



ESL Visa Secured Credit Card Agreement RETAIL INSTALLMENT CREDIT AGREEMENT

1. Agreement

This Agreement is between ESL Federal Credit Union (called "ESL", "us" or "we") and each person who accepts the Visa account (called "you"). The word "Card" refers to any Visa Card(s) or Card number and the word "Check" refers to any Check we issue under this Agreement. Sign your Card before you use it. The first use of your Card, Check, or the Card number means that you accept and agree to be bound by all the terms of this Agreement. You should refer to the Savings and Checking Disclosure, Terms and Account Agreement for the terms related to your Secured Credit Card Daily Dividend Account.

2. Using the Card/Account

You may use the Card or a Check to make purchases in person, by mail, electronically (through the Internet) or by telephone from merchants and the others who accept Visa Cards or Checks. Any financial service provided by ESL Federal Credit Union may be used for any transaction permitted by law. You agree that the illegal use of any financial service will be deemed an action of default and/or breach of contract and such service and/or other related services may be terminated at the discretion of ESL. You further agree, should illegal use occur, to waive the right to sue ESL for such illegal activity directly or indirectly related to it. You also agree to indemnify and hold ESL harmless from any suits or other legal action or liability, resulting from such illegal use. ESL is not responsible if any merchant refuses to accept the Card or Check. You may also obtain cash advances from ESL, from other financial institutions participating in the Visa program, and from automated teller machines which display the PLUS or VISA network logos. (Not all ATMs provide such access and you will need to use your Personal Identification Number at those that do.) Cash advances can be used to make balance transfers.

3. Credit Limit

When we send you the Card, and on each monthly statement, we will tell you your credit limit. You may request an increase in your credit limit by a written application or a telephone request. The portion of your payments applied to the principal may be re-borrowed, up to your current credit limit. We may reduce your credit limit or terminate your borrowing privileges at any time without prior notice to you. You may not allow the balance outstanding under this Agreement to exceed your credit limit. We may, however, at our discretion, honor your request for an advance that will exceed your credit limit. If we do, all the provisions of this Agreement will apply to that excess, you will be charged finance charges on the advance, and you must pay the entire excess to us on demand.

4. Payments

You agree to repay all advances made under this Agreement in response to a request by you or anyone you authorize and all finance charges and all other charges and amounts owed under this Agreement. Within 25 days after the statement closing date each month, you must make a minimum payment. The minimum payment will be equal to the sum of: (i) the greater of 2.7% of your Total New Balance or \$25; (ii) any amounts that are past due; (iii) the portion of your balance that exceeds your credit limit; (iv) any late fees that you owe; and (v) any other fees you may owe. **You may pay more than the minimum due or your entire indebtedness in full at any time.** We may allocate payments to amounts due in any manner or order chosen by us, provided we comply with any applicable laws or regulations.

5. Receipt of Payment

If we receive your payment, with a payment stub, at the address indicated on the front of your monthly statement by 5:00 p.m., Monday through Friday (excluding legal holidays) we will credit it to your account the same day. If your payment is received later in the day, it will be credited to your account the next business day. If we receive your payment at another location or without the payment stub, we will credit it

within five business days. We may return without presentment or protest and without credit to your account any check which is: (i) missing a signature; (ii) drawn with different numeric and written amounts; (iii) postdated; (iv) not payable to ESL; (v) not paid upon presentment; (vi) drawn on a bank outside the United States; (vii) a Check provided to you for use under this Agreement.

6. Irregular Payments

We will not lose any rights if we accept late payments, partial payments, checks or money orders marked "payment in full" or with similar words or phrases or other irregular payments.

7. Payment Holidays

From time to time, we may offer you a payment holiday allowing you to skip a minimum payment. Finance charges, if any, will continue to accrue on your balance at the applicable periodic rate and the period within which you must pay the Total New Balance to avoid paying finance charges on purchases will not be extended. The regular payment terms will resume at the end of the payment holiday.

8. Finance Charge

The total finance charge you owe for a billing cycle will be equal to the "Periodic Rate Finance Charge." The minimum finance charge is \$.50 in any billing cycle during which there is an outstanding balance in your account subject to a finance charge. You will continue to pay a finance charge at a periodic rate calculated as described in and under this Agreement until what you owe is paid in full. Finance charges can continue to accrue after the date your monthly statement is generated. Therefore, even if you pay the Total New Balance shown on your monthly statement and do not take any additional advances after that date, you may still owe additional finance charges which accrued after that Total New Balance was determined.

A. Periodic Rate Finance Charge—We calculate the Periodic Rate Finance Charge by (i) multiplying the applicable daily periodic rate by (a) the "purchase average daily balance" and (b) the "Cash Advance average daily balance"; (ii) adding those amounts together; and (iii) multiplying the sum by the number of days in the billing cycle.

(1) Amount to Which Periodic Rate is Applied

To get the "purchase average daily balance," each day we take the beginning balance of your account attributable to purchases that day, add any new purchases or purchase debits that day and subtract any payments or credits attributable to purchases that day. We do not include any unpaid finance charges. This gives us the "purchase daily balance." Then we add up all the "purchases daily balances" for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the "purchase average daily balance." However, the "purchase average daily balance" will be considered \$0 if you pay your Total New Balance in full by the billing cycle date and you paid your previous balance in full by the billing cycle date.

To get the "Cash Advance average daily balance," each day we take the beginning balance of your account attributable to Cash Advances that day, add any new Cash Advances or Cash Advance debits that day and subtract any payments or credits attributable to Cash Advances that day. We do not include any unpaid finance charges. This gives us the "Cash Advance daily balance." Then we add up all the "Cash Advance daily balances" for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the "Cash Advance average daily balance." There is no "grace" period for Cash Advances.

(2) Determination of the Daily Periodic Rate

The daily periodic rate equals the Annual Percentage Rate (APR) divided by 365.

Base Rate for ESL Visa Secured Credit Card— Provided the Past Due Rate does not apply, the annual percentage rate will be variable and will equal the highest domestic Prime Rate published in the Money Rates section of *The Wall Street Journal* as of five business days prior to the first day of the calendar month in which the billing cycle begins (called the "Index") plus 11.00 percentage points (11.00%) (called the "Secured Base Rate"). The Secured Base Rate can change on the first day of each billing cycle.

Past Due Rate—The APR applicable starting on the first day of the first billing cycle after your account becomes "past due" and continuing until the billing cycle after the "past due" status is

corrected will be 18%. Your account will be "past due" if the minimum monthly payment is not made for two consecutive billing cycles.

Effect of an Increase—An increase in the APR will result in an increase in the finance charge, the monthly payment, and the outstanding balance of your account.

B. **Cash Advance Fee**—there is no Cash Advance Fee.

C. **Maximum Rate**—The APR will not exceed the maximum rate allowed by applicable law.

9. Other Charges

You will pay the following other charges as applicable.

A. **Annual Membership Fee**—there is no Annual Membership Fee.

B. **Documentary Evidence Charge**—If you request documentary evidence of a transaction (for example, a copy of a sales draft or a duplicate monthly statement) other than in connection with a billing error inquiry, you will pay a Documentary Evidence Charge of \$2.50 for each document. The charge will be added to your Purchase Balance.

C. **Late Fee**—You will pay a Late Fee of up to \$25 if your Total New Balance on the last day of the billing cycle exceeds \$25 and your minimum payment has not been received within three days following the payment due date. The fee will be charged after the third day and added to your Purchase Balance.

D. **Returned Payment Charge**—You will pay a Returned Payment Charge of up to \$25 if you pay us with a check that your bank will not honor or that is incomplete or if we return a check unpaid. The charge will be added to your Purchase Balance.

E. **Over the Credit-Limit Fee**—there is no Over the Credit-Limit Fee.

10. Default

You will be in default if: (i) you fail to make any minimum or other required payment by the date it is due; (ii) you violate any of the other terms of this Agreement; (iii) you default in the payment of any other loan account with ESL; (iv) you die; (v) you file for bankruptcy or become insolvent (unable to pay your obligations as they become due); (vi) you make any false or misleading statement on any credit application or credit update or fail to provide complete and accurate financial information within 30 days after a request from ESL for the information; (vii) any judgment is entered against you or any of your deposit accounts at ESL are attached or levied upon; or (viii) **you close your Secured Credit Card Daily Dividend Account without also closing your ESL Visa Secured Credit Card Account** or (ix) something happens which ESL believes may substantially reduce your ability to repay what you owe, including without limitation, any reduction in the amount in your Secured Credit Card Daily Dividend Account below your credit limit.

When you are in default, ESL has the right to demand immediate payment for your full account balance without prior notice. To the extent permitted by law, you will also be required to pay collection expenses, including court costs and reasonable attorney's fees, incurred by ESL.

11. GRANTING ESL A SECURITY INTEREST

IN CONSIDERATION OF ESL ISSUING YOU A CARD, YOU PLEDGE, GRANT AND ASSIGN TO ESL A SECURITY INTEREST IN THE SECURED CREDIT CARD DAILY DIVIDEND ACCOUNT YOU OPENED IN CONNECTION WITH THIS ESL VISA SECURED CREDIT CARD ACCOUNT. THIS SECURITY INTEREST INCLUDES ALL RENEWALS, ADDITIONS TO AND PROCEEDS IN THAT DAILY DIVIDEND ACCOUNT. YOU AGREE THAT THIS ASSIGNMENT AND SECURITY INTEREST INCLUDES AND GIVES US THE EXCLUSIVE RIGHT TO WITHDRAW FROM THAT DAILY DIVIDEND ACCOUNT ANY PART OR THE FULL AMOUNT YOU OWE US UNDER THIS AGREEMENT.

12. Checks and Balance Transfers

We will not process a Check or Balance Transfer if: (i) you do not have enough available credit in your account to cover the Check or Balance Transfer in full; (ii) your account or your right to obtain advances has been suspended or terminated; (iii) your Card or Checks have been reported stolen; (iv) your Check

is postdated (shows a future date), although we may pay postdated Checks as if they had a current date; or (v) you are in default under this Agreement. We will not return to you the Checks that are paid but will keep them on microfilm or another storage medium. There is no finance charge grace period for Checks and Balance Transfers.

13. How to Stop Payment of a Check or Balance Transfer

You may request a stop payment on a Check or Balance Transfer by notifying us by telephone at the number shown on your monthly statement. The request will only be effective for 14 days unless during that period you confirm, in writing, which describes with certainty the item on which payment is to be stopped. Notice must be received by us at ESL, Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711 in a timely manner so as to afford us a reasonable opportunity to act upon it. In any event, we may disregard any stop payment request six months after we receive it unless you renew it in writing within the six month period. We will use commercially reasonable efforts to stop payment of the Check or Balance Transfer. However, you agree that we will not be responsible in any way if a Check or Balance Transfer is processed or otherwise presented for payment after you have requested us to stop payment and, using commercially reasonable efforts, we are unable to stop the payment.

14. Credit Information

We may investigate your credit standing and request credit reports about you in connection with your Visa Account and updates, renewals, extensions and collection activity and as otherwise permitted by law. At your request, we will tell you whether we requested a report and, if so the name and address of the credit reporting agency which provided it. We may disclose information about your account to credit bureaus and creditors who inquire about your credit standing.

15. Returns and Credit Balances

Merchants and others who honor the Card may give credit for returns or adjustments by sending a credit transaction which will post to your account. The credit will be applied first to pay what you owe us under this Agreement. If there is a credit balance (i.e. a balance in your favor) on your account, we will hold it and apply it to future amounts owed but will not pay you interest on it. We will refund a credit balance to you if you ask. If the credit balance is greater than \$50, your request must be in writing. If a credit balance greater than \$1 remains in your account for six months, we will automatically refund it to you. We may charge to your account or you will pay us any amount that we refund in error.

16. Exchange Rates for Foreign Transactions

Purchases and Cash Advances made in foreign countries and foreign currencies will be billed to you in U.S. Dollars.

The exchange rate between the transaction currency and the billing currency used for processing international transactions is a rate selected by Visa from the range of rates available in wholesale currency markets for the applicable central processing date, this rate may vary from the rate Visa itself receives, or the government-mandated rate in effect for the applicable central processing date, plus 1%.

17. Monitoring Telephone Calls

By using your Card the first time, you authorize ESL and its servicer to record and monitor your calls regarding this account.

18. Responsibility for Use of Card/Notices

Each person who has accepted and agreed to the terms of this Agreement is individually responsible for all amounts owed on the account and all are jointly responsible for all amounts owed. This means ESL can enforce this Agreement against any of you individually or all of you together. You are responsible for advances obtained by anyone that one of you authorizes to use the account. Each of you remains fully responsible even if another agreement, a divorce decree, or a court order directs only one of you or a third party to pay. Statements and notices addressed and mailed to any one of you at the most recent address we have for you in our records will be considered to have been sent to all of you.

19. Liability for Unauthorized Use

You may be liable for the unauthorized use of your Card. You will not be liable for unauthorized use that occurs after you notify us orally or in writing at Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711 or at 866.820.6039 of the loss, theft or possible unauthorized use. Notwithstanding the above, you may be

liable for any amount to the extent allowed under applicable law if we determine that you were grossly negligent or fraudulent in the handling of your account.

20. Governing Law

Any legal question under this Agreement will be decided in accordance with applicable federal and New York State law without regard to the laws of any other state. This Agreement is made, and credit is extended in New York.

21. Change in Terms

A change in terms notice regarding this account will be made in accordance with applicable regulation.

YOUR BILLING RIGHTS KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

NOTIFY US IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR STATEMENT—If you think your statement is wrong, or if you need more information about a transaction on your statement, write to Cardholder Service, P.O. Box 2711 Omaha, NE 68103-2711. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared. You can telephone us at 866.820.6039, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

YOUR RIGHTS AND OUR RESPONSIBILITIES AFTER WE RECEIVE YOUR WRITTEN NOTICES—We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the statement was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your statement that are not in question.

If we find that we made a mistake on your statement, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that is due.

If you fail to pay the amount that we determine you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within 10 days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your statement. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is. If we don't follow these rules, we cannot collect the first \$50 of the questioned amount, even if your statement was correct.

Special Rule for Credit Card Purchases

If you have a problem with the quality of property or services that you purchased with the ESL Credit Card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or services. There are two limitations to this right.

1. You must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and
2. The purchase price must have been more than \$50.

These limitations do not apply if ESL owns or operates the merchant, or if ESL mailed you the advertisement for the property or services.

Accepted by:
ESL Federal Credit Union
Corporate Headquarters
225 Chestnut Street
Rochester, NY 14604

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