

ONLINE BANKING AGREEMENT AND DISCLOSURE STATEMENT

This Agreement is entered into between Merchants Bank, National Association, 102 E 3rd St, Winona, MN 55987 (hereinafter referred to as the "Bank", "we", "us", and "our") and any customer of the Bank who subscribes to the Online Banking account access and/or bill payment service (the "Online Banking Service") offered by the Bank to its customers. The customer is referred to in this Agreement as "you" or "your." You should read this Agreement and any other materials you received before you use the Online Banking Service. These terms and conditions are in addition to those that apply to any accounts you have with us or any other services you obtain from us. If you use the Online Banking Service, or permit another to use the Online Banking Service on your behalf, you agree to all of the terms and conditions stated in this Agreement.

1. Description of Internet Features. The Online Banking Service will enable you or an authorized person to communicate with the Bank on your behalf through the Internet and:
 - Obtain account information, balances and transaction detail
 - Transfer funds between your Bank accounts
 - Initiate wire transfers
 - Originate Automated Clearing House ("ACH") transactions
 - Send electronic mail ("E-Mail") to the Bank and receive E-Mail from the Bank
 - Execute stop payment orders
 - Perform other banking functions as we authorize

Prior to processing any wire transfers or ACH items, you should read the Bank's Electronic Funds Transfer Policy made available to you in paper or on the Bank's website. By signing the enrollment form, you agree to accept the terms of that policy.

2. Computer, Related Equipment and Software. The installation, maintenance, operation and use of the computer, related equipment (for example, modem, telephone and other telecommunications equipment) and software (including any browser software provided to you) you use for the Online Banking Service are your responsibility.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT OR TO THE EXTENT APPLICABLE LAW REQUIRES A DIFFERENT STANDARD, WE WILL NOT BE RESPONSIBLE FOR ANY LIABILITY, LOSS, INJURY OR DAMAGE (WHETHER DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE) IN ANY WAY ARISING OUT OF (A) ANY ERROR IN THE INSTALLATION, MAINTENANCE, OPERATION OR USE, OR ANY CONFIGURATION PROBLEM OR INCOMPATIBILITY, OF THE COMPUTER, RELATED EQUIPMENT OR SOFTWARE, (B) ANY FAILURE OR MALFUNCTION OF THE COMPUTER, RELATED EQUIPMENT OR SOFTWARE, (C) ANY FAILURE OR MALFUNCTION OF, OR ANY COMPROMISE OF DATA SENT USING, ANY TELEPHONE, INTERNET ACCESS OR OTHER SERVICE YOU USE TO CONNECT TO THE ONLINE BANKING SERVICE, (D) ANY VIRUS OR SIMILAR PROBLEM RESULTING FROM THE USE OF THE ONLINE BANKING SERVICE OR (E) PROVIDING YOU ANY NOTICE OF ANY UPGRADE, FIX OR ENHANCEMENT OF ANY BROWSER SOFTWARE PROVIDED TO YOU. WE DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY CONCERNING ANY BROWSER SOFTWARE PROVIDED TO YOU (FOR EXAMPLE, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).

3. Access to Your Accounts with Online Banking; User Identification. To subscribe to the Online Banking Service, you must have at least one account with the Bank. In most cases, you may use the Online Banking Service to gain access to deposit accounts in which you have an unrestricted right to withdraw funds and line of credit accounts in

which you have an unrestricted right to borrow money. However, the Bank may, in its sole discretion, deny Internet account access or restrict Internet account transactions. Your User ID will be used to initiate orders described in Sections 4 and 5 through the Bank's Online Banking Service. A User ID and Password will be required for use with Online Banking Service. The Bank will assign the User ID to you. The Bank will also assign to you an initial password, but you will be required to choose a new permanent password for use with the Online Banking Service. You must not allow anyone else to have your User ID and password unless you authorize him or her to use your User ID and password to initiate orders described in Sections 4 and 5 through the Online Banking Service. You must keep your password confidential and in a secure location separate from the computer, related equipment and software you use for the Online Banking Service. For reasons of security, the Bank or its third party bill payment processor can cancel the effectiveness of any of your User ID's at any time without giving you any notice that the cancellation is going to occur.

THE BANK SHALL HAVE NO LIABILITY FOR RESULTING DAMAGES WHEN YOUR USER ID AND PASSWORD HAVE BEEN USED TO ACCESS THE ONLINE BANKING SERVICE. YOU WILL BE RESPONSIBLE FOR EACH TRANSACTION ORDERED BY ANY ORDER DESCRIBED IN THIS AGREEMENT THAT IS GIVEN THROUGH THE ONLINE BANKING SERVICE BY YOU OR ANYONE ELSE YOU ALLOW TO HAVE ACCESS TO YOUR USER ID OR PASSWORD OR TO USE THE ONLINE BANKING SERVICE IN ANY WAY.

You are responsible for safekeeping your password. You may change your password at any time by clicking on "Edit Preferences." For security purposes, the system will automatically prompt you to change your password if you have not changed it in 90 days. You should carefully select a password that is hard to guess. (We suggest that you stay away from names, dates, words that can be found in the dictionary, and other information that may be easily guessed.) For your protection, the Online Banking System will require you to use both letters and number in your password. You agree not to disclose or otherwise make your password available to anyone not authorized to sign on your accounts.

In order to ensure the security of your records, we will end your online session if we have detected no activity for a period of time. This is to protect you in case you accidentally leave your computer unattended while you are logged on. When you return to your computer, simply re-enter your user ID and password and continue your session.

At certain times, the Online Banking Service may not be available due to system maintenance or circumstances beyond our control. During these times, you may use our telephone banking service, an automated teller machine (ATM) or one of our offices to obtain information about your accounts.

4. Use of the Online Banking Service. Subject to the provisions of this Agreement, the Online Banking Service can be used to give (a) an order to us to make a transfer of funds from any of your deposit accounts to any other of your deposit accounts or any of your loan accounts as long as your application designates the account from which the transfer is to be made as an account from which transfers can be made and designates the account to which the transfer is to be made as an account to which transfers can be made, (b) an order to the Bank to make a transfer of funds from any of your line of credit accounts to any of your deposit accounts or any other of your loan accounts as long as your application designates the account from which the transfer is to be made as an account from which transfers can be made and designates the account to which the transfer is to be made as an account to which transfers can be made and (c) a request to us for available information concerning any of your deposit accounts and transactions involving any of your deposit accounts.

5. Use of Electronic Bill Payment. If you choose to use the Bank's electronic bill payment service ("Bill Payment"), you will designate a checking account to be used for each Bill Payment transaction ("Payment Account"). While most payments can be made with electronic bill payment, the Bank reserves the right to refuse to pay certain payees. You may use Bill Payment to authorize automatic recurring payments in order to pay recurring bills. These payments must be for the same amount each month and they will be paid on the same calendar day of each month, or on the following business day if the regular payment day falls on a weekend or holiday.

When you have entered and transmitted a payment instruction, you authorize the Bank to reduce the Payment Account accordingly. If there are insufficient funds in the Payment Account to make payments you have authorized, the Bank may either refuse to pay the item or it may make the payment and thereby overdraw the Payment Account. In either event, you are responsible for any non-sufficient funds ("NSF") or overdraft charges the Bank may impose, as stated in the Deposit Agreements for your accounts. If you have overdraft protection on the Payment Account, an advance on that line will occur to cover the authorized payment. The Bank reserves the right to refuse to honor payment requests that reasonably appear to the Bank to be fraudulent or erroneous.

6. Limitations Applicable to Transactions. The following limitations apply to transactions ordered by orders described in Sections 6 and 7 that are given through the Online Banking Service:
 - (a) No transfer of funds from any of your deposit accounts can be ordered through the Online Banking Service and no payment from your Payment Account can be ordered through Bill Payment if you do not have an unrestricted right to withdraw funds from the account (for example, if 2 or more persons are required to sign a check written on the account or a withdrawal form for the account).
 - (b) Any transfer of funds from any of your deposit accounts ordered through the Online Banking Service and any payment from your Payment Account ordered through Bill Payment will be subject to the funds being available for withdrawal from the account when the order to the Bank ordering the transfer or payment is to be charged against the account. Any transfer of funds from any of your line of credit accounts ordered through the Online Banking Service will be subject to the funds being available as credit under the account when the order to us ordering the transfer is to be charged against the account.
 - (c) When any order to us to make a transfer of funds from any of your deposit accounts given through the Online Banking Service or any order to us to make a payment from your Payment Account given through Bill Payment, if the amount of the transfer or payment exceeds the amount of money available for withdrawal from the account (taking into account, if the account is tied to a line of credit account with us, the amount of credit available under the line of credit account), the Bank can either (i) make the transfer or payment, in which case you will be liable for the excess, or (ii) refuse to make the transfer or payment. In either case, you will be liable for any fee applicable to the withdrawal or attempted withdrawal of money from the account in excess of the amount of money available for withdrawal from the account.
 - (d) When any order to us to make a transfer of funds from any of your line of credit accounts is given through the Online Banking Service, if the amount of the transfer exceeds the amount of credit available under the account, the Bank can either (i) make the transfer, in which case the amount of the transfer will be considered to be credit extended under the account, or (ii) refuse to make the transfer. In either case, you will be liable for any fee applicable to the obtaining of the credit or attempted obtaining of credit in excess of the amount of credit available under the account. The features of the Online Banking Service are limited by and subject to certain terms and conditions. You must have enough

money or credit available in the account(s) from which you direct us to make a transfer or payment. Your ability to transfer funds between certain accounts is limited by federal law, as stated in your deposit agreements with the Bank. Each transfer made from a loan account is treated as a cash advance from that account and is subject to the terms of your loan agreements with the Bank.

- (e) For reasons of security, the Bank can at any time and without giving you any notice that we are going to do so refuse to honor any order to us to make a transfer of funds from any of your deposit accounts or any of your line of credit accounts given through the Online Banking Service or any order to us to make a payment from your payment account given through Bill Payment. For example, we can do so if, for reasons of security, we believe that it is advisable to limit the dollar amount or frequency of transfers of funds from any of your deposit accounts ordered through the Online Banking Service or payments from your payment account ordered through Bill Payment.
- (f) The payee of any payment from your Payment Account ordered through Bill Payment (i) must be located in the United States, (ii) cannot be a governmental entity and (iii) cannot be a party that we regard as ineligible for payment through Bill Payment. Further, no payment from your payment account can be ordered through Bill Payment in an amount greater than our currently established transaction limits for these transactions.
- (g) You will be responsible for giving any order to the Bank to make a payment from your Payment Account through Bill Payment in sufficient time for the order to be processed and the payment to be sent so that it is received by the payee of the payment by the date it is to become due without taking into account any grace period provided by the payee, and you will be responsible for any consequence of your not doing so (for example, any finance or late charge resulting from the payment being made late). If the payment is to be made by an electronic transfer of funds to the payee, up to 7 business days will be necessary to allow for processing of the order so that the payment is received by the payee by the date it is to become due. If the payment is to be made by the preparation and sending to the payee of a check, up to 7 business days will be necessary to allow for the processing of the order so that the payment is received by the payee by the date it is to become due.
- (h) You can cancel a payment done through the Bill Payment (if, for example, a payment date or amount is incorrect) by transmitting a request in the manner described in your software at least five (5) business days before the payment is scheduled to be made. If your request to cancel a payment is not received at least five (5) business days before the payment is to be made, you are responsible for the payment. To stop a recurring payment done through Bill Payment, you should follow the procedures to cancel a payment above. If it is too late to cancel the next automatic recurring payment, you should contact the Bank immediately to stop payment. The Bank must receive your request at least three (3) business days before the next payment is scheduled to be made.
- (i) An electronic stop payment order (an "Order") must include all of the following information regarding the account debit, including but not limited to checks, ACH debit or draft, for which payment is being stopped: (a) account number, (b) exact amount, (c) date, (d) check number (not needed for ACH), (e) payee(s) and (f) the reason for the stop payment. The Order will not be binding on the Bank if any of this information is missing or inaccurate. Stop payment Orders will be effective immediately if received by 3:00 p.m., Monday through Friday, excluding holidays. A stop payment Order will remain in effect for six (6) months after receipt. Written confirmation will be sent to you, which we ask you to verify for accuracy, sign and return. Prior to accepting or issuing an Order, the Bank will verify that the check or debit has not already been paid.

7. Virus Protection. The Bank is not responsible for any electronic virus or viruses that you

may encounter. We encourage our customers to routinely scan their PC and diskettes using a reliable virus product to detect and remove any viruses. Undetected or unrepaired viruses may corrupt and destroy your programs, files and even your hardware. Additionally, you may unintentionally transmit the virus to other computers.

8. Authorization and Appointment of Agent; Actions without Signature. You authorize the Bank and appoint the Bank as your agent to take on your behalf any action we believe necessary or appropriate to implement any order described in Section 4 or 5 that is given through the Online Banking Service. For example, you authorize the Bank and appoint the Bank as your agent to on your behalf (a) withdraw money from any of your deposit accounts and deposit the money in any other of your deposit accounts in order to implement any order to the Bank to transfer funds from the first account to the other account given through the Online Banking Service, (b) withdraw money from any of your deposit accounts and use the money to make any payment under any of your loan accounts in order to implement any order to the Bank to transfer funds from the deposit account to the loan account given through the Online Banking Service, (c) obtain credit under any of your line of credit accounts and deposit the proceeds of the credit in any of your deposit accounts in order to implement any order to the Bank to transfer funds from the line of credit account to the deposit account given through the Online Banking Service, (d) obtain credit under any of your line of credit accounts and use the proceeds of the credit to make any payment under any other of your loan accounts in order to implement any order to the Bank to transfer funds from the line of credit account to the other loan account given through the Online Banking Service and (e) withdraw money from your payment account in order to implement any order to the Bank to make a payment from your payment account given through Bill Payment. The Bank's withdrawal of money from any of your deposit accounts or our obtaining of credit under any of your line of credit accounts under the authority given and the appointment as your agent made in the first sentence of this section will be as effective as though you had signed a check or withdrawal form to make the withdrawal or to obtain the credit. In addition, you authorize the Bank's third party bill payment processor and appoint it as your agent to take on your behalf any action it believes necessary or appropriate to implement any order described in Section 5 given through Bill Payment.

WHEN ANY PAYMENT OR OTHER ON-LINE SERVICE GENERATES ITEMS TO BE CHARGED TO YOUR ACCOUNT, YOU AGREE THAT WE MAY DEBIT THE DESIGNATED ACCOUNT WITHOUT REQUIRING YOUR SIGNATURE ON THE ITEM AND WITHOUT ANY NOTICE TO YOU.

9. Business Days and Hours of Operation. The business days for the Bank are normally Monday through Friday. Holidays are not business days. Online Banking Service is generally available 24 hours a day, 7 days a week, except during any special maintenance periods. However, we only process transactions and update information on business days. Transfers made after the cutoff time disclosed in the Online Banking System following your transaction will be processed on the next business day.
10. Statements. The Bank will mail or deliver to you periodic statements for your bank accounts with the regularity provided for in the Deposit Agreements and Loan Agreements. In addition to reflecting your other account activity, your statements will include any transfers or bill payments you authorize using Online Banking.
11. Bank's Responsibility. The Bank is responsible for completing transfers, bill payments, and other transactions performed with the Online Banking Service on time according to your properly entered and transmitted instructions. There are exceptions. These shall include, but are not limited to the following. The Bank will not be liable:
 - If, through no fault of ours, you do not have adequate money in a deposit account to complete a transaction from that account, or if the account has been closed or

is not in good standing, or if we reverse a payment or transfer because of insufficient funds;

- If you do not have an adequate credit limit in a credit account to complete a transaction from that account, or if that account has been frozen or closed;
- If you have not properly followed software or Online Banking instructions on how to make a transfer or bill payment;
- If you provide us with wrong or inaccurate information or fail to correct or tell us about any inaccuracy of which you are aware;
- If you have not given the Bank complete, correct and current account numbers or instructions so that the Bank can make a transfer or bill payment;
- If you do not authorize a bill payment soon enough for your payment to be received and credited by the payee by the time it is due;
- If the Bank makes a timely bill payment but the payee nevertheless does not credit your payment promptly after receipt;
- If the withdrawals from the account from which a payment or transfer is to be made have been prohibited by a court order, such as a garnishment or other legal process;
- If your equipment or the Banks, the software, the web browser, the ISP or Online Banking was not working properly and this problem should have been apparent to you when you attempted to authorize a transfer or payment; or
- If circumstances or persons beyond the Bank's control (including, but not limited to, a fire, flood, failure or function of equipment or delay or loss of mail by the postal service) prevent, delay, intercept or alter the transaction, despite reasonable precautions that we have taken.
- If the Bank in good faith believes when it processes an order or is to charge a transaction to your account that the order was given without your authorization or is fraudulent.
- If the Bank's failure to make a transfer or payment is justified by any provision of this Agreement or any other Agreement regarding your Deposit Accounts or Loan Accounts or by applicable law.
- If the transaction is not in accordance with any term or condition applicable to the relevant Online Banking Service or your account.
- If the transaction would result in the bank exceeding any limitation of our intra-day net funds positions established pursuant to present or future Federal Reserve guidelines.
- If the transaction would violate any applicable provision or any risk control program of the Federal Reserve or any applicable rule or regulation of any other federal or state regulatory authority.
- If the transaction is not in accordance with any other requirement of our applicable policies, procedures or practices.
- If we have reasonable cause not to honor the transaction for the bank's or your protection.

12. **Bank's Liability.** Our liability to you is explained in any agreements, notices, and disclosures that we separately provide to you from time to time regarding your accounts and online financial services. This section explains our liability to you only to the extent that our liability has not been separately disclosed to you by any of these agreements, notices or disclosures. Under no circumstances will we have any liability to you for failing to provide you access to your accounts or the Online Banking Service. Furthermore, unless otherwise required by applicable law, we will only be responsible for performing the Online Banking Service as expressly stated in this Agreement, and will only be liable for material losses incurred by you to the extent such losses directly result from our gross negligence or intentional misconduct in performing the Online Banking Service.

IN NO EVENT WILL THE BANK HAVE LIABILITY FOR ANY CONSEQUENTIAL,

SPECIAL, PUNITIVE OR INDIRECT LOSS OR DAMAGE WHETHER OR NOT ANY CLAIM FOR SUCH DAMAGES IS BASED ON TORT OR CONTRACT OR WE KNEW OR SHOULD HAVE KNOWN THE LIKELIHOOD OF SUCH DAMAGES IN ANY CIRCUMSTANCES.

Except to the extent that we are liable under the terms of this Agreement or an agreement that otherwise governs your accounts with us, you agree to indemnify and hold us, our directors, officers, employees and agents harmless from all loss, liability, claims, demands, judgements, and expenses arising out of or in any way connected with an account accessed or transaction performed using the Online Banking Service. This indemnification is provided without regard to whether our claim for indemnification is due to the use of the Online Banking Service by you or your authorized representative.

13. Disclosure of Account Information. In order to offer you the Online Banking Service, the Bank may disclose account information to third parties. The Bank has entered into an agreement to have another party provide the Online Banking Service. The Bank will provide this party with information about your Internet designated accounts, your Online Banking transactions and your E-Mail messages in order to carry out your instructions.

The Bank may also disclose information where it is necessary for completing transfers and bill payments, to verify the existence and condition of a Payment Account for a payee or holder of a check done with Bill Payment, or to comply with laws, government agency rules or orders, court order, subpoenas or other legal process. The Bank may be required to disclose information in order to give information to any government agency or official having legal authority to request such information.

At the Bank's discretion, the Bank may disclose to affiliated companies, information about your accounts and transactions you have made to or from your accounts. The Bank will disclose account information to any parties where you have given us your written permission. This section does not limit, alter or amend the Bank's information handling practices and Privacy Policy as provided in this website.

By requesting the Online Banking Service, you agree that the Bank may disclose your account information with third parties as described above. You understand that the service will not be provided if you do not agree to the information sharing practice described above.

14. Fees. This Agreement shall be governed by the schedule of charges and fees which the Bank adopts from time to time relating to any services performed under this Agreement. Such charges and fees shall include any special or extraordinary expenses of initiating and maintaining any unique procedures which are agreed upon by us. The Bank is authorized to debit your checking account or any of your other accounts for charges and fees, including activity, deposit, transfer, handling service and maintenance fees, which the Bank has adopted or may adopt in the future in connection with any services to be provided under this Agreement. The Bank may also charge any of your accounts for amounts which are owed to the Bank under this Agreement.
15. Amendment of this Agreement. The Bank may amend this Agreement by notifying you at least twenty-one (21) days before the effective date of the amendment. The Online Banking Service and your designated accounts will be governed by the Agreement as amended.
16. Assignment. The Bank may assign its rights and delegate its duties under this Agreement to a company affiliated with the Bank or to any other party.
17. Termination. Either you or the Bank may terminate this Agreement and your Online

Banking Service and Bill Payment at any time upon giving written notice of the termination to the other party. If you terminate Online Banking Service and/or Bill Payment, you authorize the Bank to continue making transfers and bill payments you have previously authorized and continue to charge monthly fees until such time as the Bank has had the reasonable opportunity to act upon your termination notice. Once the Bank has acted upon your termination notice, the Bank will make no further transfers or payments from your accounts, including any transfers or payments you have previously authorized. If the Bank terminates your use of Online Banking Service, the Bank reserves the right to make no further transfers or payments from your accounts, including any transfers or payments you have previously authorized. If the Online Banking Service is terminated by either party, the Bank is not liable for any losses related to payments not made as a result of termination, for example, recurring payments that are not made.

18. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota, including without limitation, Article 4A of the Uniform Commercial Code, applicable operating circulars of any Federal Reserve Bank, any applicable federal laws and regulations, and the operating rules and regulations, if applicable, of the National Automated Clearing House Association ("NACHA"). You irrevocably submit to the jurisdiction of any state or federal court sitting in the State of Minnesota and agree that in any action brought under this Online Banking Agreement, venue shall be placed in the county or district where we maintain our business offices.
19. **Notices.** Unless otherwise provided, all correspondence and notices shall be sent to the parties at the addresses indicated in our records.