

## Terms of Use

Revised: October 2, 2021

**PLEASE READ THESE TERMS OF USE CAREFULLY.** Your access and use of any domains and websites (collectively, a "Site"), which are operated by W61 and WithU Loans ("WithU" or "Lender"), and your access and use of any of the services that WithU provides or offers through a Site (collectively "Services") are subject to these Terms of Use.

LENDER IS AN ARM OF THE OTOWE-MISSOURIA TRIBE OF INDIANS, A FEDERALLY RECOGNIZED INDIAN TRIBE AND SOVEREIGN NATION ("TRIBE"). IT IS AN ENTITY FORMED AND OPERATED PURSUANT TO TRIBAL LAW, IT IS OWNED AND OPERATED BY THE TRIBE, AND FORMED FOR THE EXPRESS PURPOSE OF ECONOMIC DEVELOPMENT AND BETTERMENT OF THE TRIBE. BOTH LENDER AND THE TRIBE ARE IMMUNE FROM SUIT IN ANY COURT EXCEPT TO THE EXTENT THAT THE TRIBE, THROUGH ITS TRIBAL COUNCIL, EXPRESSLY AND UNEQUIVOCALLY WAIVES THAT IMMUNITY. LENDER, AS AN ARM OF THE TRIBE, IS ALSO IMMUNE FROM SUIT IN ANY COURT EXCEPT TO THE EXTENT THAT THE TRIBE, THROUGH ITS TRIBAL COUNCIL, EXPRESSLY AND UNEQUIVOCALLY WAIVES THAT IMMUNITY. PROVIDED IN THE LIMITED IMMUNITY WAIVER CONTAINED IN THE ARBITRATION AGREEMENT LOCATED HEREIN. LENDER IS LICENSED BY THE TRIBE'S CONSUMER FINANCE SERVICES REGULATORY COMMISSION (THE "COMMISSION") IN ACCORDANCE WITH TRIBAL LAW. YOUR RIGHT TO SUBMIT A DISPUTE IS LIMITED TO THE DISPUTE RESOLUTION PROCESS SET FORTH IN SECTION 15 BELOW. YOU MUST TIMELY EXERCISE YOUR RIGHT TO REJECT ARBITRATION IN ACCORDANCE WITH THE DISPUTE RESOLUTION PROCESS IN SECTION 15. IF YOU DO NOT, YOUR DISPUTE WILL BE SUBJECT TO THE DISPUTE RESOLUTION PROCESS. THESE TERMS OF USE WILL BE RESOLVED BY FINAL AND BINDING ARBITRATION.

## CHANGES AND MODIFICATIONS

WithU reserves the right in its sole discretion to temporarily or permanently change or modify these Terms of Use or discontinue a Site, or any portion of a Site, for any these Terms of Use from time to time because your continued access or use of a Site after any modifications have become effective shall be deemed your conclusive acceptance of the modified Terms of Use.

## GENERAL ELIGIBILITY

When you use a Site, you represent that you are a resident of the United States and are at least 18 years old, and that you agree to abide by all of the terms and conditions of Use. Unauthorized use of a Site or Services, including unauthorized access of WithU's systems and misuse of passwords or Site information is strictly prohibited. If you violate any of the Terms of Use or any other agreement between you and WithU, then WithU may restrict, suspend, or terminate your access to any Site and Services without notice.

## VERIFICATION AND REPORTING

You authorize us to verify any information you may provide to us through a Site or when using the Services, and understand that verification may be ongoing, and permit us to share information about you (including, without limitation, your identity, digital identity, employment, income, assets and debts, payment history and collection activity) with credit reporting agencies and other sources. We reserve the right to decline a credit application at any time, with cause determined by judgment of risk, upon completion of a review of the information submitted by you and your creditworthiness. You further understand that we reserve the right to suspend Services if we are unable to verify the information provided to us to our satisfaction and at our sole discretion.

You authorize your wireless operator to disclose your mobile number, name, address, email, network status, customer type, customer role, billing type, mobile device ID (IMEI) and other subscriber and device details, if available, to WithU and service providers for the duration of the business relationship, solely for identity verification and fraud prevention purposes. For more information on our privacy practices, please see WithU's Privacy Policy at [www.withuloans.com/privacy](http://www.withuloans.com/privacy) for how we treat your data.

You authorize us to request and obtain consumer credit reports from one or more consumer credit reporting agencies ("credit bureaus") in connection with any request otherwise allowed by Applicable Law (defined in 16 below). You agree that we may obtain additional credit reports and other information about you in connection with payments, account review, collections activity or for any other legitimate purpose. We may also report information about your Loan to credit bureaus.

## PRIVACY

At all times your information will be treated in accordance with WithU's Privacy Policy, which is incorporated by reference into these Terms of Use and can be viewed at [www.withuloans.com/privacy](http://www.withuloans.com/privacy). You agree to WithU's use of your data in accordance with the Privacy Policy.

## SERVICE RIGHTS AND RESTRICTIONS

All material and content on a Site including but not limited to text, data, articles, designs, software, photos, images, and other information (collectively "Site Content") are property of WithU with all rights reserved. Site Content may not be copied, reproduced, distributed, republished, displayed, posted, transmitted, or sold in any form or WithU's prior written consent. You acknowledge that all Site Content is and shall remain the sole property of WithU. You may only access a Site and use the Services purpose, and any use of a Site or Services that is not expressly authorized herein is strictly prohibited.

## TRADEMARKS

Nothing on a Site should be construed as granting you any license or right to use any trademark, whether owned by WithU or a third party, displayed on a Site, without the trademark owner. You may not use, copy, duplicate, display, distribute, modify or reproduce any trademark contained on a Site without the prior express written permission of the trademark's owner.

**CONSENT TO CONDUCT BUSINESS ELECTRONICALLY**

Because WithU operates its platform online and conducts its business solely through the Internet, you must consent to receive all disclosures, notices, documents, agree associated with the Services ("Communications") electronically in order to transact business with us. This section informs you of your rights when receiving electronic C WithU.

**Electronic Communications:** You agree that WithU, its agents and representatives, may provide all Communications to you electronically. You may still request a paper Communication by following the procedure outlined below. You also agree all such Communications are electronic records and that, as such, they may be transferred, and transmitted by electronic means. You may still request a paper copy of any Communication by following the procedure outlined below.



**Hardware and Software Requirements:** In order to receive Communications electronically, you must have the following: (1) access to the Internet; (2) an active email account capable of receiving email through the Internet; (3) supported Web browsing software (Chrome version 32.0 or higher, Firefox version 26.0 or higher, Internet Explorer or Safari version 7.0 or higher); and (4) hardware capable of running this software. To ensure access and optimal printing of your loan documents in PDF format, you must have Adobe Reader. To install the free version of Adobe Reader, click [here](#) or visit <http://get.adobe.com/reader/>.

**Additional Mobile Technology Requirements:** If you access our Site and Communications electronically via a mobile device (such as a smart phone or tablet) or if you use our Mobile App, then in addition to the above requirements, you must make sure that you have software on your mobile device that allows you to print and save the Disclosures during the application process. If you do not have these capabilities on your mobile device, please access our site through a device that provides these capabilities.

**Requesting a Paper Copy:** You may request from us a paper copy of any Communication that we have provided or made available to you electronically without charge if your request is made within 20 business days after we first provided the Communication to you. To request paper copies, you must send an e-mail to [DocumentRequest@withul.com](mailto:DocumentRequest@withul.com) with subject line "Paper Copy Request" and in the body of the e-mail you must state your e-mail address, full name, US Postal address, and telephone number, and also describe the Communication or Communications for which you request a paper copy. You may also submit your request by mail to WithU, 10600 S. Pennsylvania Ave., Suite 16 #828, Oklahoma 73170-4257, Attention: Compliance Department. There is no fee for a paper copy.

**Withdrawing Consent:** You may withdraw your consent to receive future Communications electronically by sending us your request in writing to [CustomerCare@withul.com](mailto:CustomerCare@withul.com) with subject line "Withdraw Electronic Consent" and including your full name, US Postal Address, email address, and telephone number in the body of the email. Your withdrawal will be effective only after we have had a reasonable period to process your request. If you decide to withdraw your consent, it will not affect the validity, effectiveness or enforceability of prior Communications sent to you electronically prior to the date that your withdrawal of consent becomes effective.

**Changes in Contact Information:** You agree to keep us informed of any changes in your contact information, including any changes to your email address, so that you can receive Communications timely. You may update your contact information by logging into your account through WithU's Account Portal, by calling us at (866) 404-0674, by emailing [CustomerCare@withul.com](mailto:CustomerCare@withul.com), or by writing to us at WithU, 10600 S. Pennsylvania Ave., Suite 16 #828, Oklahoma City, Oklahoma 73170-4257, Attention: Compliance Department.

**Your Electronic Signature:** Your "electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and adopted by you with the intent to sign the record. Electronic signatures may also be obtained by email, text messages, faxes, or recorded touch tone capture files. For example, if you reply "Agree" to a text message referencing an agreement or push a specific number on your phone which is recorded by an interactive voice response or call recording system, then you are creating an electronic signature. You agree that your electronic signature will have the same force and effect and will bind you in the same manner and to the same extent as a physical signature would do, in accordance with ESIGN to the extent applicable. You further acknowledge and agree that whenever you click a submission button as when you complete an application and submit it electronically, that you are providing your electronic signature, confirming your agreement to the transaction and certifying that the information you have provided in connection with the transaction is complete and accurate.

**Consent and Acknowledgement:** You acknowledge and agree that:

- a. You can view this consent. You are also able to download and review files within a web browser or a mobile device;
- b. You have (1) access to the Internet, (2) an active email account, (3) software capable of receiving email through the Internet, (4) supported Web browsing, and (5) hardware capable of running this software, an account with an Internet service provider, and the ability to send e-mail and receive email with hyperlinks to websites;
- c. You have read the information about the requirements to receive Communications electronically, and the use of electronic signatures;
- d. You consent to the use of electronic Communications and electronic signatures;
- e. When you click a signature button to 'process your loan', you are (i) adopting an electronic process to confirm your consent to the transaction, (ii) affixing your signature to the agreement associated with the transaction, and (iii) certifying that all information you have provided in connection with the transaction is complete and accurate;
- f. Your electronic signature will have the same force and effect and will bind you in the same manner and to the same extent as a physical signature would do, and in conducting business electronically inures to us, as well as our affiliates, agents, employees, successors, and assigns.

## CONSENT TO TELEPHONE COMMUNICATIONS

**Consent Generally:** You agree and consent to be contacted by us, our employees, agents, representatives, affiliates and/or anyone calling on our behalf (collectively, "We") by any telephone number (including any mobile phone number) you provide to us and any physical or electronic address you provide to us, and you agree that we may use the contact information to contact you including, but not limited to, SMS messaging or other text messaging, autodialed or prerecorded messages, direct drop voicemail, push notifications, email or text. You agree that automated messages may be played when the telephone is answered, whether answered by you or someone else, and an agent or representative may leave a message for you. Your provider's messaging and data rates may apply to all SMS text messages. You may opt out of receiving SMS messages by (1) replying "STOP" to the SMS text message you received; (2) calling us at (866) 404-0674; or (3) emailing customer service at [CustomerCare@withul.com](mailto:CustomerCare@withul.com). Data obtained with this SMS service may include your name, address, cellphone number, your provider's name, the date and time, and content of your messages. We will not be liable for the cost of any SMS messages, as delivery is subject to effective transmission from your network operator. To view our privacy policy visit [www.withul.com/privacy](http://www.withul.com/privacy).

**Consent to Receive Marketing Offers.** You agree and consent that we and our Representatives may use multiple means including direct mail, email, autodialed or pre-recorded drop voicemail, SMS, text, push notifications, and other technologies) to contact you at any telephone number (including any mobile phone number) and any physical address you provide to us to inform you of products and services that we think may interest you. Your consent will be effective even if the number you have provided is on the state and/or federal Do-Not-Call list. Your consent will remain in effect until you revoke it and it is not a condition of obtaining a loan. If you would like to stop receiving marketing offers by email, please click the 'unsubscribe' link at the bottom of the communication. Alternatively, you may email us at [Opt-Out@withul.com](mailto:Opt-Out@withul.com) or write to us at WithU, 10600 S. Pennsylvania Ave., Oklahoma City, Oklahoma 73170-4257, Attention: Compliance Department. If you wish to change or stop receiving offers to specific telephone numbers, you may also call (866) 404-0674 or email customer service at [CustomerCare@withul.com](mailto:CustomerCare@withul.com).

## COPYRIGHT COMPLAINTS

If you believe that any material on a Site infringes upon any copyright that you own or control, you may send a written notification to us via email at [Legal@withul.com](mailto:Legal@withul.com).



at WithU, 10600 S. Pennsylvania Ave, Suite 16 #828, Oklahoma City, Oklahoma 73170-4257, Attn: Legal Department. In your notification, please:

- a. Confirm that you are the owner, or authorized to act on behalf of the owner, of the copyrighted work that has been infringed;
- b. Identify the copyrighted work or works that you claim have been infringed;
- c. Identify the material that you claim is infringing or is the subject of infringing activity and that is to be removed (please include information reasonably sufficient to material);
- d. Provide your contact details, including an email address; and
- e. Provide a statement that the information you have provided is accurate and that you have a good-faith belief that use of the material in the manner complained of copyright owner, its agent or the law.

#### LINKS TO THIRD-PARTY SITES

The Site may enable access to third-party services and websites (collectively and individually, "Third-Party Services"). Use of the Third-Party Services may require access and for you to accept additional terms of service or use. Since third-party websites may have different privacy policies and/or security standards that govern the use of the Site, you are advised to review the privacy policies and terms and conditions of those third-party websites prior to providing any personal information. WithU does not warrant or assume and is not responsible or liable to you or any other person for any Third-Party Services, or for any other materials, products, or services of third-parties. Third-Party Services are provided solely as a convenience to you. By using the Third-Party Services, you acknowledge and agree that WithU is not responsible for examining or evaluating the completeness, timeliness, validity, compliance, legality, quality or any other aspect of such Third-Party Services.

You agree that the Third-Party Services may contain proprietary content, information, and material that is protected by applicable intellectual property and other laws, including copyright, and that you will not use such proprietary content, information or materials in any way whatsoever except for a permitted use under the applicable terms of use. No portion of the Third-Party Services may be reproduced in any form or by any means. You agree not to modify, rent, lease, loan, sell, distribute, publicly display, publicly perform, or create derivative works based on the Third-Party Services, in any manner, and you shall not exploit the Third-Party Services in any unauthorized way whatsoever.

In addition, Third-Party Services that may be accessed from, displayed on or linked to from smartphones or other mobile devices are not available in all languages or in all countries. WithU makes no representation that such Third-Party Services are appropriate or available for use in any particular location. To the extent you choose to access such Third-Party Services, you do so at your own risk and are solely responsible for compliance with all applicable laws. WithU reserves the right to change, suspend, remove, or disable access to any Third-Party Services at any time without notice or liability. In no event will WithU be liable for the removal of or disabling of access to any such Third-Party Services. WithU may also impose restrictions on access to certain Third-Party Services, in any case, and without notice or liability.

#### DISCLAIMER OF WARRANTIES

WITHU PROVIDES ITS SITE AND SERVICES "AS IS" AND "AS AVAILABLE" WITH ALL FAULTS AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. ADDITIONALLY, WITHU MAKES NO CLAIM OR GUARANTEE AS TO THE ACCURACY OF ANY INFORMATION PROVIDED OR SITE CONTENT.

#### LIMITATION OF LIABILITY

IN NO EVENT WILL WITHU OR ITS DIRECTORS, OFFICERS, OR REPRESENTATIVES BE LIABLE TO YOU OR TO ANY OTHER PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES ARISING FROM YOUR USE OF THE SITE OR SERVICES, EVEN IF WITHU IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### INDEMNIFICATION

You agree to indemnify, defend, and hold harmless WithU and its officers, directors and Representatives for damages, injuries, losses, liabilities, settlements and expenses (including reasonable attorneys' fees), arising in connection with any claim, suit, proceeding, or other action arising from your use of a Site or Services, your conduct in connection with a Site or Services, or your violation of these Terms of Use or of any law or the rights of any third party.

#### WAIVER OF CLASS ACTIONS, REPRESENTATIVE ACTIONS, JURY TRIAL

Class actions, other similar representative procedures and consolidation of claims are NOT available under these Terms of Use. **YOU UNDERSTAND AND AGREE THAT YOU MAY NOT SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, EITHER INDIVIDUALLY OR AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY PROCEEDING WITH RESPECT TO ANY DISPUTE (DEFINED BELOW) OR CLAIM.** You understand and agree that (a) you may not join your Dispute with others, (b) you must resolve your Dispute(s) separately, and (c) you will not assert and waive any claim or Dispute resolved by a jury trial.

#### ARBITRATION AGREEMENT:

**Please read this Arbitration Agreement carefully.** This Arbitration Agreement provides that all Disputes (defined below) between you and us must be resolved by arbitration. **UNDER THIS ARBITRATION AGREEMENT, YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT AND TO HAVE A JUDGE OR JURY RESOLVE YOUR DISPUTE.**

**YOU HAVE THE RIGHT TO REJECT THIS ARBITRATION AGREEMENT AND OPT OUT OF ARBITRATION, BUT IF YOU WISH TO REJECT THIS AGREEMENT, YOU MUST DO SO TIMELY AS PROVIDED BELOW.**

**How to Reject this Arbitration Agreement.** To reject this Arbitration Agreement, you must send us a written notice stating you reject this Arbitration Agreement. Your notice must include your name, your loan account number (or last 4 digits of your social security number) and address. Your notice must be mailed to WithU, 10600 S. Pennsylvania Ave., Suite 16 #828, Oklahoma City, Oklahoma 73170-4257 or emailed to [Legal@withuloans.com](mailto:Legal@withuloans.com). Your rejection notice must be postmarked and emailed on or before the "Arbitration Rejection Date," which is (a) 30 days after the date you applied for a loan, or, in the event you obtained a loan, (b) 30 days following the Loan Date set forth at the top of your Loan Agreement. Rejection notices that are sent to any other address or are communicated verbally or by any other means will not be considered a rejection of this Arbitration Agreement.



postmarked after the Arbitration Rejection Date will not be accepted or effective.

**What Happens If You Reject this Arbitration Agreement.** If you reject this Arbitration Agreement timely and as provided herein then:

- You will have **IRREVOCABLY AGREED** to the **EXCLUSIVE PERSONAL AND SUBJECT MATTER JURISDICTION** of the **SOUT PLAINS COURT OF INDIAN OFFENSES** in Oklahoma. For a copy of the Court Rules, please visit the Court of Indian Offenses website at <https://www.bia.gov/regional-offices/southern-plains/court-indian-offenses>;
- You will have **WAIVED ALL OBJECTIONS** to such jurisdiction and venue;
- You will have consented to have your Dispute heard on an **INDIVIDUAL BASIS** only; and
- You will have **WAIVED ANY RIGHT** to and **AGREED NOT TO** serve as a representative, as a private attorney general, or in any other representative capacity, and/or to participate as a member of a class of claimants in court or in arbitration, with respect to any claim or Dispute that is subject to arbitration.

**Definitions:** For purposes of dispute resolution and this Arbitration Agreement, the terms "**you**" and "**your**" include you as the borrower and your heirs, guardian, personal representative, trustee in bankruptcy; the terms "**we**," "**our**," and "**us**" mean WithU, WithU's agents, servicers, assigns, vendors and any third party, WithU's affiliated companies, the companies and their respective agents, representatives, employees, officers, directors, members, managers, attorneys, successors, predecessors, and assigns. Any claim, dispute or controversy of any kind or nature between you and us about or involving your loan, your loan account, any prior loans or accounts you held with us (collectively "**loan account**"), your current or future relationship with us (including future amendments) or any prior loan agreement with us (all of which collectively are a "**Loan Agreement**") or our relationship is referred to as a "**Dispute**". Disputes include, for example, claims or disputes arising from or relating in any way to: the interpretation, applicability, validity, arbitrability, enforceability, formation or scope of or this Arbitration Agreement; transactions between you and us; any interest, charges, or fees assessed on your loan; any service(s) or programs related to your loan; a default or non-payment related to your loan; a related to your loan; and any collection or credit reporting of your loan. Disputes also include claims or disputes arising from or relating in any way to advertising and solicitation for, application for, approval, or establishment of your loan. Disputes are subject to arbitration regardless of whether they are based on contract, tort, constitutional provision, statute, common law, equity or other source, and regardless of whether they seek legal, equitable and/or other remedies. All Disputes are subject to arbitration whether they are currently exist or may arise in the future. Arbitration will apply even if your loan is closed, sold or assigned; you pay us in full any outstanding debt you owe; or, to the extent not permitted by applicable bankruptcy law, you file for bankruptcy. If your loan is sold and/or assigned, we retain our right to elect arbitration of Disputes by you and you agree to elect arbitration of Disputes by us.

**Arbitration, generally:** When you submit a Dispute to arbitration:

- Your rights will be determined by a **neutral arbitrator** and not a **judge or a jury**.
- The procedures in arbitration are simpler and more limited than rules that are applied in court proceedings.
- Decisions by an arbitrator are subject to **very limited review by a court**.
- You agree that the most current version of the Arbitration Agreement (except for any updates you have rejected properly within the time and manner provided in the Arbitration Agreement) the date we receive your notice of Dispute will govern the Dispute.

**Law Governing:** This Arbitration Agreement is governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and the law applicable in arbitration is Applicable Law, as determined in Section 16 below.

**Clarification Regarding Governing Law:** As separately provided, the law applicable in arbitration is Applicable Law, which includes applicable federal law. This means that you are entitled to invoke the same body of federal law that you would have been entitled to invoke in litigation. In other words, proceeding in arbitration gives you access to the same federal remedies available in litigation.

**Application to Class Actions, Representative Actions and Waiver of Jury Trial:** Class actions, other similar representative procedures and consolidation of claims are not permitted under this Arbitration Agreement. **YOU MAY NOT SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL OR IN ANY OTHER REPRESENTATIVE CAPACITY, NOR MAY YOU PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN COURT OR IN ARBITRATION, WITH RESPECT TO ANY CLAIM THAT IS SUBJECT TO ARBITRATION.** Further, you may not join your Dispute with other persons in the arbitration; each person must arbitrate his or her Dispute separately. You also waive your right to have a court or jury trial resolve your Dispute.

**Informal Resolution:** You and we agree to attempt to first resolve any Dispute informally. You agree that you will notify us of your Dispute by sending an email to [Legal@withu.com](mailto:Legal@withu.com). Your email must include your name, your loan account number (or last 4 digits of your social security number), and address; describe the nature and basis of your Dispute; and state the amount of your Dispute. "Notice of Dispute" in the subject line. We will investigate your Dispute and let you know of our decision within 30 business days from the date we received your correspondence. If you do not accept our decision, then you may submit your Dispute to final and binding arbitration in the manner described in the section below (unless you have properly rejected this Arbitration Agreement in the time and manner provided above).

**Proceeding in Arbitration:** If the Dispute cannot be resolved informally, then you or we may file a claim for arbitration with the American Arbitration Association ("AAA") at [www.adr.org](http://www.adr.org). If the AAA is unable or declines to administer the Dispute, then you and we agree to select a substitute arbitration organization to administer the Dispute. If you and we cannot agree on a substitute arbitration organization, then either of us may petition the United States District Court for the Northern District of Oklahoma or the courts in Oklahoma sitting in Kay County to appoint the arbitration service provider, as permitted under 9 U.S.C. 5. (The AAA and any substitute arbitration service provider so designated here collectively are the "**Arbitration Organization**."). We will reimburse your filing fees, reasonable attorneys' fees and other costs of arbitration if you file a claim for Arbitration. If the Arbitration Organization notifies the parties that an arbitration demand has been filed, the responding party will have 14 days to file a response or counterclaim. After filing a response or counterclaim (if elected), no further claims or counterclaims may be made except on motion to the arbitrator. Any delay or failure to file a counterclaim or to appear at an arbitration from proceeding.

**Selecting the Arbitrator:** The Arbitration Organization will provide you and us with a list of at least three arbitrator candidates from the National Roster, which, in order to be acceptable as an arbitrator candidate, must (i) be either a retired judge or an attorney, (ii) have experience in contract matters, and (iii) to the extent practicable, have experience in the industry. You and we will select one arbitrator from that list of candidates. If you and we cannot agree on an arbitrator within 10 days, then you and we may select the arbitrator from a list of candidates provided by the Arbitration Organization.



Indian law. You and we will select one arbitrator from that list of candidates. If you and we cannot agree on an arbitrator within 10 days, then you or we may ask the court to appoint an arbitrator from the list of candidates. If the designated arbitrator becomes unable or unwilling to proceed, then you and we agree that a substitute arbitrator pursuant to the AAA Consumer Arbitration Rules.

**Preliminary Management Hearing; Discovery; Motions:** The Arbitration Organization will schedule a preliminary management hearing with the appointed arbitrator to establish a schedule and procedure for any law and motion proceedings to expedite arbitration. The preliminary management hearing will be conducted by conference call or internet. Discovery will be completed within 60 days of this preliminary management hearing and will consist exclusively of: (a) one set of interrogatories to each party (15) in number including subparts, and (b) loan account information and documents pertaining to credit that you sought or obtained from us. Subject to Principle 13 of the Due Process Protocol, any other forms of discovery will be allowed only upon a showing of good cause to the arbitrator. The arbitrator will honor claims of privilege and will take appropriate steps to protect confidential or proprietary information. The arbitrator may decide any motion that is substantially similar to a motion to dismiss for failure to state a claim or a motion for summary judgment.

**Administration and Procedures; Award; Fees:** The AAA Consumer Arbitration Rules, available at [www.adr.org/Rules](http://www.adr.org/Rules), will be used to administer the arbitration, and you agree that the Dispute will be arbitrated solely through submission of documents in accordance with the AAA Procedures for the Resolution of Disputes Through Document Exchange or in-person or telephonic hearing. If the arbitrator decides that an in-person hearing is necessary, however, then the arbitration will be conducted on Tribal land or within your then-current residence, at your choice, provided that this accommodation for you shall not be construed in any way (a) to relinquish or waive the sovereign status of the Tribe, (b) to relinquish or waive the sovereign status of the WithU or expand the scope of the limited waiver provided by WithU below in the paragraphs entitled "Enforcement of Award," (c) to constitute a transaction of business in any place other than the Indian country of the Tribe. The arbitrator is bound by the terms of this Arbitration Agreement. He or she will apply the Applicable Law, the terms of the Loan Agreement and this Arbitration Agreement. If the AAA's rules or procedures are different than the terms of this Arbitration Agreement, this Arbitration Agreement will control. You and we agree that the arbitrator will issue a concise written award, in accordance with the timing requirements under the AAA Rules. The decision and award shall have no precedential or collateral estoppel effect. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of attorneys' fees and expenses at any time during the proceeding and upon request from you or us within 14 days of the arbitrator's ruling on the merits. The right to attorneys' fees and expenses does not supplement any right to attorneys' fees and expenses you may have under Applicable Law, but you may not recover duplicative awards of attorneys' fees or costs. If you do not have a right to an award of attorneys' fees and expenses, we will not seek such an award.

**Appeal:** You or we can file a written appeal to the Arbitration Organization within 30 days after an award is issued by filing a notice of appeal with any AAA office, which is administered by the Arbitration Organization pursuant to AAA's Consumer Appellate Arbitration Policy, available [here](http://www.adr.org/sites/default/files/document_repository/Consumer%20Appellate%20Arbitration%20Policy%200.pdf) and at [www.adr.org/sites/default/files/document\\_repository/Consumer Appellate Arbitration Policy 0.pdf](http://www.adr.org/sites/default/files/document_repository/Consumer Appellate Arbitration Policy 0.pdf). Any review by a court shall be governed by Sections 10 and 11 of the Federal Arbitration Act.

**Enforcement of Award:** Any final arbitration award will be binding on the named parties and judgment on the arbitration award may be entered in, and be enforceable in, the United States District Court for the Northern District of Oklahoma or if such federal court fails to find jurisdiction then in the courts of the state of Oklahoma sitting in Kay County, or in any other court having jurisdiction thereof. WithU grants a limited waiver of its sovereign immunity which is limited to (i) arbitration of a Dispute only in accordance with and subject to the terms of this Arbitration Agreement, and (ii) enforcing a final award issued in such arbitration in the United States District Court for the Northern District of Oklahoma or if such federal court fails to find jurisdiction then in the courts of the state of Oklahoma sitting in Kay County, and appellate courts thereof. This limited waiver is made by WithU to you only, does not include a waiver (express or implied) to any other person, and does not waive the sovereign immunity of the Tribe or any of the Tribe's other entities.

**Severability:** The provisions of this Arbitration Agreement will, where possible, be interpreted to sustain its legality and enforceability. If any provision of these Terms of Use is held by a court of competent jurisdiction to be unenforceable, then the arbitrator may sever and/or reform any such provision to make it enforceable. The arbitrator may also reform the clause requiring for Disputes to be heard on an individual basis or the waiver of the right to participate in any class or collective action against us.

## MISCELLANEOUS

**Choice of Law; Jurisdiction and Venue:** These Terms of Use shall be governed by Tribal Law and applicable federal law (collectively "**Applicable Law**"). The term "Applicable Law" includes any law, ordinance or regulation duly enacted by the Tribe or the Otoe-Missouria Consumer Finance Services Commission.

**Severability:** If any provision of these Terms of Use is held by a court of competent jurisdiction to be unenforceable for any reason, such provision shall be changed and the remaining provisions of these Terms of Use shall remain in full force and effect.

**Acknowledgement:** You represent and warrant that when you access and use a Site or the Services, all information you provide to us will be complete and accurate, and you understand that your access and use of a Site and the Services occurs in Indian country within the Tribe's reservation in Red Rock, Oklahoma. You further acknowledge that any claims or defenses whatsoever asserted by or on behalf of you will be subject to the dispute resolution process and jurisdiction agreed to in these Terms of Use.

**Waiver:** WithU's failure or delay in exercising any right, power, or remedy under these Terms of Use shall not operate as a waiver of any such right, power, or remedy.

## CONTACTING US

If you have questions, comments, or complaints regarding these Terms of Use, a Site, or Services, you may call (866) 404-0674, email us at [Compliance@withu.com](mailto:Compliance@withu.com), or write to WithU, 10600 S. Pennsylvania Ave., Suite 16 #828, Oklahoma City, Oklahoma 73170-4257, Attention: Legal Department.