we,” “us,” and “our” mean the Credit Union. The word “account” means any one or more share or deposit accounts you have with Blackhawk Community Credit Union and its employees, agents, service providers, successors or assigns, and present or future affiliates. The word “Claim” means any dispute between you and the Credit Union arising out of, affecting, or relating to your account(s), or the products or services the Credit Union has provided, will provide, or has offered to provide to you, and/or any aspect of your relationship with the Credit Union, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory. Claim has the broadest meaning possible. It also includes disputes related to the validity, enforceability, coverage, or scope of this agreement. Further, Claim includes any dispute with the Credit Union’s employees, agents, successors or assigns, and present or future affiliates, and any Claim against these parties may be joined or consolidated with any related Claim against the Credit Union in a single individual (*i.e.*, non-class) arbitration proceeding.

BINDING ARBITRATION OF CLAIMS AND DISPUTES

RESOLUTION OF DISPUTES BY ARBITRATION: THIS SECTION CONTAINS IMPORTANT INFORMATION REGARDING YOUR ACCOUNT(S) AND ALL RELATED SERVICES. IT PROVIDES THAT EITHER YOU OR WE CAN REQUIRE THAT ANY DISPUTES BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A JURY TRIAL AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR SIMILAR PROCEEDING. IN ARBITRATION, THE DISPUTE IS SUBMITTED TO A NEUTRAL PARTY, AN ARBITRATOR, INSTEAD OF A JUDGE OR JURY. ARBITRATION PROCEDURES ARE MORE LIMITED THAN RULES APPLICABLE IN COURT.

Agreement to Arbitrate Disputes

Either you or we may elect, without the other’s consent, to require that any Claim be resolved by binding arbitration, even if you or we has already initiated litigation in court related to that Claim, except for those disputes specifically excluded below.

You and we agree that this agreement, our relationship, and/or any transaction between you and we (including, but not limited to, any deposit or loan account) involve interstate commerce. This agreement shall be interpreted and enforced in accordance with the Federal Arbitration Act set forth in Title 9 of the U.S. Code to the fullest extent possible, notwithstanding any state law to the contrary, regardless of the origin or nature of the Claims at issue. If a court finds the FAA does not apply, and the finding cannot be appealed, then your state’s law governs. The arbitrator must follow, to the extent applicable: (1) the substantive law of the state in which you and we entered into the transaction giving rise to this Arbitration Agreement; (2) the applicable statutes of limitations; and (3) Claims of privilege recognized at law. The arbitrator will not be bound by federal, state or local rules of procedure and evidence or by state or local laws concerning arbitration proceedings conducted in court.

Exceptions

- **Class Action Waiver.** Notwithstanding anything else herein, the enforceability of the Class Action Waiver set forth below shall be determined by a court.
- **Small Claims.** Notwithstanding anything else herein, both you and we have the right to pursue a Claim in

a small claims court instead of arbitration, if the Claim is in that court's jurisdiction, proceeds on an individual (*i.e.*, non-class) basis, and is not appealed from small claims court to any different court.

- **Dwelling.** This Agreement also does not apply to any consumer credit transaction secured by a dwelling, including a mortgage or a home equity line of credit secured by your principal dwelling.
- **Right to Resort to Self-Help Remedies Preserved.** Nothing herein shall be deemed to limit or constrain either party's right to resort to self-help remedies, such as the right of set-off or the right to restrain funds in an account, to interplead funds in the event of a dispute, to exercise any security interest or lien in property, or to comply with legal process.
- **Right to Resort to Provisional Remedies Preserved.** Nothing herein shall be deemed to limit or constrain our right to obtain provisional remedies such as injunctive relief, attachment, or garnishment by a court having appropriate jurisdiction; provided, however, that you or we may elect to arbitrate any dispute related to such provisional remedies.
- **Applicability.** The requirement to arbitrate will not apply to individuals defined as "Covered Borrowers" under the Military Lending Act.

NO CLASS ACTION OR JOINDER OF PARTIES

YOU ACKNOWLEDGE THAT YOU AND WE AGREE THAT NO CLASS ACTION, CLASS-WIDE ARBITRATION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER PROCEEDING WHERE SOMEONE ACTS IN A REPRESENTATIVE CAPACITY, MAY BE PURSUED IN ANY ARBITRATION OR IN ANY COURT PROCEEDING, REGARDLESS OF WHEN THE CLAIM OR CAUSE OF ACTION AROSE OR ACCRUED, OR WHEN THE ALLEGATIONS OR FACTS UNDERLYING THE CLAIM OR CAUSE OF ACTION OCCURRED. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CLAIMS OF TWO OR MORE PERSONS MAY NOT BE JOINED, CONSOLIDATED, OR OTHERWISE BROUGHT TOGETHER IN THE SAME ARBITRATION.

Right to Reject this Binding Arbitration of Claims and Disputes and Class Action Waiver Provisions

You have the right to reject this agreement to arbitrate by opting out if you tell us within 30 days of the date a notice of this Binding Arbitration of Claims and Disputes and Class Action Waiver provisions being added to the Membership and Account Agreement was placed in the mail or email to the address you provided, if applicable, or within 30 days of first being sent or offered any copy of our Membership and Account Agreement with an arbitration agreement in it, whichever is sooner. To opt out, send us written notice that you reject this Binding Arbitration of Claims and Disputes and Class Action Waiver provisions, including your name as listed on your account and your account number to the following address: Blackhawk Community Credit Union, Attention: Arbitration Opt Out, PO Box 5366, Janesville, WI 53547. Written notices may also be sent as a secure message in digital banking.

Otherwise, this agreement to arbitrate will apply without limitation, regardless of whether 1) your account is closed; 2) you pay us in full any outstanding debt you owe; or 3) you file for bankruptcy.

The Arbitration Proceeding

Subject to the exclusions identified above, either you or we may elect to resolve a Claim through arbitration, even if one of the parties has already initiated litigation in court related to the Claim, by: (a) making written demand for arbitration upon the other party, (b) initiating arbitration against the other party, or (c) filing a motion to compel arbitration in court.

The arbitration must be filed with one of the following neutral arbitration forums: American Arbitration Association (“AAA”) or JAMS. For AAA, the arbitration will be conducted in accordance with the AAA Consumer Due Process Protocol in concert with the AAA Consumer Arbitration Rules. The AAA Consumer Arbitration Rules can be obtained on the AAA website free of charge at <https://adr.org/sites/default/files/Consumer%20Rules.pdf>. Other information about arbitrating a Claim under AAA, including fees and costs and how to submit a dispute to arbitration, may be obtained by calling AAA at 1-800-778-7879 or visiting its website at <https://www.adr.org/>. For JAMS, the arbitration will be conducted in accordance with the JAMS Comprehensive Arbitration Rules & Procedures. The JAMS Comprehensive Arbitration Rules & Procedures can be obtained on the JAMS website free of charge at <https://www.jamsadr.com/rules-comprehensive-arbitration/>. Other information about arbitrating a Claim under JAMS, including fees and costs and how to submit a dispute to arbitration, may be obtained by calling JAMS at 1-800-352-5267 or visiting its website at <https://www.jamsadr.com/>. If there is a conflict between a particular provision of the AAA or JAMS Rules and this arbitration provision and/or this agreement, this arbitration provision and this agreement will control. If JAMS or the AAA is unable or unwilling to handle the Claim for any reason, then the matter shall be arbitrated by a neutral arbitrator selected by agreement of the parties (or, if the parties cannot agree, selected by a court in accordance with the FAA).

A Claim in an arbitration proceeding may be decided by the arbitrator based on the parties’ written submissions. If a hearing is necessary as determined by the Arbitrator, it may be conducted by telephone or by video, if the parties have such capabilities. Otherwise, arbitration shall be conducted in the county and state where you signed the Agreement, you reside, or another reasonably convenient place to you as determined by the arbitrator, unless applicable laws require another location.

Costs

The party initiating the arbitration shall pay the initial filing fee. All other fees and costs will be allocated in accordance with the rules of the arbitration forum. However, we will advance or reimburse filing and other fees if the arbitrator rules that you cannot afford to pay them or finds other good cause for requiring us to do so, or if you ask us in writing and we determine there is good reason for doing so. Each party shall bear the expense of their respective attorneys, experts, and witnesses and other expenses, regardless of who prevails, but a party may recover any or all costs and expenses from another party if the arbitrator, applying applicable law, so determines.

Severability, Survival

This arbitration agreement shall survive (a) termination or changes to your account(s) or any related services; (b) the bankruptcy of any party; and (c) the transfer or assignment of your account(s) or any related services. If any portion of this agreement is deemed invalid or unenforceable, the remainder of this arbitration agreement shall remain in force; provided, however, that, if the class action waiver is invalid, then this arbitration agreement is invalid in its entirety. No portion of this arbitration agreement may be amended, severed, or waived absent a written agreement between you and us.
