

Farmers & Merchants State Bank

ONLINE BANKING AGREEMENT AND DISCLOSURES

Coverage

This Agreement applies to your use of Farmers & Merchants State Bank's Online Banking, which permits you to access your accounts with us via the Internet for services selected by you and agreed upon by us. This Agreement applies to all persons that are parties to the accounts. In this Agreement, the terms "you" and "your" refer to each depositor on an account accessible by Online Banking, and the terms "us", "we", and "our" refer to the bank.

Enrollment

To establish Online Banking you will need to register and complete the Enroll required information. Assistance with first time user registration is available from customer services or any of our universal bankers by calling (920)-478-2181. By clicking on the "I Agree" button when terms & conditions are displayed, you are consenting to the acceptance of this Agreement.

Equipment/Access Requirements

- 1) Personal Computer or Mac with printer or download capabilities to keep copies for your records;
- 2) We support most common operating systems capable of using Browsers listed below. (Notable exceptions are Windows XP and Windows Vista which are not capable of supporting internet explorer 11.0 or greater).
- 3) You will need a browser such as; Google Chrome™ (Version 44.0 or greater), Microsoft Edge (any version), Apple Safari® (Version 9.0 or greater), Mozilla Firefox® (Version 44.0 or greater), or Opera™ (Version 30 or greater).
- 4) You will need the ability to view .PDF documents, by utilizing a pdf reader software such as; adobe;
- 5) You need authorized Farmers & Merchants State Bank Online Banking Access.

Farmers & Merchants State Bank will notify you if any of these requirements become obsolete or change.

Your Responsibility

You are responsible for selecting all systems, hardware, and your Internet Service provider and for any defect, malfunction, or interruption in service or security due to hardware failure, your choice of Internet Service provider, and systems and computer services.

Access Codes

The first time you log in to Online Banking, you will be required to change your User Name and your Password. When logging into Online Banking on your computer, you may receive a message (text or voice) on your phone with an 8 digit code. You will be asked to enter this code to complete the login process. Your Password has the same effect as your signature authorizing transactions. You agree to safely keep the Password, not to record the Password, or otherwise disclose or make the Password available to anyone other than authorized users of your accounts. Anyone to whom you disclose your Password and anyone who has access to your Password will have full access to the services you can perform on Online Banking, including full access to your accounts. You have no ability to limit any such person's authority. If anyone uses your password with your permission, you will be responsible for any transactions performed by that person.

If you fail to log in three consecutive times to Online Banking, the system will lock you out. If you are locked out of on-line banking, your access to the system will be disabled. Call Farmers & Merchants State Bank at (920) 478-3007 and we will reset your record and issue a temporary password. You will be instructed to change the temporary password once initial log in is completed.

Limitation of Liability

Farmers & Merchants State Bank is not responsible for any mistake or loss resulting from the disclosure of your User Code and Password. Any transaction performed through Online Banking by any person authorized to have access to your accounts is legally binding upon you to the same extent that such transaction could have been performed by you in person, by mail, telephone, or other communication to the bank. In addition, Farmers & Merchants State Bank is not responsible for transactions which occur between your accounts under the following examples:

- If, through no fault of our own, you do not have sufficient funds to complete the transfer.
- If your funds are subject to legal process or other restriction at any time prior to the transaction.
- If circumstances beyond our control prevent the accurate completion of your transaction.

Indemnification

Notwithstanding any other provision contained herein, you agree to indemnify, defend and hold us harmless from and against any claims, losses, liability, cost and expenses (including reasonable attorneys fees) arising from your use of the on-line banking service. This obligation survives the termination of this Exhibit and the agreement.

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Contact in Event of Unauthorized Transfer

If you believe your Password has been lost or stolen or that someone has transferred or may transfer money from your account without your permission, call us at (920) 478-3007 or write us at Farmers & Merchants State Bank, Post Office Box 96, Waterloo WI 53594.

Business Days

Our business days are Monday through Friday 7:30am to 6:00pm except for bank and/or federal holidays. We can process a funds transfer on the same business day as your instructions, if we receive your instructions before our Online Banking cut-off hour of 6:00 p.m. on a business day. If we receive your instruction after the end of our business day, we process the transaction on our next business day. If you schedule a funds transfer for a future date, we process the transaction after the close of business on that date, if that day is a business day. If the date you request for a future transfer is not a business day, we process the transaction on our next business day. If you schedule a recurring funds transfer and the payment date does not exist in a month, the payment will be processed on the last business day of that month.

Functions

Using your User Name, Password and Online Banking, you can perform the following functions:

- a) View account information
- b) Transfer funds among your deposit accounts
- c) Make payments out of deposit accounts to your loan accounts
- d) Export account activity to Quicken, Quickbooks, or Microsoft Money
- e) Bill Payment

Canceling Funds Transfers

Canceling an order. You may cancel or change a pending funds transfer by selecting and accurately completing the appropriate fields from the payment menu. Any instruction to cancel or change a transfer must be received prior to the cutoff time on the day the transaction is to be processed. If we don't receive your complete and accurate instruction identifying a funds transfer prior to that time, we may process the transaction.

Preauthorized Transfers. If you tell us in advance to make a regular payment at a regular time out of your account without further action by you (a preauthorized transfer), you can stop these payments either by following the procedure in the preceding paragraph, or you can call us at (920) 478-2181 or write us at Farmers & Merchants State Bank, Post

Office Box 96, Waterloo, WI 53594. We must receive your request three business days or more before the payment is scheduled to be made. If you call, we may also require that you to submit your request in writing in a form approved by us and get the form to us within 14 days after you call. We will require that you tell us the exact amount of the debit, the next date the debit is to be made, and the exact name of the payee. If you stop payment of such a preauthorized transfer in accordance with the terms of this Agreement, we will stop the next and all subsequent preauthorized payments to that payee. We are unable to stop payments made with your Debit Card.

Liability for Failure to Stop a Preauthorized Transfer. If you order us to stop a preauthorized transfer three business days or more before the transfer is scheduled, and the stop payment order is made according to the terms and conditions of the account and this Agreement, including the requirement that you give us the exact amount of the debit, the next date of the debit, and the exact name of the payee, and we do not do so, we will be liable for your losses or damages proximately caused by our failure.

Charges For Stopping Payment. If you submit an oral or written stop payment request for a preauthorized payment, we will charge you for each such stop payment order; the charge for stopping payment is identified in our current fee schedule as may be amended from time to time. If you cancel or change any pending funds transfer by completing the appropriate fields from the payment menu, there will be no charge.

Our Rights. If we fail to cancel or stop any funds transfer, the payment will stand unless you show us that payment to the payee was unenforceable. If we recredit your account after transferring funds over a valid and timely cancellation request, you agree to sign a statement describing the dispute with the payee, to transfer to us all of your rights against the payee, and to assist us in any legal action taken against that person.

Overdrafts

When you schedule a funds transfer using Online Banking, you authorize us to withdraw the necessary funds from your account with us. We deduct the amount of your funds transfer from your account on the date we process your instruction. Each instruction to us to withdraw or transfer from an account is an order to us to pay from that account at that time or on a later date, if any, indicated in the instruction. We may charge payments against the account even though the charge creates an overdraft, or we may refuse to make payments if the charge creates an overdraft. If you overdraw your account, you agree to immediately pay us the overdrawn amount, together with any applicable fees. If the account is maintained in connection with an overdraft line of credit, any overdraft will be made in accordance with the agreement or rules governing that account rather than this Agreement.

Limitations on Transfers

Under federal regulations, you may make no more than six preauthorized electronic fund transfers and telephone transfers, including Online Banking transactions, checks, and point-of-sale transactions per month from your savings or money market deposit account. Each fund transfer through Online Banking from your savings or money market deposit account is counted as one of the six limited transfers you are permitted each month. However, payments to your loan accounts with us are not counted toward this limit for savings and money market deposit accounts and all transactions made in person or at an ATM.

Fees

No fees are assessed for using Online Banking.

Periodic Statements

Your Online Banking account activity will appear on your periodic statement.

Our Liability For Failure to Make Transfers

If you have given us all of the proper and timely instructions and have properly completed all fields to complete a transfer, and we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, subject to the limitations contained in this Agreement, we will be liable for your losses or damages proximately caused by our failure.

However, there are some exceptions. We will not be liable, for instance:

- If, through no fault of ours, your account does not contain sufficient collected funds to make the transfer.
- If the money in your account is subject to legal process or other encumbrances restricting the transfer.

- If the transfer would go over the credit limit on your overdraft line of credit, if any.
- If a transfer system was not working properly and you knew about the breakdown when you started the transfer.
- If an act of God or circumstances beyond our control (such as fire or flood) prevent the transfer or use of Online Banking despite reasonable precautions that we have taken.
- If incomplete or inaccurate information is forwarded to us by you or through an automated clearinghouse.
- If you have not properly followed the instructions for using Online Banking.
- If your operating system is not properly installed or functioning properly.
- For errors or failures from any malfunctions of your browser, internet service provider, computer, computer virus, or other problems relating to the computer equipment you use with Online Banking, including, without limitation, your inability to access Online Banking or any part of Online Banking.
- For a failure to provide access or for interruptions in access to Online Banking due to Online Banking system failure.
- NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, UNLESS OTHERWISE PROHIBITED BY LAW, OUR SOLE RESPONSIBILITY FOR AN ERROR BY US OR OUR THIRD PARTY PROVIDER IN TRANSFERRING FUNDS WILL BE TO CORRECT THE ERROR, BUT IN NO CASE WILL THE BANK BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR IN ANY WAY RELATED TO ONLINE BANKING.

Account Information Disclosure

The circumstances under which we may provide information about your accounts to third parties are summarized in our current privacy notice. Our privacy notice is available on line or you can request a copy from our customer service department by calling 920-478-2181.

You agree that we may deliver our privacy notices to you by making them available on our web site.

Termination

We may modify, suspend, or terminate your privilege of using Online Banking and may withhold approval of any transaction, at any time, without prior notice to you. In the event we terminate Online Banking, we will try to notify you in advance but are not required to do so. You will be notified as soon as practicable. Any one person who can use the account accessible with Online Banking may terminate Online Banking service. Termination shall not affect the rights and obligations of the parties for transactions made with Online Banking before we have had a reasonable time to respond to your termination request.

You must cancel all future funds transfers, whether recurring or individual payments, when you terminate Online Banking or we may continue to process such payments.

Third Parties

You understand that support and services relating to Online Banking are provided by third parties other than us, and you authorize us to contract with third parties to provide such support and service.

Amendment

We may amend this Agreement at any time. You will be required to acknowledge any amendment to this agreement before accessing on-line services after the effective date of such amendment. Amendments will be effective upon the date indicated in the notice.

General

This Agreement is intended to supplement and not to replace other agreements between you and us relating to your accounts, including, without limitation, our Deposit Account Rules. In the event of a conflict between this Agreement and any other account rules and agreements that apply to your accounts, this Agreement shall govern and prevail.

In Case of Errors or Questions About Your Electronic Transfers

Telephone us at (920) 478-2181 or write us at Farmers & Merchants State Bank, Post Office Box 96, Waterloo, WI 53594 as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the problem or error appeared.

- Tell us your name and account number (if any).
- Describe the error or the transfer you are unsure about and explain as clearly as you can why you believe it is an error or why you need more information.

- Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

The 10 day periods in the preceding paragraph may be extended to 20 business days, if the error involves a transfer to or from the account within 30 days after the first deposit to the account was made.

If the error involves an electronic transfer from your account to buy goods or services direct from a merchant, a transfer initiated outside of the United States, or a transfer that occurred within 30 days after the first deposit to the account was made, the 45 day time period to investigate your complaint or question will be 90 days in place of 45 days.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

Farmers & Merchants State Bank Alerts Terms and Conditions

Alerts. Your enrollment in Farmers & Merchants State Bank Online Banking and/or Mobile Banking (the “Service”) includes enrollment to receive transaction alerts and notifications (“Alerts”). Alerts are electronic notices from us that contain transactional information about your Farmers & Merchants State Bank account(s). Account Alerts and Additional Alerts must be managed and/or added online through the Service. We may add new alerts from time to time, or cancel old alerts. We usually notify you when we cancel alerts, but are not obligated to do so. Farmers & Merchants State Bank reserves the right to terminate its alerts service at any time without prior notice to you.

Methods of Delivery. We may provide alerts through one or more channels (“**endpoints**”): (a) a mobile device, by text message, (b) a mobile device, by push notification; (c) an email account, by an e-mail message; or (d) your **Farmers & Merchants State Bank** Online Banking message inbox. You agree to receive alerts through these endpoints, and it is your responsibility to determine that each of the service providers for the endpoints described in (a) through (c) above supports the email, push notification, and text message alerts provided through the alerts service. Please be advised that text or data charges or rates may be imposed by your endpoint service provider. Alert frequency varies by account and preferences. You agree to provide us a valid mobile phone number or email address so that we may send you alerts. If your email address or your mobile device's number changes, you are responsible for informing us of that change. Your alerts will be updated to reflect the changes that you communicate to us with regard to your primary and secondary email addresses or mobile device number.

Alerts via Text Message. To stop alerts via text message, text **"STOP" to 96924 at anytime**. Alerts sent to your primary email address will be unaffected by this action. To restore alerts on your mobile phone, just visit the alerts tab in **Farmers & Merchants State Bank** Online Banking. For help with SMS text alerts, text “HELP” to 96924. In case of questions please contact customer service at **920-478-3007**. Our participating carriers include (but are not limited to) AT&T, SprintPCS, T-Mobile®, U.S. Cellular®, Verizon Wireless, MetroPCS.

Limitations. **Farmers & Merchants State Bank** provides alerts as a convenience to you for information purposes only. An alert does not constitute a bank record for

the deposit or credit account to which it pertains. We strive to provide alerts in a timely manner with accurate information. However, you acknowledge and agree that your receipt of any alerts may be delayed or prevented by factor(s) affecting your mobile phone service provider, internet service provider(s) and other factors outside **Farmers & Merchants State Bank**’s control. We neither guarantee the delivery nor the accuracy of the contents of each Alert. You agree to not hold **Farmers & Merchants State Bank**, its directors, officers, employees, agents, and service providers liable for losses or damages, including attorneys' fees, that may arise, directly or indirectly, in whole or in part, from (a) a non-delivery, delayed delivery, or the misdirected delivery of an Alert; (b) inaccurate or incomplete content in an Alert; or (c) your reliance on or use of the information provided in an Alert for any purpose.

Alert Information. As alerts delivered via SMS, email and push notifications are not encrypted, we will never include your passcode or full account number. You acknowledge and agree that alerts may not be encrypted and may include your name and some information about your accounts, and anyone with access to your alerts will be able to view the contents of these messages.

Farmers & Merchants State Bank

Account to Account Transfer Terms of Service

1. **Introduction.** This Account to Account Transfer Terms of Service document (hereinafter “Agreement”) is a contract between you and Farmers & Merchants State Bank (hereinafter “we” or “us”) in connection with the Account to Account Transfer Service (as defined below) offered through our online banking site or mobile applications (the “Site”). This Agreement applies to your use of the Account to Account Transfer Service and the portion of the Site through which the Account to Account Transfer Service is offered.
2. **Description of Account to Account Transfer Service.** The Account to Account transfer service (the “Account to Account Transfer Service”) enables you to transfer funds between your Eligible Transaction Account(s) that you maintain with us, and your External Account(s) that are maintained by other financial institutions.
 - a. “Small Business Transfers Service” means functionality, to the extent made available by us, that enables a Business to transfer funds between Eligible Transaction Account(s) that the Business maintains with us, and External Account(s) that the Business maintains with other financial institutions. Businesses accessing the Account to Account Transfer Service shall be classified as Small Business Transfers Service users. The Small Business Transfers Service is included in the definition of “Account to Account Transfer Service”.
 - b. “Instant Transfers” means functionality, to the extent made available by us, that uses Payment Networks designed to transfer funds on the same day or sooner between your Eligible Transaction Account(s) that you maintain with us, and your External Account(s) that are maintained by other financial institutions. Instant Transfers are only available for financial institutions and applicable Accounts that are enabled to send and receive such Instant Transfers. Not all financial institutions and/or Accounts are available to participate in Instant Transfers. Instant Transfers are not instantaneous. Payment delivery speed may vary based upon the funds availability policy of each financial institution, Payment Network availability, or other factors. Instant Transfers are included in the definition of “Service”.
3. **Definitions.**
 - a. “Account” means an Eligible Transaction Account or External Account. For the Small Business Transfers Service, Accounts include business checking, money market or savings accounts.
 - b. “ACH Network” means the funds transfer system, governed by the NACHA Rules, that provides funds transfer services to participating financial institutions.
 - c. “Affiliates” are companies related by common ownership or control.
 - d. “Business” means any person or entity other than a Consumer with an Eligible Transaction Account that utilizes the Account to Account Transfer Service.
 - e. “Business Day” is every Monday through Friday, excluding Federal Reserve holidays or other days that banks are legally closed.
 - f. “Consumer” means a person (not a business or other entity) with an Eligible Transaction Account primarily for personal, family or household purposes.

- g. “Eligible Transaction Account” is a transaction account from which your transfers will be debited, your Account to Account Transfer Service fees, if any, will be automatically debited, or to which transfers and credits to you will be credited, that is eligible for the Account to Account Transfer Service. An Eligible Transaction Account shall be limited to a checking, [loan account], money market or savings account that you hold with us.
 - h. “External Account” is your account at another financial institution (i) to which you are transferring funds from your Eligible Transaction Account; or (ii) from which you are transferring funds to your Eligible Transaction Account.
 - i. “Payment Network” means a debit or credit network (such as the ACH Network or ACCEL / Exchange payment network) through which funds may be transferred.
 - j. “Service Provider” means companies that we have engaged (and their Affiliates) to render some or all of the Account to Account Transfer Service to you on our behalf.
 - k. “Transfer Instruction” is a specific information provided for a transfer to be made that you provide to the Account to Account Transfer Service for a transfer of funds.
- 4. **Service Providers.** We are offering you the Account to Account Transfer Service through one or more Service Providers that we have engaged to render some or all of the Account to Account Transfer Service to you on our behalf. However, notwithstanding that we have engaged such a Service Provider to render some or all of the Account to Account Transfer Service to you, we are the sole party liable to you for any payments or transfers conducted using the Account to Account Transfer Service and we are solely responsible to you and any third party to the extent any liability attaches in connection with the Account to Account Transfer Service. You agree that we have the right under this Agreement to delegate to Service Providers all of the rights and performance obligations that we have under this Agreement, and that the Service Providers will be third party beneficiaries of this Agreement and will be entitled to all the rights and protections that this Agreement provides to us.
- 5. **Authorization and Processing.**
 - a. You represent and warrant that you are either the sole owner or a joint owner of the Eligible Transaction Account and the External Account and that you have all necessary legal right, power and authority to transfer funds between the Eligible Transaction Account and the External Account. If you are a joint owner of the Eligible Transaction Account, External Account, or both, then you represent and warrant that (i) you have been authorized by all of the other joint owners to operate such Accounts without their consent (including without limitation to withdraw or deposit any amount of funds to such Accounts or to even withdraw all funds from such Accounts); and (ii) we may act on your instructions regarding such Accounts without liability to such other joint owners. Further, you represent and warrant that the External Account is located in the United States.
 - b. You may initiate (1) a one-time Transfer Instruction for which processing shall be initiated immediately, (2) a one-time Transfer Instruction for which processing shall be initiated at a later specified date up to one (1) year, and (3) a recurring series of Transfer Instructions for which processing shall be initiated on the specified dates. Options (2) and (3) above are not available for Instant Transfers. Further details about each of these options can be found on the Site. When we receive a Transfer Instruction from you, you authorize us to (i) debit your Eligible Transaction Account and remit funds on your behalf to the External Account designated by you and to debit your applicable Account as described below in Section 9 (Account to Account Transfer Service Fees and Additional Charges); or, as applicable, to (ii) credit your Eligible Transaction Account and remit funds on your behalf from the External

Account designated by you and to debit your applicable Account as described below in Section 9 (Account to Account Transfer Service Fees and Additional Charges). You also authorize us to reverse a transfer from the applicable Account if the debit is returned from the other Account in the transaction for any reason, including but not limited to nonsufficient funds. Transfers may be delayed or blocked to prevent fraud or comply with regulatory requirements. If we delay or block a Transfer Instruction that you have initiated, we will notify you in accordance with your user preferences (i.e., email, push notification).

- c. We will use reasonable efforts to complete all your Transfer Instructions properly. However, we shall incur no liability if we are unable to complete any transfers initiated by you because of the existence of any one or more of the following circumstances:
 - 1. If, through no fault of ours, the Eligible Transaction Account or External Account does not contain sufficient funds to complete the Transfer Instruction or the Transfer Instruction would exceed the credit limit of your overdraft account;
 - 2. The Account to Account Transfer Service is not working properly and you know or have been advised by us about the malfunction before you execute the Transfer Instruction;
 - 3. The transfer is refused as described in Section 10 (Refused Transfers) below;
 - 4. You have not provided us with the correct information, including but not limited to the correct Eligible Transaction Account or External Account information; and/or,
 - 5. Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution, or interference from an outside force) prevent the proper execution of the Transfer Instruction.
 - d. It is your responsibility to ensure the accuracy of any information that you enter into the Account to Account Transfer Service, and for informing us as soon as possible if you become aware that this information is inaccurate. You may not use a P.O. Box as a postal address. We will make a reasonable effort to stop or recover a transfer made to the wrong Account once informed, but we do not guarantee such stoppage or recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by you.
 - e. Instant Transfers. The Instant Transfers feature allows for transfers to and from External Accounts that are enabled through a Payment Network designed to deliver transfers on the same day and potentially within minutes, although actual speed will vary, as described below. Instant Transfers are not instantaneous. Delivery speed may vary based upon the fraud, risk and other funds availability policy of the applicable External Account financial institution and Payment Network availability. We are not responsible for the performance, speed, or other acts or omissions of the Payment Networks or other financial institutions that may be involved in the transmission of a transfer. We shall not be obligated to comply with the Automated Clearinghouse (ACH) Rules in such recovery efforts or otherwise in connection with Instant Transfers unless the applicable transaction is transmitted through the ACH network. We are only responsible for delivery of the applicable Transfer Instructions to the applicable Payment Network in the format required by the applicable Payment Network's specifications.
6. **Transfer Methods and Amounts.** There are limits on the amount of money you can send or receive through our Account to Account Transfer Service. Your limits may be adjusted from time-to-time in our sole discretion. You may have the ability to log in to the Site to view your individual transaction limits. We or our Service Provider also reserve the right to select the method in which to remit funds

on your behalf through the Account to Account Transfer Service, and in the event that your Eligible Transaction Account is closed or otherwise unavailable to us, the method to return funds to you.

7. **Transfer Cancellation Requests.** You may cancel a transfer at any time until it begins processing (as shown in the Account to Account Transfer Service). Instant Transfers may not be cancelled as the Transfer Instructions will be processed immediately.
8. **Stop Transfer Requests.** If you desire to stop any transfer that has already begun processing, you must contact customer care for the Account to Account Transfer Service pursuant to Section 26 (Errors, Questions, and Complaints). Although we will make a reasonable effort to accommodate your request, we will have no liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each request will be the current charge for such service as set out in the applicable fee schedule.
9. **Account to Account Transfer Service Fees and Additional Charges.** You are responsible for paying all fees associated with your use of the Account to Account Transfer Service. Applicable fees will be disclosed in the user interface for, or elsewhere within, the Account to Account Transfer Service or Site. Any applicable fees will be charged regardless of whether the Account to Account Transfer Service was used, except for fees that are specifically use-based. Use-based fees for the Account to Account Transfer Service will be charged against the Account that is debited for the funds transfer. There may also be charges for additional transactions and other optional services. Additional fees may apply for Instant Transfers and Businesses enrolled in the Small Business Transfers Service. You agree to pay such charges and authorize us to deduct the calculated amount from the applicable Eligible Transaction Account you hold with us or the Account that is debited for the funds transfer, depending on how such charges are described in the user interface for the Account to Account Transfer Service. Any financial fees associated with your standard deposit accounts will continue to apply. You are responsible for any and all telephone access fees and Internet service fees that may be assessed by your telephone and Internet service provider. Section 22 (Failed Or Returned Transfer Instructions) applies if you do not pay our fees and charges for the Account to Account Transfer Service, including without limitation if we debit the External Account for such fees, as described in this Section, and there are insufficient funds in the External Account; Section 22 (Failed Or Returned Transfer Instructions) should be interpreted as applying to the External Account, not just the Eligible Transaction Account, in such circumstances.
10. **Refused Transfers.** We reserve the right to refuse any transfer. As required by applicable law, we will notify you promptly if we decide to refuse to transfer funds.
11. **Returned or Failed Transfers.** In using the Account to Account Transfer Service, you understand transfers may be returned or fail for various reasons such as, but not limited to, the External Account number is not valid. We will use reasonable efforts to research and correct the transfer to the intended Account or void the transfer. We will, to the extent permitted by law, make reasonable attempts to return any unclaimed, refused, refunded, prohibited, failed, or denied transfer to your Account that we debited for the funds transfer or use other reasonable efforts to return such transfer to you as permitted by law. In certain cases, we may require you to contact us or the financial institution for your External Account to initiate a request to receive such funds. You may receive notification from us.
12. **Notices to Us Regarding the Account to Account Transfer Service.** Except as otherwise stated below, notice to us concerning the Site or the Account to Account Transfer Service must be sent by postal mail to: Farmers & Merchants State Bank PO Box 96 Waterloo WI 53594. We may also be reached at 920-478-2181 for questions and other purposes concerning the Account to Account

Transfer Service. We will act on your telephone calls as described below in Section 26 (Errors, Questions, and Complaints), but otherwise, such telephone calls will not constitute legal notices under this Agreement.

13. **Notices to You.** You agree that we may provide notice to you by posting it on the Site, sending you an in-product message within the Account to Account Transfer Service, emailing it to an email address that you have provided us, mailing it to any postal address that you have provided us, or by sending it as a text message to any mobile phone number that you have provided us, including but not limited to the mobile phone number that you have listed in your Account to Account Transfer Service setup or customer profile. For example, users of the Account to Account Transfer Service may receive certain notices (such as notices of processed Transfer Instructions, alerts for validation and notices of receipt of transfers) as text messages on their mobile phones. All notices by any of these methods shall be deemed received by you no later than twenty-four (24) hours after they are sent or posted, except for notice by postal mail, which shall be deemed received by you no later than three (3) Business Days after it is mailed. You may request a paper copy of any legally required disclosures and you may terminate your consent to receive required disclosures through electronic communications by contacting us as described in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above. We reserve the right to charge you a reasonable fee not to exceed twenty dollars (\$20.00) to respond to each such request. We reserve the right to terminate your use of the Account to Account Transfer Service if you withdraw your consent to receive electronic communications.
14. **Text Messages, Calls and/or Emails to You.** By providing us with a telephone number (including a wireless/cellular, mobile telephone number and/or email address), you consent to receiving calls from us and our Service Providers at that number INCLUDING THOSE MADE BY USE OF AN AUTOMATIC TELEPHONE DIALING SYSTEM ("ATDS"), and/or emails from us for our everyday business purposes (including identity verification). You acknowledge and agree that such telephone calls include, but are not limited to, live telephone calls, prerecorded or artificial voice message calls, text messages, and calls made by an ATDS from us or our affiliates and agents. Please review our Privacy Policy for more information.
15. **Receipts and Transaction History.** You may view your transaction history by logging into the Account to Account Transfer Service and looking at your transaction history. You agree to review your transactions by this method instead of receiving receipts by mail.
16. **Your Privacy; Privacy of Others.** Protecting your privacy is very important to us. Please review our Privacy Policy in order to better understand our commitment to maintaining your privacy, as well as our use and disclosure of your information. If you receive information about another person through the Account to Account Transfer Service, you agree to keep the information confidential and only use it in connection with the Account to Account Transfer Service.
17. **Eligibility.** The Account to Account Transfer Service is offered only to individual residents of the United States who can form legally binding contracts under applicable law. Without limiting the foregoing, the Account to Account Transfer Service is not offered to minors unless the minor is using an Eligible Transaction Account in the name of the minor with a parent or guardian as a co-signor or guarantor. By using the Account to Account Transfer Service, you represent that you meet these requirements and that you agree to be bound by this Agreement.
18. **Prohibited Transfers.** The following types of transfers are prohibited through the Account to Account Transfer Service, and we have the right but not the obligation to monitor for, block, cancel and/or reverse such transfers:

- a. Transfers to or from persons or entities located in prohibited territories (including any territory outside of the United States); and
- b. Transfers that violate any federal or state law, statute, ordinance or regulation; and
- c. Transfers that violate the Acceptable Use terms in Section 19 (Acceptable Use) below; and
- d. Transfers that may be deemed to be illegal, improper, brand damaging or potentially exposing us, our Service Providers, or the financial system to risk or reputational harm; and
- e. Transfers relating to tax payments and court ordered payments.

Except as required by applicable law, in no event shall we or our Service Providers be liable for any claims or damages resulting from your scheduling of prohibited transfers. We encourage you to provide notice to us by the methods described in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above of any violations of the Agreement generally.

19. Acceptable Use. You agree that you are independently responsible for complying with all applicable laws in all of your activities related to your use of the Account to Account Transfer Service, regardless of the purpose of the use, and for all communications you send through the Account to Account Transfer Service. We and our Service Providers have the right but not the obligation to monitor and remove communications content that we find in our sole discretion to be objectionable in any way. In addition, you are prohibited from using the Account to Account Transfer Service for communications or activities that: (a) violate any law, statute, ordinance or regulation; (b) promote hate, violence, racial intolerance, or the financial exploitation of a crime; (c) defame, abuse, harass or threaten others; (d) include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, indecent or discourteous; (e) infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction; (f) impose an unreasonable or disproportionately large load on our infrastructure; (g) facilitate any viruses, trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; (h) constitute use of any robot, spider, other automatic device, or manual process to monitor or copy the Account to Account Transfer Service or the portion of the Site through which the Account to Account Transfer Service is offered without our prior written permission; (i) constitute use of any device, software or routine to bypass technology protecting the Site or Account to Account Transfer Service, or interfere or attempt to interfere, with the Site or the Account to Account Transfer Service; or (j) may cause us or our Service Providers to lose any of the services from our internet service providers, payment processors, or other vendors. We encourage you to provide notice to us by the methods described in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above of any violations of the Agreement generally.

20. Your Liability for Unauthorized Transfers.

- a. **Consumer Accounts.** This paragraph applies only to Eligible Transaction Accounts used for personal, family and household purposes. Immediately following your discovery of an unauthorized Transfer Instruction, you shall communicate with customer care for the Account to Account Transfer Service in the manner set forth in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above. You acknowledge and agree that time is of the essence in such situations. The best way to minimize your loss is to call us immediately. If you tell us within two (2) Business Days after you discover your password or other means to access your account through which you access the Account to Account Transfer Service has been lost or stolen, your liability is no more than \$50.00 should

someone access your account without your permission. If you do not tell us within two (2) Business Days after you learn of such loss or theft, and we can prove that we could have prevented the unauthorized use of your password or other means to access your account if you had told us, you could be liable for as much as \$500.00. If your monthly financial institution statement contains transfers that you did not authorize, you must tell us at once. If you do not tell us within sixty (60) days after the statement was sent to you, you may lose any amount transferred without your authorization after the sixty (60) days if we can establish that we could have stopped someone from taking the money had you told us in time. If a good reason (such as a long trip or a hospital stay) prevented you from telling us, we will extend the time periods specified above to a reasonable period.

- b. **Business Accounts.** This paragraph applies only to the Small Business Transfers Service. Immediately following your discovery of an unauthorized Transfer Instruction, you shall communicate with customer care for the Small Business Transfers Service in the manner set forth in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above. You acknowledge and agree that time is of the essence in such situations. Tell us AT ONCE if you believe your user identification, password, or other means of accessing the Small Business Transfers Service have been stolen or used without your permission. You could lose all of the money in your Eligible Transaction Account, plus any credit available in any available overdraft protection plan. Also, if the periodic statement for your Eligible Transaction Account shows payments or other Small Business Transfers Service transactions that you did not make, tell us at once. **YOU ARE RESPONSIBLE FOR ALL TRANSFERS INITIATED USING YOUR USER IDENTIFICATION, PASSWORD, AND OTHER MEANS OF ACCESSING THE SMALL BUSINESS TRANSFERS SERVICE, REGARDLESS OF WHETHER YOU AUTHORIZED THEM OR IF THEY EXCEED THE LIMITS THAT YOU IMPOSED ON YOUR AUTHORIZED USER(S).**
21. **Taxes.** It is your responsibility to determine what, if any, taxes apply to the transactions you make or receive, and it is your responsibility to collect, report and remit the correct tax to the appropriate tax authority. We are not responsible for determining whether taxes apply to your transaction, or for collecting, reporting or remitting any taxes arising from any transaction.
22. **Failed or Returned Transfer Instructions.** In using the Account to Account Transfer Service, you are requesting that we or our Service Provider attempt to make transfers for you from your Eligible Transaction Account. If the Transfer Instruction cannot be completed for any reason associated with your Eligible Transaction Account (for example, there are insufficient funds in your Eligible Transaction Account, or the Transfer Instruction would exceed the credit or overdraft protection limit of your Eligible Transaction Account, to cover the transfer), the Transfer Instruction may or may not be completed. In certain circumstances, our Service Provider may either advance funds drawn on their corporate account or via an electronic debit, and in such circumstances will attempt to debit the Eligible Transaction Account a second time to complete the Transfer Instruction. In some instances, you will receive a return notice from us or our Service Provider. In each such case, you agree that:
- a. You will reimburse us or our Service Provider immediately upon demand the amount of the Transfer Instruction if the transfer has been delivered but there are insufficient funds in, or insufficient overdraft credits associated with, your Eligible Transaction Account to allow the debit processing to be completed;

- b. You may be assessed a late fee equal to one and a half percent (1.5%) of any unpaid amounts plus costs of collection by our Service Provider or their third-party contractor if the Transfer Instruction cannot be debited because you have insufficient funds in your Eligible Transaction Account, or the transaction would exceed the credit or overdraft protection limit of your Eligible Transaction Account, to cover the transfer, or if the funds cannot otherwise be collected from you. The aforesaid amounts will be charged in addition to any NSF charges that may be assessed by us, as set forth in your fee schedule from us (including as disclosed on the Site) or your account agreement with us. You hereby authorize us and our Service Provider to deduct all of these amounts from your designated Eligible Transaction Account, including by ACH debit; and
 - c. We and our Service Provider are authorized to report the facts concerning the return to any credit reporting agency.
- 23. **Address or Banking Changes.** It is your sole responsibility and you agree to ensure that the contact information in your user profile is current and accurate. This includes, but is not limited to, name, physical address, phone numbers and email addresses. Depending on the Account to Account Transfer Service, changes may be able to be made within the user interface of the Account to Account Transfer Service or by contacting customer care for the Account to Account Transfer Service as set forth in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above. We are not responsible for any payment processing errors or fees incurred if you do not provide accurate Eligible Transaction Account, Transfer Instructions or contact information.
- 24. **Information Authorization.** Your enrollment in the applicable Account to Account Transfer Service may not be fulfilled if we cannot verify your identity or other necessary information. Through your enrollment in or use of each Account to Account Transfer Service, you agree that we reserve the right to request a review of your credit rating at our own expense through an authorized bureau. In addition, and in accordance with our Privacy Policy, you agree that we reserve the right to obtain personal information about you, including without limitation, financial information and transaction history regarding your Eligible Transaction Account. You further understand and agree that we reserve the right to use personal information about you for our and our Service Providers' everyday business purposes, such as to maintain your ability to access the Account to Account Transfer Service, to authenticate you when you log in, to send you information about the Account to Account Transfer Service, to perform fraud screening, to verify your identity, to determine your transaction limits, to perform collections, to comply with laws, regulations, court orders and lawful instructions from government agencies, to protect the personal safety of subscribers or the public, to defend claims, to resolve disputes, to troubleshoot problems, to enforce this Agreement, to protect our rights and property, and to customize, measure, and improve the Account to Account Transfer Service and the content and layout of the Site. Additionally, we and our Service Providers may use your information for risk management purposes and may use, store and disclose your information acquired in connection with this Agreement as permitted by law, including (without limitation) any use to effect, administer or enforce a transaction or to protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability. We and our Service Providers shall have the right to retain such data even after termination or expiration of this Agreement for risk management, regulatory compliance, or audit reasons, and as permitted by applicable law for everyday business purposes. In addition, we and our Service Providers may use, store and disclose such information acquired in connection with the Account to Account Transfer Service in statistical form for pattern

recognition, modeling, enhancement and improvement, system analysis and to analyze the performance of the Account to Account Transfer Service.

- a. **Mobile Subscriber Information.** You authorize your wireless carrier to disclose information about your account, such as subscriber status, payment method and device details, if available, to support identity verification, fraud avoidance and other uses in support of transactions for the duration of your business relationship with us. This information may also be shared with other companies to support your transactions with us and for identity verification and fraud avoidance purposes.
- b. **Device Data.** We may share certain personal information and device-identifying technical data about you and your devices with third party service providers, who will compare and add device data and fraud data from and about you to a database of similar device and fraud information in order to provide fraud management and prevention services, which include but are not limited to identifying and blocking access to the applicable service or Web site by devices associated with fraudulent or abusive activity. Such information may be used by us and our third party service providers to provide similar fraud management and prevention services for services or Web sites not provided by us. We will not share with service providers any information that personally identifies the user of the applicable device.

25. **Consent to Share Personal Information (Including Account Information).** In addition to Section 24 (Information Authorization) above, by accepting this Agreement, you consent to our disclosure of your personal information (including bank account information) as necessary to complete payment transactions in accordance with our customary processes and procedures, which may include, without limitation, the following:

- a. As necessary to resolve a problem related to a transfer initiated by you;
- b. To verify the existence of your bank account;
- c. To comply with government agency or court orders, or debit card, as applicable;
- d. To our affiliates, as permitted by law;
- e. To verify your identity for purposes of compliance with applicable laws, including without limitation the USA PATRIOT Act;
- f. To comply with inquiries in connection with fraud prevention or any investigation;
- g. For our general business purposes, including without limitation data analysis and audits; or
- h. As otherwise permitted by the applicable terms of our Privacy Policy.

26. **Errors, Questions, and Complaints.** This paragraph applies only to Eligible Transaction Accounts used for personal, family and household purposes.

- a. In case of errors or questions about your transactions, you should as soon as possible contact us as set forth in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above.
- b. If you think your periodic statement for your account is incorrect or you need more information about a transaction listed in the periodic statement for your account, we must hear from you no later than sixty (60) days after we send you the applicable periodic statement for your account that identifies the error. You must:
 - 1. Tell us your name;
 - 2. Describe the error or the transaction in question, and explain as clearly as possible why you believe it is an error or why you need more information; and,
 - 3. Tell us the dollar amount of the suspected error.

- c. If you tell us orally, we may require that you send your complaint in writing within ten (10) Business Days after your oral notification. Except as described below, we will determine whether an error occurred within ten (10) Business Days after you notify us of the error. We will tell you the results of our investigation within three (3) Business Days after we complete our investigation of the error, and will correct any error promptly. However, if we require more time to confirm the nature of your complaint or question, we reserve the right to take up to forty-five (45) days to complete our investigation. If we decide to do this, we will provisionally credit your Eligible Transaction Account within ten (10) Business Days for the amount you think is in error. If we ask you to submit your complaint or question in writing and we do not receive it within ten (10) Business Days, we may not provisionally credit your Eligible Transaction Account. For errors involving new Eligible Transaction Accounts, we may take up to ninety (90) days to investigate your complaint or question and up to twenty (20) Business Days to provisionally credit your Eligible Transaction Account. If it is determined there was no error we will mail you a written explanation within three (3) Business Days after completion of our investigation. You may ask for copies of documents used in our investigation. We may revoke any provisional credit provided to you if we find an error did not occur.
27. **Intellectual Property.** All marks and logos related to the Account to Account Transfer Service are either trademarks or registered trademarks of us or our licensors. In addition, all page headers, custom graphics, button icons, and scripts are our service marks, trademarks, and/or trade dress or those of our licensors. You may not copy, imitate, or use any of the above without our prior written consent, which we may withhold in our sole discretion, and you may not use them in a manner that is disparaging to us or the Account to Account Transfer Service or display them in any manner that implies our sponsorship or endorsement. All rights, title and interest in and to the Account to Account Transfer Service, the portion of the Site through which the Account to Account Transfer Service is offered, the technology related to the Site and Account to Account Transfer Service, and any and all technology and any content created or derived from any of the foregoing, is our exclusive property or that of our licensors. Moreover, any suggestions, ideas, notes, drawings, concepts, or other information you may send to us through or regarding the Site or Account to Account Transfer Service shall be considered an uncompensated contribution of intellectual property to us and our licensors, shall also be deemed our and our licensors' exclusive intellectual property, and shall not be subject to any obligation of confidentiality on our part. By submitting any such materials to us, you automatically grant (or warrant that the owner of such materials has expressly granted) to us and our licensors a perpetual, royalty-free, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, publicly perform and display, create derivative works from and distribute such materials or incorporate such materials into any form, medium, or technology now known or later developed, and you warrant that all so-called "moral rights" in those materials have been waived, and you warrant that you have the right to make these warranties and transfers of rights.
28. **Account to Account Transfer Service Termination, Cancellation, or Suspension.** If you wish to cancel the Account to Account Transfer Service, you may contact us as set forth in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above. Any transfer(s) that have begun processing before the requested cancellation date will be processed by us. You agree that we may terminate or suspend your use of the Account to Account Transfer Service at any time and for

any reason or no reason. Neither termination, cancellation nor suspension shall affect your liability or obligations under this Agreement.

29. **Password and Security.** If you are issued or create any password or other credentials to access the Account to Account Transfer Service or the portion of the Site through which the Account to Account Transfer Service is offered, you agree not to give or make available your password or credentials to any unauthorized individuals, and you agree to be responsible for all actions taken by anyone to whom you have provided such credentials. If you believe that your credentials have been lost or stolen or that someone may attempt to use them to access the Site or Account to Account Transfer Service without your consent, you must inform us at once at the telephone number provided in Section 12 (Notices to Us Regarding the Account to Account Transfer Service) above. See also Section 20 (Your Liability for Unauthorized Transfers) above regarding how the timeliness of your notice impacts your liability for unauthorized transfers.
30. **Amendments.** We may amend this Agreement and any applicable fees and charges for the Account to Account Transfer Service at any time by posting a revised version on the Site. The revised version will be effective at the time it is posted unless a delayed effective date is expressly stated in the revision. Any use of the Account to Account Transfer Service after a notice of change or after the posting of a revised version of this Agreement on the Site will constitute your agreement to such changes and revised versions. Further, we may, from time to time, revise, update, upgrade or enhance the Account to Account Transfer Service and/or related applications or material, which may render all such prior versions obsolete. Consequently, we reserve the right to terminate this Agreement as to all such prior versions of the Account to Account Transfer Service, and/or related applications and material, and limit access to only the Account to Account Transfer Service's more recent revisions, updates, upgrades or enhancements.
31. **Our Relationship With You.** We are an independent contractor for all purposes, except that we act as your agent with respect to the custody of your funds for the Account to Account Transfer Service. We do not have control of, or liability for, any products or services that are paid for with our Account to Account Transfer Service. We also do not guarantee the identity of any user of the Account to Account Transfer Service (including but not limited to recipients to whom you send transfers).
32. **Assignment.** You may not transfer or assign any rights or obligations you have under this Agreement without our prior written consent, which we may withhold in our sole discretion. We reserve the right to transfer or assign this Agreement or any right or obligation under this Agreement at any time to any party. We may also assign or delegate certain of our rights and responsibilities under this Agreement to independent contractors or other third parties.
33. **Remedies.** If we have reason to believe that you have engaged in any of the prohibited or unauthorized activities described in this Agreement or have otherwise breached your obligations under this Agreement, we may terminate, suspend or limit your access to or use of the Site or the Account to Account Transfer Service; notify law enforcement, regulatory authorities, impacted third parties, and others as we deem appropriate; refuse to provide our services to you in the future; and/or take legal action against you. In addition, we, in our sole discretion, reserve the right to terminate this Agreement, access to the Site and/or use of the Account to Account Transfer Service for any reason or no reason and at any time. The remedies contained in this Section 33 are cumulative and are in addition to the other rights and remedies available to us under this Agreement, by law or otherwise.
34. **Disputes.** In the event of a dispute regarding the Account to Account Transfer Service, you and we agree to resolve the dispute by looking to this Agreement.

35. **Arbitration.** For any claim (excluding claims for injunctive or other equitable relief) where the total amount of the award sought is less than \$10,000.00 USD, the party requesting relief may elect to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration. If a party elects arbitration, that party will initiate such arbitration through Judicial Arbitration and Mediation Services (“JAMS”), the American Arbitration Association (“AAA”), or an established alternative dispute resolution (ADR) administrator mutually agreed upon by the parties. The parties agree that the following rules shall apply: (a) the arbitration may be conducted telephonically, online and/or be solely based on written submissions, at the election of the party initiating the arbitration; (b) the arbitration shall not involve any personal appearance by the parties, their representatives or witnesses unless otherwise mutually agreed by the parties; (c) discovery shall not be permitted; (d) the matter shall be submitted for decision within ninety (90) days of initiation of arbitration, unless otherwise agreed by the parties, and the arbitrator must render a decision within thirty (30) days of submission; and (e) any award in such arbitration shall be final and binding upon the parties and may be submitted to any court of competent jurisdiction for confirmation. The parties acknowledge that remedies available under federal, state and local laws remain available through arbitration. **NO CLASS ACTION, OTHER REPRESENTATIVE ACTION, OR PRIVATE ATTORNEY GENERAL ACTION, OR JOINDER OR CONSOLIDATION OF ANY CLAIM WITH A CLAIM OF ANOTHER PERSON SHALL BE ALLOWABLE IN ARBITRATION.**
36. **Law and Forum for Disputes.** Unless our account agreement with you states otherwise, this Agreement shall be governed by and construed in accordance with the laws of the State in which you reside, without regard to its conflicts of laws provisions. TO THE EXTENT THAT THE TERMS OF THIS AGREEMENT CONFLICT WITH APPLICABLE STATE OR FEDERAL LAW, SUCH STATE OR FEDERAL LAW SHALL REPLACE SUCH CONFLICTING TERMS ONLY TO THE EXTENT REQUIRED BY LAW. UNLESS EXPRESSLY STATED OTHERWISE, ALL OTHER TERMS OF THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT. Unless our account agreement with you states otherwise, you agree that any claim or dispute you may have against us (other than those which are arbitrated under Section 35 (Arbitration)) must be resolved by a court located in the county in which you reside. You agree to submit to the personal jurisdiction of such courts for the purpose of litigating all claims or disputes unless said claim is submitted to arbitration under Section 35 (Arbitration). The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. TO THE EXTENT ALLOWED BY APPLICABLE LAW, BOTH PARTIES AGREE TO WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN THE RESOLUTION OF ANY DISPUTE OR CLAIM BETWEEN THE PARTIES OR ANY OF THEIR RESPECTIVE AFFILIATES ARISING UNDER THIS AGREEMENT.
37. **Indemnification.** You agree to defend, indemnify and hold harmless us and our Affiliates and Service Providers and their Affiliates and the employees and contractors of each of these, from any loss, damage, claim or demand (including attorney’s fees) made or incurred by any third party due to or arising out of your breach of this Agreement and/or your use of the Site or the applicable Account to Account Transfer Service.
38. **Release.** You release us and our Affiliates and Service Providers and the employees and contractors of each of these, from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with any dispute that may arise between you or one or more other users of the Site or the Account to Account Transfer Service. In addition, if applicable to you, you waive California Civil Code §1542, which states that a general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of

executing the release, which if not known by him must have materially affected his settlement with the debtor.

39. **No Waiver.** We shall not be deemed to have waived any rights or remedies hereunder unless such waiver is in writing and signed by one of our authorized representatives. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.
40. **Disclaimer of Warranties.** THE SITE AND ACCOUNT TO ACCOUNT TRANSFER SERVICE AND RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ANY PART OF OUR ACCOUNT TO ACCOUNT TRANSFER SERVICE, AND OPERATION OF OUR SITE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL. SOME STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU. THIS PARAGRAPH GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.
41. **Limitation of Liability.** THE FOREGOING SHALL CONSTITUTE YOUR EXCLUSIVE REMEDIES AND THE ENTIRE LIABILITY OF US AND OUR AFFILIATES AND SERVICE PROVIDERS AND THE EMPLOYEES AND CONTRACTORS OF EACH OF THESE, FOR THE ACCOUNT TO ACCOUNT TRANSFER SERVICE AND THE PORTION OF THE SITE THROUGH WHICH THE ACCOUNT TO ACCOUNT TRANSFER SERVICE IS OFFERED. YOU ACKNOWLEDGE AND AGREE THAT FROM TIME TO TIME, THE ACCOUNT TO ACCOUNT TRANSFER SERVICE MAY BE DELAYED, INTERRUPTED OR DISRUPTED PERIODICALLY FOR AN INDETERMINATE AMOUNT OF TIME DUE TO CIRCUMSTANCES BEYOND OUR REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO ANY INTERRUPTION, DISRUPTION OR FAILURE IN THE PROVISION OF THE ACCOUNT TO ACCOUNT TRANSFER SERVICE, WHETHER CAUSED BY STRIKES, POWER FAILURES, EQUIPMENT MALFUNCTIONS INTERNET DISRUPTION OR OTHER REASONS. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE, BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE ACCOUNT TO ACCOUNT TRANSFER SERVICE CAUSED BY OR ARISING OUT OF ANY SUCH DELAY, INTERRUPTION, DISRUPTION OR SIMILAR FAILURE. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE, BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING LOSS OF GOODWILL OR LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE ACCOUNT TO ACCOUNT TRANSFER SERVICE OR THE PORTION OF THE SITE THROUGH WHICH THE ACCOUNT TO ACCOUNT TRANSFER SERVICE IS OFFERED, EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE AND NOTICE WAS GIVEN REGARDING THEM. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE ACCOUNT TO ACCOUNT TRANSFER SERVICE OR THE PORTION OF THE SITE THROUGH WHICH THE ACCOUNT TO ACCOUNT TRANSFER SERVICE IS OFFERED THAT YOU DO NOT STATE IN WRITING IN A COMPLAINT FILED IN A COURT OR ARBITRATION PROCEEDING AS DESCRIBED IN SECTIONS 35 AND 36 ABOVE WITHIN TWO (2) YEARS OF THE DATE THAT THE EVENT GIVING RISE TO THE CLAIM OCCURRED. THESE LIMITATIONS WILL APPLY TO ALL CAUSES OF ACTION, WHETHER ARISING FROM BREACH OF

CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY. OUR AGGREGATE LIABILITY, AND THE AGGREGATE LIABILITY OF OUR AFFILIATES AND SERVICE PROVIDERS AND THE EMPLOYEES AND CONTRACTORS OF EACH OF THESE, TO YOU AND ANY THIRD PARTY FOR ANY AND ALL CLAIMS OR OBLIGATIONS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO DIRECT OUT OF POCKET DAMAGES UP TO A MAXIMUM OF \$500 (FIVE HUNDRED DOLLARS). SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

42. **Complete Agreement, Severability, Captions, and Survival.** You agree that this Agreement is the complete and exclusive statement of the agreement between us, sets forth the entire understanding between us and you with respect to the Account to Account Transfer Service and the portion of the Site through which the Account to Account Transfer Service is offered and supersedes any proposal or prior agreement, oral or written, and any other communications between us. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. The captions of Sections in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement. Sections 4, 12, 13, 21, 22, 27 and 32-42 of the Agreement, as well as any other terms which by their nature should survive, will survive the termination of this Agreement. If there is a conflict between the terms of this Agreement and something stated by an employee or contractor of ours (including but not limited to its customer care personnel), the terms of the Agreement will prevail.