



## ONLINE BANKING Access Agreement & Electronic Funds Transfer Act Disclosure

This Online Banking Access Agreement & Electronic Funds Transfer Act Disclosure (“Agreement”), which includes the Fee Schedule, available at [www.fmb.com/fees](http://www.fmb.com/fees), and Enrollment Form, is a contract, which establishes the rules that cover your electronic access to your accounts at Farmers & Merchants Bank of Long Beach (“Bank”) through the Online Banking system. This Agreement will be effective as of the first day we make the Services accessible to you. Unless otherwise stated, any reference to the Agreement shall include applicable schedules, enrollment forms, and exhibits to the same, as well as applicable user guides, user manuals, set-up forms and other user materials, including online terms and information. By using the Online Banking system, you accept all the terms and conditions of this Agreement. Please read it carefully.

**NOTICE TO CONSUMERS ACCOUNT HOLDERS: This Agreement includes disclosures applicable to consumer accounts as provided under the Electronic Funds Transfer Act (EFTA) and its implementing Regulation E. Read this document carefully and retain a copy for your records.**

Agreement is in addition to other agreements between Farmers & Merchants Bank of Long Beach and you, including but not limited to (as applicable), your checking, savings, and other deposit account agreements, as may be modified from time to time. If there is a conflict between the terms and conditions of this Agreement and those contained in the other agreements between you and us, this Agreement will control.

You agree not to resell or offer the Services to another, or to process any transactions for others using the Services. If you are a natural person, you certify that you are at least 18 years or older. You authorize us to obtain information about you from others (including credit reporting agencies) as part of our review of your enrollment application and from time to time thereafter. You agree to provide us with information as we request, from time to time. All references to time of day in this Agreement shall refer to Pacific Standard Time.

**DEFINITIONS** – In this Agreement, defined terms have the meaning given to them. In addition:

- An “account” means any deposit account you maintain with us and can include all accounts and products you use with us. Your “Account” is the account you have designated as the account accessible to the Services.
- The “Administrator” is a person who is able to provide Security Codes, to and establish access and use authority and/or limitations for Authorized-Users.
- An “authorized representative” is a person with authority of any kind with respect to an Account.
- An “Authorized-User” is a person other than the Administrator who uses Security Codes to access a Service. The Administrator (and not the Bank) controls the designation of access levels or other limitations (if any) placed on an Authorized-User’s use of the Services.
- Your “available balance”, “available funds” and similar words mean the balance in your Account as determined under our funds availability policy.
- A “business” is anyone other than a consumer who owns an Account with respect to which a Service is requested. A business includes a sole proprietor, corporation, partnership, limited liability company, unincorporated association, or any person not a consumer.
- “Business days” means Monday through Friday. Federal holidays are not included.
- A “commercial account” shall mean an account that is not established primarily for personal, family, or household purposes, or is otherwise not a “consumer account” under the EFTA.
- “Communication(s)” means instructions and actions from you (or attributable to you under this Agreement or otherwise) received by us through the Services.
- A “consumer account” shall mean an account that is established primarily for personal, family, or household purposes, and is subject to the EFTA as a “consumer account.”
- “Electronic funds transfers” means ATM withdrawals, preauthorized transactions, point of sale transactions, transfers to and from your Bank accounts using the Online Banking system including bill payments.
- The “Online Banking system” shall mean the online system made available by us to provide the Services to you.
- A “payment order” is a payment order as defined under Section 11103(a)(1), as amended or revised, of the California Commercial Code, and includes a Communication received by us instructing us to pay, or to cause another bank to pay, a fixed or determinable amount of money to a you, to a third party or to any other beneficiary.
- Your “Security Codes” are the credentials (such as codes and passwords) that are associated with you and used by us to verify the authenticity of Communications from you. Security Codes are used to access Accounts and to use the Services. The Security Codes include any supplemental or alternative method used to verify the authenticity of Communications that may be offered or presented to you by us from time to time.
- The “Service(s)” are the online banking interface and the banking services described in this Agreement.
- The word “includes” means “including but not limited to” the examples given.
- The word “may,” when used in reference to us, means at our option and sole discretion. Action (or inaction) that we “may” take is authorized by you and allowed to us, but is not required. You agree that we will not be liable for any action taken or any failure to act when action or inaction is at our discretion.
- The words “we,” “us,” “our,” “Bank” and similar terms are used to refer to Farmers & Merchants Bank of Long Beach.
- The words “you,” “your,” and similar terms are used to refer to the person entering into this Agreement and to the each person who is an owner of or has an interest in an Account together with the owner’s authorized representatives.

**ELIGIBLE ACCOUNTS** – To use the Online Banking system, you must have at least one account at the Bank, access to Internet service, and an e-mail address. When you enroll in the Online Banking system the Accounts on which you are either the primary account holder or a joint account holder will be accessible using the Service. We are not, however, obligated to establish access to any or all of your Accounts, and not all Services may be available with all Accounts. Some Services may not be available without special application to and approval by us, or may be limited to specific types of Accounts.

Eligible Accounts include the following types: checking, money market, savings, and time deposits. In some cases, we may allow loans and lines of credit to be linked, in which case you agree that the relevant loan agreement, note, or other document is modified to the extent necessary to allow the transfers or other Services that may be utilized. We may also allow safe deposit information to be linked, but no online transactional activity is allowed. Certificates of deposit are time deposits where early withdrawals may result in early withdrawal penalty fees. No online transactional activity is allowed on certificates of deposit, which are view only. Accessibility to Accounts may vary based on the Service(s) you use. You agree to review the configuration of your Account(s) at commencement of the Services, and periodically thereafter, and, for commercial accounts (as applicable), to restrict Authorized-User access to Accounts and to specific Services on these Accounts in accordance with your risk assessment.

**ONLINE BANKING SERVICES** – The Services include, but are not limited to, the following (subject to system limitations):

- Obtain Account information.
- Transfer funds between linked Accounts (Excluding certificates of deposit) (“Account Transfers”).
- Initiate check stop-payment instructions.
- Order Checks and change your e-mail address.
- Initiate bill payments (“Bill Payments”).

We may require you to enter a separate addendum to this Agreement in order to enable additional services, if made available. Balance and activity information as of the close of business of the previous business day are available.

**HOURS OF ACCESS** – You can use the Online Banking system seven days a week, twenty-four hours a day, although some or all Online Banking system services may not be available occasionally due to emergency or scheduled Online Banking system maintenance.

**ACCESS TO THE SERVICES** – You are responsible for providing and maintaining any equipment that is necessary for the Services, such as telephones, terminals, modems, and computers. You agree to use equipment that is compatible with our programs, systems and equipment, which we may change from time to time. We assume no responsibility for the defects or incompatibility of any computers or software that you use in connection with the Services, even if we have previously approved their use. **WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY, WITH RESPECT TO THE SERVICES, OR ANY COMPUTER PROGRAMS, EQUIPMENT OR SOFTWARE MADE AVAILABLE TO YOU.** You agree to notify us promptly if any software or equipment we provide to you becomes defective. Our sole responsibility (if any) in such instances will be to repair or replace the defective software or equipment.

To use the Services, you must have a sufficiently powerful computer hardware and appropriate software. At this time, this includes an internet browser that supports HTML 4.0, SSL-encryption, and JavaScript. Some Services may require you to download software from our website; in some cases, we may place software on your computer as part of our security and/or verification tools. You agree to maintain the confidentiality of the Security Codes at all times and not to provide access to them to anyone that you do not authorize to access your Accounts through the Services. You expressly acknowledge that any wireless access to the Services initiated by you may not be secure and, in such cases, you assume the risk associated with unauthorized access to the Service and any information contained therein, resulting from such wireless connectivity. For commercial accounts (as applicable), you agree to implement and maintain administrative, technical and physical safeguards to protect against unauthorized access to or use of any Account information which you may access or store on your computer or other data storage systems.

**YOUR PASSWORD** – During your enrollment for the Services, you are required to select or will be assigned certain numbers, codes, marks, signs, public keys or other means of authenticating your identity and electronic communications in your name. These may include a logon name, and password. These credentials, with the other components of your Security Codes, will give access to your Accounts through the Service. You agree to change all passwords with sufficient frequency so as to protect confidentiality, and in any event no less frequently than every 180 days. You agree to keep all Security Codes confidential; you agree not to write them down. Passwords should not be easy to guess: for example, your children’s or pet’s names, birth dates, addresses or other easily recognized identification related to you. It is also recommended you do not have your browser automatically remember your password. We may offer to you or require you to use additional authentication tools or methods from time to time. If you choose not to implement supplemental authentication tools, your access to some or all Services may be limited. The term “Security Codes” will include any supplemental authentication tools that are used by you.

**USER SECURITY** – You understand the importance of your role in preventing misuse of your accounts through the Online Banking system, and you agree to promptly examine your paper statement for each of your bank accounts as soon as you receive it. You agree to protect the confidentiality of your account and account number, and your personal identification information, such as your driver’s license number and social security number. You understand that personal identification information by itself, or together with information related to your account, may allow unauthorized access to your account. If you believe that your password or any other means to access your account has been lost or stolen or that someone may attempt to use the Online Banking system without your consent, you must notify the Bank at once by calling during normal business hours.

**LOGIN SECURITY** – The Online Banking system utilizes Two-factor Authentication, a login security that combines two authentication “factors.” These factors include:

- Something You Know ( your password)
- Something You Have (your computer)
- We use your computer as the second factor (something you have). This means that you do not have to install any new software or carry any new hardware.

A secure two-factor authentication is instantly performed when you login. This allows us to confirm who you are and allows you to complete your login. If we cannot confirm your identity, we will ask you Challenge Questions to which only you will know the answers. These Challenge Questions are selected and answered by you upon your initial login to the Online banking system. If you answer the Challenge Questions correctly, your identity will be confirmed and you can proceed with login. Upon three unsuccessful attempts to answer your Challenge Questions, your access to the Online Banking system will be revoked. You must contact the Bank to reestablish your authorization to use the Online Banking system.

Some users may want to login from multiple computers. If this is the case, there is a very quick self-registration process that will help us to recognize your additional computers during future logins. This registration process occurs the first time you login with the additional computer. We will ask you if you plan to login from the additional computer frequently and use your Challenge Questions to confirm your identity. If you answer the Challenge Questions successfully, your additional computer will be “registered” for future logins. If you do not plan to frequently login from that additional computer, you should not register it. Two-factor authentication protects you against a broad range of fraud. Even if your Password is stolen, no one will be able to successfully login without access to your registered computers.

In addition to two-factor authentication, our enhanced login security uses Two-way Authentication. While two-factor authentication confirms your identity to our Web site, two-way authentication protects you against fraud by proving our Web site’s identity to you. We do this by asking you to select a personalized Picture also known as a Personal Identification Image (“PII”), a secret image unique to you. Once you have established your Picture, we will always show it to you when we ask for your Password. The personalized Picture is visual, so it is easy for you to notice and remember. When you see your personalized Picture, you instantly know you are at the right website. You should never enter your Password if you do not see your correct personalized Picture.

**SYSTEM SECURITY** – While data transferred via the Online Banking system is encrypted in an effort to provide transmission security, we remind you that the Internet lacks inherent security and therefore we do not guarantee the security of your session or that downloads from our site will not contain a virus or other destructive device. Notwithstanding our efforts to insure that the Online Banking system is secure, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the Internet and potentially can be monitored and read by others. We cannot and do not warrant that all data transfers utilizing the Bank’s Online Banking system, or e-mail transmitted to and from us, will not be monitored or read by others.

**SUFFICIENT FUNDS** – You must have sufficient available funds in your Account to cover the amount of any transaction that would be charged to your Account. Subject to limitations set out in this Agreement, you can request payments up to the amount of available funds or available credit in your Account. We may hold (or “freeze”) funds at any time after you have initiated a Service for any reason, including as a means of reducing risks that there will be insufficient funds for completing the Service. If we do hold funds, we may treat the held funds as not available for other purposes, and reject other transactions (for example, checks or other transfer instructions). We may allow overdrafts/over limits or negative balances, but we also may discontinue the practice at any time with or without prior notice to you. If you do not have sufficient or available funds or credit, you may be charged an overdraft or other fee (such as fees for returned checks or other electronic items), and as set forth herein and in the Fee Schedule, which is available at [www.fmb.com/fees](http://www.fmb.com/fees). Nothing in this Agreement, or any course of dealing between us, shall be construed as our commitment or obligation to lend you money.

**WAIVER OF ACCESS RESTRICTIONS** – Your Accounts may be subject to access restrictions when you conduct transactions in person or when you are using systems other than with a Service. If access restrictions exist, they do not apply to your use of the Services. We may limit or deny Services to you if there are access restrictions. Conversely, we may process your transactions based on Communications without regard to or any need to comply with access restrictions otherwise applicable to your Accounts.

**COMPLIANCE WITH LAWS AND RULES** – You agree to comply with all state and federal laws, rules and regulations applicable to you and to your use of the Services (the “Laws”), including the operating rules of all systems used to provide Services to you (the “Rules”), and to provide evidence reasonably satisfactory to us of the same if requested by us. You agree not to use the Service for any illegal purpose, including but not limited to illegal Internet gambling. Without limitation, you agree and acknowledge that the Services may not be used by you in violation of the laws of the United States, including sanctions laws administered by the Office of Foreign Asset Controls. You acknowledge and agree that the software you use to access Services may be subject to restrictions and controls imposed by the Export Administration Act and the Export Administration Regulations. You agree and certify that neither the software nor any direct product thereof is being or will be used by you for any purpose prohibited by these Acts.

Additionally, each Account and the Services will be subject to and governed by the following:

- The terms or instructions appearing on a screen when using a Service;
- Our “Your Deposit Account Terms and Conditions” account agreement, and our rules, procedures and policies;
- Applicable provisions of the rules of the National Automated Clearing House Association (NACHA) for bill payments facilitated through the ACH.
- Applicable state and federal laws, rules and regulations; and
- The rules of other funds transfer systems when used in connection with a Service.

Nothing in this Agreement relieves you of any obligation you may have under the Laws or the Rules, and this Agreement is deemed modified to the extent necessary to allow or require you to comply with the same. You will implement and maintain procedures, including retention of legal or compliance services, to ensure that you are able to comply with all current and future Laws and Rules, including any changes to them. We are not obligated to provide information, updates or notice of or regarding the Laws or the Rules, even if we are aware of the same and of the potential for material impact on you and your use of the Services, and your indemnification and other obligations to us are not relieved or reduced by our not providing the same to you. If we do provide information, updates, or notices of or regarding the Laws or the Rules to you, we are not responsible for the accuracy of the same and may discontinue doing so at any time.

**ELECTRONIC RECORDS AND SIGNATURES** – When any payment order or other Service generates items or transactions to be charged to your Account, you agree that we may charge the affected Account without requiring your signature on an item and without prior notice to you. Any transactions resulting from your instructions which we receive in your name and under your credentials shall be deemed to have been “a writing” and authenticated by you “in writing” for purposes of any law in which a writing or written signature is needed or required. All records maintained by us of transactions under your credentials shall be deemed to have been “signed” and to constitute an “original” when printed from records established and maintained by our authorized agent or us in the normal course of business. You agree not to contest the authorization for, or validity or enforceability of, our electronic records and documents, or the admissibility of copies thereof, under any applicable law relating to whether certain agreements, files, or records are to be in writing or signed by the party to be bound thereby. Records and “signed” documents, if introduced as evidence on paper in any judicial or other proceedings, will be admissible to the same extent and under the same conditions as other documentary business records. Upon our written request, you agree to manually sign or place your signature on any paper original of any record or “signed” document, which we provide to you containing your purported signature.

**LINKING ACCOUNTS** – Accounts on which you are a primary or joint account holder will be automatically linked under the Services. Any signer on any linked Account, acting alone, is authorized by you to access and use Services for any other linked Account, whether or not that person would be authorized to transact on the other linked Account in the absence of this Agreement. As to commercial accounts (as applicable), you represent and warrant that you have authorization from the Account owner to engage in each Service used by you affecting an Account that is linked. You make this representation and warranty at the time the Accounts are linked and each time you use a Service to access or transact on an Account. These representations and warranties are in addition to any others contained in this Agreement or in any supplemental agreements that may be required by us.

**CONTACT IN EVENT OF UNAUTHORIZED TRANSFER** – If you believe any part of your Security Code, including your password, has been lost or stolen, please contact us via:

*Telephone:*

You can contact us locally at 562-344-2370 or if you are outside of California at 1-866-437-0011

*Postal Mail:*

You can write to us at:  
Farmers & Merchants Bank Online Banking Services  
1695 Adolfo Lopez Dr.  
Seal Beach, CA 90740 U.S.A.

You should also call the number or write to the address listed above if you believe a transfer has been made using the information from your check without your permission.

**PRIVACY AND CONFIDENTIALITY** – All information gathered from you in connection with using the Service will be governed by the provisions of our consumer privacy policy (applicable to consumer accounts only), as well as our internet privacy policy, which you agree to review by accessing on our homepage at [www.fmb.com](http://www.fmb.com). In addition, we will disclose information to third parties about your account or the transfers you make where it is necessary for completing transfers; in order to verify the existence and condition of your account for a third party; such as a credit bureau or merchant; in order to comply with government agency or court orders; or if you give us your written permission.

The Online Banking site is not intended for use by any child under the age of 13. Any information we knowingly receive on a child under the age of 13 will be removed from the Online Banking System. Encryption of data transmissions does not guarantee privacy. Data transferred via the Services is encrypted in an effort to provide transmission security. Notwithstanding our efforts to insure that the Services are secure, you acknowledge that the Internet is inherently insecure and that all data transfers (including transfer requests and electronic mail) occur openly on the Internet. This means that the data transfers potentially can be monitored and read by others. We cannot and do not warrant that all data transfers utilizing the Services will not be monitored or read by others.

**FEES AND CHARGES** – You agree to pay the fees and charges for your use of the Online Banking system services as set forth in the current fee schedule. We may impose new fees and charges, or increase or change existing fees and charges. We will provide advance notice of these changes to you as required by law. Other fees may be assessed and billed separately by your internet and/or telephone service provider, for which you are solely responsible. You agree to pay all fees and charges we impose. You authorize us to charge the designated Account and/or any other account you hold with us to cover your fees and charges. You also authorize us to charge you according to our then-current fee schedule.

**CUT-OFF HOURS AND POSTING OF TRANSFERS** – Account Transfers initiated through the Online Banking system before 6:00 p.m. on a business day are posted to your account the same day. Account Transfers completed after 6:00 p.m. on a business day, Saturday,

Sunday or Banking holiday, will be posted on the next business day. For Bill Payments, refer to the cut-off hours provided below. At our option, however, we may treat the transfer as received the same day as the day of receipt.

**LIMITS ON AMOUNTS AND FREQUENCY OF ONLINE BANKING SYSTEM TRANSACTIONS** – The number of transfers from bank accounts and the amounts that may be transferred are limited pursuant to the terms of the applicable deposit agreement and disclosure for those accounts. If a hold has been placed on deposits made to an account from which you wish to transfer funds, you cannot transfer the portion of the funds held until the hold expires.

**ONLINE BILL PAY SERVICE** – The Online Bill Pay service allows you to schedule payments through Online Banking. The Bank does not provide the service directly, but has entered into an agreement with CheckFree Service Corporation, a bill pay provider, to offer the bill pay services directly to you. Subject to any regulatory or Bank-imposed limitations on usage, you can arrange for the payment of your current, future, and recurring bills from any checking account. There is no limit to the number of payments that may be authorized and you may pay any merchant or individual approved by the bill pay provider. While payments are initiated by you electronically, they are ultimately paid via an automated clearinghouse (ACH) network or by a paper check. Payments delivered over an ACH network are governed by the rules and performance standards of that network.

*Definitions.* For the purposes of these “Online Bill Pay Service” provisions, the words shall have the following meanings:

- "Billing Account" is the checking account from which all Service fees will be automatically debited.
- "Business Day" is every Monday through Friday, excluding Federal Reserve holidays.
- "Due Date" is the date reflected on your Payee statement for which the payment is due; it is not the late date or grace period.
- "Payee" is the person or entity to which you wish a Bill Payment to be directed or is the person or entity from which you receive electronic bills, as the case may be.
- "Payment Account" is the checking account from which Bill Payments will be debited.
- "Payment Instruction" is the information provided by you to the Service for a Bill Payment to be made to the Payee (such as, but not limited to, Payee name, Payee account number, and Payment Date).
- "Processing Date" is the day your Payment Instruction will be processed by us, unless the Processing Date falls on a non-Business Day in which case it may be considered to be the previous Business Day.
- "Payment" is a payment that has been scheduled through the Service but has not begun processing.

*Payment Scheduling.* When scheduling payments you should select a Processing Date that is sufficiently in advance of your Due Date, not taking into consideration any available grace period. Some payments may take up to seven (7) business days to be received and processed by the Payee.

*Overnight Delivery Draft.* The Service allows expedited payments using an overnight delivery service. There is an additional fee for this Service (please see our current fee schedule for additional information).

*Available Funds.* For Bill Payments, you will need to have sufficient available funds in your designated Payment Account to cover the amount of the Bill Payment. You can initiate Bill Payments up to the available funds in your Payment Account, plus any linked credit or other overdraft facility (as applicable). If you exceed these limits, then we may prevent (or reverse) Bill Payments, even if the result is to reduce your transactions to a level below the amounts needed to pay your bills.

*Payment Delivery.* Due to circumstances beyond our control, particularly delays in handling and posting payments by slow responding Payees or financial institutions, some transactions may take several days to be credited by your Payee.

*Payee Information, Payment Authorization, and Payment Remittance.* Each time you want to initiate a Bill Payment, the Payee must be on your authorized list of Payees. We are not responsible if a Bill Payment is not made to a Payee because you provided us with incomplete, incorrect or outdated information regarding the Payee or we attempted to make a payment to a Payee you entered that is not on your authorized list of Payees. Also, we reserve the right to refuse to approve a Payee for your authorized list of Payees and to otherwise prohibit payment to a Payee via the Bill Payment Service.

By providing the Service with names and account information of Payees to whom you wish to direct payments, you authorize the Service to follow the Payment Instructions that it receives through the payment system. In order to process payments more efficiently and effectively, the Service may edit or alter payment data or data formats in accordance with Payee directives.

When the Service receives a Payment Instruction, you authorize the Service to debit your Payment Account and remit funds on your behalf, as provided in this Addendum. You also authorize the Service to credit your Payment Account for payments returned to the Service by the United States Postal Service or Payee, or payments remitted to you on behalf of another authorized user of the Service.

*Payment Methods.* The Service reserves the right to select the method in which to remit funds on your behalf to your Payee. These payment methods may include, but may not be limited to, an electronic payment or electronic to check payment. If payment is made using an electronic or check payment, then funds remitted to the Payee may not be deducted from your Payment Account until the check is presented to us for payment.

*Payment Cancellation Requests.* You may cancel or edit any Scheduled Payment (including recurring payments) without charge by following the directions within the application, prior to 12:00 p.m. of our local time of the Processing Date. If your payment was

made using a check, a stop payment request must be submitted and we must have a reasonable opportunity to respond to your stop payment request before the check has been paid against your account. See below regarding “Stop Payment Requests” details.

*Stop Payment Requests.* The Service's ability to process a stop payment request will depend on the payment method. The Service may also not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you desire to stop any payment that has already been processed, you must contact Customer Service. Although the Service will make every effort to accommodate your request, the Service will have no liability for failing to do so. The Service may also require you to present your request in writing within fourteen (14) days. The charge for each stop payment request will be the current charge for such service as set out in the applicable fee schedule.

*Prohibited Payments.* Payments to Payees outside of the United States or its territories are prohibited through the Service.

*Exception Payments.* Tax payments and court ordered payments may be scheduled through the Service; however, such payments are discouraged and must be scheduled at your own risk. In no event shall the Service be liable for any claims or damages resulting from your scheduling of these types of payments. The Service has no obligation to research or resolve any claim resulting from an exception payment. All research and resolution for any misapplied, mis-posted, or misdirected payments will be the sole responsibility of you and not of the Service.

*Cut-off Hour.* Bill Payment instructions received by us after 12:00 p.m. of our local time or on a day that is not a business day of ours (or of any bill payment vendor or intermediary that we may use) may be treated by us as received on the next business day.

*Bill Delivery and Presentment.* This feature is for the presentment of electronic bills only and it is your sole responsibility to contact your Payees directly if you do not receive your statements. In addition, if you elect to activate one of the Service's electronic bill options, you also agree to the following:

*Information provided to the Payee.* The Service is unable to update or change your personal information such as, but not limited to, name, address, phone numbers, and e-mail addresses, with the electronic Payee. Any changes will need to be made by contacting the Payee directly. Additionally it is your responsibility to maintain all usernames and passwords for all electronic Payee sites. You also agree not to use someone else's information to gain unauthorized access to another person's bill. The Service may, at the request of the Payee, provide to the Payee your e-mail address, service address, or other data specifically requested by the Payee at the time of activating the electronic bill for that Payee, for purposes of the Payee informing you about Service and/or bill information.

*Activation.* Upon activation of the electronic bill feature, the Service may notify the Payee of your request to receive electronic billing information. The presentment of your first electronic bill may vary from Payee to Payee and may take up to sixty (60) days, depending on the billing cycle of each Payee. Additionally, the ability to receive a paper copy of your statement(s) is at the sole discretion of the Payee. While your electronic bill feature is being activated, it is your responsibility to keep your accounts current. Each electronic Payee reserves the right to accept or deny your request to receive electronic bills.

*Authorization to obtain bill data.* Your activation of the electronic bill feature for a Payee shall be deemed by us to be your authorization for us to obtain bill data from the Payee on your behalf. For some Payees, you will be asked to provide us with your user name and password for that Payee. By providing us with such information, you authorize us to use the information to obtain your bill data.

*Notification.* The Service will use its best efforts to present all of your electronic bills promptly. In addition to notification within the Service, the Service may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically logon to the Service and check on the delivery of new electronic bills. The time for notification may vary from Payee to Payee. You are responsible for ensuring timely payment of all bills.

*Cancellation of electronic bill notification.* The electronic Payee reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Payee to Payee. It may take up to sixty (60) days, depending on the billing cycle of each Payee. The Service will notify your electronic Payee(s) as to the change in status of your account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. The Service will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

*Non-Delivery of electronic bill(s).* You agree to hold the Service harmless should the Payee fail to deliver your statement(s). You are responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Payee directly.

*Accuracy and dispute of electronic bill.* The Service is not responsible for the accuracy of your electronic bill(s). The Service is only responsible for presenting the information we receive from the Payee. Any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail must be addressed with the Payee directly.

This Agreement does not alter your liability or obligations that currently exist between you and your Payees.

*Payee Limitation.* The Service reserves the right to refuse to pay any Payee to whom you may direct a payment. The Service will notify you promptly if it decides to refuse to pay a Payee designated by you. This notification is not required if you attempt to make a prohibited payment or an exception payment under this Agreement.

*Returned Payments.* In using the Service, you understand that Payees and/or the United States Postal Service may return payments to the Service for various reasons such as, but not limited to, Payee's forwarding address expired; Payee account number is not valid; Payee is unable to locate account; or Payee account is paid in full. The Service will use its best efforts to research and correct the returned payment and return it to your Payee, or void the payment and credit your Payment Account. You may receive notification from the Service.

*Information Authorization.* Through your enrollment in the Service, you agree that the Service reserves the right to request a review of your credit rating at its own expense through an authorized bureau. In addition, you agree that the Service reserves the right to obtain financial information regarding your account from a Payee or your financial institution (for example, to resolve payment posting problems or for verification).

*ACH Entries.* Electronic payments that are made through the Automated Clearing House Network ("ACH") are subject to the NACHA rules, and you agree to be bound by the Operating Rules of the ACH, including the rule making payment to the Payee provisional until receipt by the Payee's bank of final settlement of the credit transaction. If final settlement is not received, you will not be deemed to have paid the Payee the amount of the electronic bill payment. Furthermore, you agree that any payment by us to you for any returned credit entry or credit reversal is provisional until receipt by us of final settlement for such entry. If final settlement is not received, we are entitled to a refund from you of the amount credited, and we may charge your account for the amount credited. We may refuse to permit the use of any amount credited for a credit reversal if we believe that there may not be sufficient funds in your account to cover charge back or return of such reversal.

**PAPER CHECK STOP PAYMENT REQUEST** – You may request a stop payment on a paper check issued on your Account(s) by completing the form presented as part of the Check Stop Payment Services ("Check Stop Payment") and submitting all the required information to us. Check Stop Payments must be received by us in sufficient time prior to presentment of the relevant item for payment that we have a reasonable opportunity to act on the request. All Check Stop Payment orders, renewals, and revocations of stop orders will be subject to our current policy on stop payment orders. Requests received after our cut-off hour, currently 6:00 PM or on a day that is not a business day may be deemed received the following business day. For significant or material items, please contact us by telephone or coming to one of our branches in addition to using the Services for Check Stop Payment. There will be a fee assessed for each Check Stop Payment request whether or not we receive the request in time to place the Check Stop Payment.

You must give us timely, complete, and accurate information, including the check date, payee, EXACT amount of the check, check number, and reason for the stop request. If any information is incomplete or inaccurate, we will not be responsible for failing to stop payment on the check.

You may use the Check Stop Payment Service to stop payment on checks that you have written against your Accounts. If you wish to cancel or amend any other Service transaction (for example, the Bill Payment Service), you should use the process applicable to that Service and you will be subject to any limitations or inability to stop applicable to that Service.

You may not use the Check Stop Payment Service to stop payment on any ACH/EFT transaction, point-of-sale ACH/EFT transfer; any cashier's check, certified check or other official institution check have purchased from Bank; or any check, which we have guaranteed. You understand that your Check Stop Payment request is conditional and will not be effective if we have not had a reasonable opportunity to respond to your request, or that stopping payment may subject us to risk of loss or damages under any law or regulation (including clearing house or other processor rules).

A Check Stop Payment request against a check is effective only against the check that is described in the Check Stop Payment request form and does not cancel or revoke any authorization for future or recurring ACH/EFT transfers by you or by the same biller or originator. A Check Stop Payment order is effective for six (6) months only and will expire automatically, at which time you are responsible for any renewal desired by you for another six (6) month term.

**ONLINE BANKING SYSTEM E-MAIL** – If you have questions on how to use the Online Banking system and answers to those questions cannot be obtained through the Online Help, you may send your questions to us using the Message Center in the Online Banking System. Messages using this feature are sent securely. To use this feature, you must be logged into the Online Banking System. If you have questions about your account or you believe someone else has access to your Log-in ID and/or password or other means of access to your account, or you have questions about your account or about transfers or payments to and from your account, you can speak with an Internet Support Specialist by calling us during the hours of 8:00 A.M. to 5:00 P.M. Monday through Thursday, 8:00 A.M. to 6:00 P.M. Fridays, 9:00 A.M. to 12:00 P.M. Saturdays, except for federal holidays. You cannot use e-mail to initiate transactions on your account(s).

For banking transactions, please use the appropriate functions within the Online Banking system. Your e-mail messages may be acted upon by us if received in a manner and in a time providing us a reasonable opportunity to act. Nevertheless, unless otherwise provided herein, e-mail messages will not serve as a substitute for any requirement imposed on you to provide us with "written" notice.

E-mail or messages sent by us to you will be deemed received by you when sent by us to you at your e-mail address as shown on our records. You agree to notify us (using the Service or otherwise in form acceptable to us) whenever your e-mail address changes. You

agree that information or messages made available to you via the Services will be deemed received by you when first posted on our website or made available to you. You agree to access the Service from time to time, in no event less than monthly, to access this information or the messages.

**AMENDMENTS TO THIS AGREEMENT** – We may amend, add to, or change this Agreement (including changes in its fees and charges hereunder). We will provide notice of amendments, additions, or changes if required by law. Your continued use of the Services will constitute your consent to the amendments, additions, or changes.

**COMMUNICATIONS BETWEEN BANK AND YOU** – Unless this Agreement provides otherwise, you can communicate with us in any one of the following ways:

*Telephone:*

You can contact us locally at 562-344-2370 or if you are outside of California at 1-866-437-0011

*Facsimile:*

You can contact us by fax at 562-344-2371

*Postal Mail:*

You can write to us at:  
Farmers & Merchants Bank Online Banking Services  
1695 Adolfo Lopez Dr.  
Seal Beach, CA 90740 U.S.A.

**CONSENT TO ELECTRONIC DELIVERY OF NOTICES** – You agree that any notice or other type of communication provided to you pursuant to the terms of this Agreement, and any future disclosures required by law, including electronic fund transfer disclosures, may be made electronically by posting the notice on the Bank’s website or by e-mail. You agree to notify us immediately of any change in your e-mail address.

**SECURITY INTEREST IN ACCOUNTS** – You grant us a security interest in all accounts or other deposits (whether general or special) of yours at the Bank, to secure your obligations to us under this Agreement. This security interest will survive termination of this Agreement. We may hold any funds on deposit with us by you after termination of this Agreement for up to 90 days following the expiration of any return or chargeback rights or, if later, until any other claims to such funds have expired.

**HARM TO COMPUTER SYSTEMS/DATA** – You agree that we will not be liable for viruses, worms, trojan horses, or other similar harmful components that may enter your computer system by downloading information, software, or other materials from our site. We will not be responsible or liable for any indirect, incidental, or consequential damages that may result from such harmful components.

**WARRANTY DISCLAIMER** – We make no warranty of any kind, express or implied, including any implied warranty or merchantability or fitness for a particular purpose, in connection with Services provided to you under this Agreement. We do not and cannot warrant that Services will operate without errors, or that any or all Services will be available and operational at all times. Due to the possibility of human and mechanical errors, as well as other factors, the system website is not error-free, and all information is provided “as-is,” without warranty of any kind. We make no representation and specifically disclaim any express or implied warranties to users of any third parties, including but not limited to, warranties as to accuracy, timeliness, completeness, merchantability, or fitness for any particular purpose.

**UPLOADED CONTENT, LINKED SITES, AND ADVERTISEMENTS** – From our website, you may be able to access uploaded content provided or operated by third parties. Unless we tell you otherwise in writing, we do not operate or control any such content or any of the information, products, or services on such linked websites. You acknowledge and agree that: (i) you access such content and linked sites at your own risk; (ii) we make no representation or warranty, and assume no responsibility for, content on our website and any linked site or the actions or omissions of its/their owners, operators or providers (iii) we make no endorsement of, and assume no responsibility for, content uploaded to our website or goods or services offered on or advertising on or by any other website; (iv) by using other websites and Services, you may be exposed to content that is offensive, indecent or objectionable; and (v) although we may have a contractual or other relationship with the operators of a linked website or the providers of content, we will not be responsible for the content, accuracy, integrity, availability, timeliness or operation of their website or content. You agree to hold us harmless in connection with all of the foregoing.

We reserve the right, but shall have no obligation, to reject, move, or delete content that we, in our sole discretion, believe violates this Agreement, or contains content, including viruses, that may interfere with the operation of our website. We may, but have no obligation to, monitor, and/or retain copies indefinitely of, uploaded content, message boards, chat rooms or other forums or review content, or messages posted at such locations, to confirm their compliance with these guidelines. We shall have the right, but not the obligation, to disclose content to any third party if required by law or if we believe reasonably necessary to: (a) comply with legal process; (b) enforce this Agreement; (c) respond to claims that any content violates rights of third parties; or (d) protect our rights, properly, or personal safety, or those third parties.

**THIRD PARTY CONTENT** – We may receive, process, and make available to you content that we receive from you and others. In this regard, we are merely a passive conduit for such content, although we reserve the right to block or remove any content that we believe violates this Agreement. We assume no responsibility for determining the accuracy, reliability, timeliness, ownership, legality, appropriateness or completeness of any information that you or others provide to us, nor for any mistakes, defamation, slander, libel, omissions, falsehoods, obscenity, pornography or profanity on such sites. We will not have a duty to interpret or evaluate any content



transmitted to us or through our website or Services, except to the limited extent, if any, and set forth in this Agreement. We will not be required (by means of any security procedure or otherwise) to detect errors or illegality in the transmission or content of any content we receive from you or third parties. We will not have a duty to notify you about any inaccuracy, unreliability, ownership, incompleteness or other problem that may be associated with third party content on our website, even if we have reason to know of its existence. Use of any content you obtain from our website is at your own risk.

**USER COMMUNICATION AND PERSONALIZATION SETTINGS** – Our website and Services may permit you to send or receive communications (such as e-mail, chat, newsgroups and the like) and to store content and personalized settings for various options. We are not responsible for any delay, deletion, alteration, mis-delivery, or failure to deliver or store any such communications, content or settings.

**IDEA SUBMISSIONS** – If you submit any materials or other information to any public areas of our website (such as bulletin boards, guest books, forums, wish lists and chat rooms), you hereby grant us a non-exclusive, worldwide, royalty-free, fully paid-up, perpetual, sub-licensable, assignable, transferable, irrevocable license under copyright and patent, with the unrestricted right to use, self, reproduce, distribute, transmit, create derivative works of, publicly display, and publicly perform any such materials and other information (including, without limitation, ideas contained therein for new or improved products and services) by all means and in any media now known or hereafter developed or commercialized. In addition, you represent and warrant to us that you have the right to grant to us the foregoing license.

**INTELLECTUAL PROPERTY** – You acknowledge and agree that the software and content used by us in the operation of our website and provision of the Services, and the copyright patent, trademark, trade secret and all other rights in and to the technology, software, content, designs, graphics, and trademarks included by us our website and as part of the Services and our name and product names and the website's URL (collectively, by the "Intellectual Property"), are owned by us and our licensors. As such, you will not gain any ownership or other right, title or interest in or to such Intellectual Property by reason of this Agreement or otherwise.

You may not distribute, use, reproduce, duplicate, copy, publish, sell or otherwise transfer (i) any portion or element of the Services or the Intellectual Property (ii) use of our website, Services or Intellectual Property, or (iii) access to our website Services or Intellectual Property. Further, you may not (a) create derivative works of any portion or element of our website, Services or Intellectual Property; (b) reverse engineer, modify, decompile or disassemble any of the Intellectual Property; (c) deactivate or disable any password protection or other protection, security or reliability technology we incorporate in our website or the Services; (d) modify or erase any copyright or trademark notice we place at our website; (e) engage in the practice known as "screen-scraping" or otherwise attempt to, or actually, obtain copies of content provided at the site or a list of our content or site users, or use computer programs (sometimes known as "scraper," "spiders," "robots," or "bots") to systematically access and download data; (f) access the Services by any means other than via our website; (g) frame our website or any Intellectual Property; or (h) use any circumvention tools, meta tags or any other "hidden text" utilizing our name, trademark, URL, product name or Intellectual Property. You agree to comply with the terms of any license agreement we make available to you with any software.

**USER CONDUCT** – You agree not to use the Service or the content or information in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of the Service to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination, false advertising or illegal Internet gambling); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to the Service; or (i) use the Service in such a manner as to gain unauthorized entry or access to the computer systems of others.

**NO COMMERCIAL USE OR RESALE** – You agree that the Service is only for the personal use of the individuals authorized to access your account information with us. You agree not to make any commercial use of the Service for resale, lease, rent or to otherwise redistribute access to the Service.

**CUMULATIVE REMEDIES** – The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, ordinance or otherwise.

**DELAYS/FORCE MAJEURE** – The obligations of the Bank shall be suspended to the extent and for so long as such obligations are hindered or prevented from being performed on account of labor disputes, war, riots, civil commotion, acts of God, fires, floods, failure of suppliers and/or subcontractors to perform, failure of power, restrictive governmental law and/or regulations, storms, accidents or any other cause which is reasonably beyond the control of the Bank.

**THIRD PARTIES** – You acknowledge and agree that we may arrange to provide software, if required, and/or may arrange for the Services covered by the Agreement to be performed or provided by third parties, including our affiliates. You further agree that any such party is a third-party beneficiary of the Agreement and as such is entitled to rely on, and avail itself of, the provisions of the Agreement as if it were us, including, without limitation, the limitations on liability and the indemnities described in the Agreement. Our ability to provide certain Services may be dependent upon our ability to obtain or provide access to third-party networks. In the event any third-party network is unavailable or we determine in our sole discretion, that we cannot continue providing any third-party network access, we may

discontinue the related Service or may provide the Service through an alternate third-party network. In such situations, we will have no liability for the unavailability or delay of access.

Notwithstanding the limitations described above pertaining to third parties, if you authorize a third party to access the Services on your behalf, you will be solely responsible and liable for all actions and inactions of said third party. You expressly assume the risks associated with providing Service access rights to your agents or third-party vendors, including but not limited to the risk of unauthorized or erroneous transactions. We will not be responsible, nor have any liability whatsoever for any services you receive from your agents or third-party vendors. We reserve the right to require you to agree to additional terms and conditions as a condition precedent to your use of any agent or third party vendor in connection with your access to the Services.

**SEVERABILITY** – Wherever possible, each provision of this Agreement shall be interpreted in a manner, which makes the provision effective and valid under applicable law. If applicable law prohibits or invalidates any part or provision of this Agreement, that particular part or provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

**ENTIRE AGREEMENT** – This Agreement contains the entire agreement between the parties and no statements, promises or inducements made by either party or agent of either party that are not contained in this written Agreement or other documents referenced by this Agreement.

**CHOICE OF LAW** – This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, except where preempted by federal law.

**WAIVER** – We may waive any term or provision of this Agreement at any time or from time to time, but any such waiver shall not be deemed a waiver of the term or provision in the future.

**ASSIGNMENT** – We may assign the rights and delegate the duties under this Agreement to a company affiliated with us or to any other party. You may not assign your rights or obligations under this Agreement, and any effort by you to do so is unenforceable at our election.

**TERMINATION, SUSPENSION, OR DELAY** – We may terminate, suspend, or delay this Agreement and any service provided hereunder at any time. We will provide electronic or written notice of termination to you. Except to the extent restricted by law, we reserve the right to terminate or to discontinue support of any Service, or delay or refuse processing any transaction, without written notice. You may terminate this Agreement upon 30 days written notice to us. Termination of this Agreement will not affect any rights we may have, or any obligations you may have, as to any transaction or Services caused or attempted by you before termination.

#### **PROVISIONS SPECIFIC TO COMMERCIAL ACCOUNTS**

This Section applies only to commercial accounts as defined in this Agreement. You are responsible for and bound by any Communication we receive in your name through a Service if the Communication: (a) comes from an authorized representative, Administrator or Authorized-User; or (b) is authenticated using security procedures, described herein, even if not authorized by you; or (c) is legally binding on you under the laws of agency, contract or otherwise.

*Authorized Representatives.* Your “authorized representative” includes each person who is (1) authorized by you to conduct business with us, including as part of your account management resolution(s); or (2) a principal officer of yours (such as your CEO if you are a corporation, or a partner in a partnership, or a manager in an LLC); or (3) otherwise authorized (or deemed authorized) to act on your behalf, whether under this Agreement or any other agreement with us, by the laws of agency, or under by any other state or federal law, rule or regulation.

Administrator. You will be required to designate at least one initial Administrator. You (through the Administrator) then control the Services and access to them. The Administrator will be able to and will be responsible for maintaining your Service settings and Authorized-User security. Access to your Account(s) through the Service will be based upon authority established by the Administrator, whom you agree may specify usage levels (without filling out a new business resolution). You must notify us if you terminate or change the Administrator. You must also notify us if you add or delete Accounts or functionalities.

The Service will allow the Administrator to establish authority levels to help you manage additional Authorized-Users and control use of various Services. The levels are used to specify who can access specific Accounts, what dollar amounts Authorized-Users are authorized to handle and what functions an Authorized-User can access when transacting on an Account using the Services.

The Administrator is also responsible for assigning all persons with the Security Codes that are necessary to access Services and for establishing what, if any, limitations will apply (including what level of activity is appropriate for each Account). The Administrator changes and maintains your Security Codes. The Administrator will have full access to your Accounts and to any future Accounts you may open.

We will not control or oversee the Administrator or any activity or function of an Administrator or other Authorized-User. You agree to the creation of an Administrator and to all action taken by the Administrator. You agree to all action taken by any Authorized-User and by any person given access to one or more Services by the Administrator or by an Authorized-User, and all such persons are your agents for purposes of use of the Services.

You further agree to assume all risks associated with providing Security Codes to your Administrator, understanding that this can result in Authorized-Users and possibly other persons obtaining access to your Account without control or monitoring by us. You must establish authorization parameters and/or limits for each person you authorize to use the Service. You agree to use and implement each control (including template management, verification, access, use of maximum process settings, security, audit and review procedures) to prevent unauthorized persons gaining access to Security Codes or you Accounts.

*Responsibility For Communications In Your Name, Whether Or Not Authorized By You.* The Security Codes are security procedures. You agree that we may use the security procedures to verify the authenticity of Communications that are received by us in your name. If we verify the authenticity of a Communication or instruction received in your name using the security procedures, we may rely on it and you will be obligated on the Communication or instruction, whether or not it was authorized by you.

On the other hand, if a Communication or instruction was authorized by you or if you would otherwise be bound by it under this Agreement, you will be obligated on it even if we did not verify its authenticity using the security procedures and even if the security procedures would have prevented error. You agree that the security procedures are intended to verify authenticity and not to detect error.

*Responsibility For Security Procedures.* In addition to the Security Codes as security procedures, you may choose additional security procedures. We may from time to time offer supplemental security procedures, and you agree to consider them. You agree to follow any instructions we provide to you about using, storing, or otherwise related to security procedures.

You agree to consider the size, type, and frequency of the payment orders or other money transactions you will or intend to use Services to accomplish. You agree to consider the risks presented by the possibility of unauthorized access to these Services, including the risk loss to you that we may process Communications and instructions that are your responsibility even though they were not authorized by you. You agree to use Services only after determining, and only for so long as you continue to determine, that the security procedures are a commercially reasonable method of providing security against unauthorized payment orders or other Communications. You agree and acknowledge that the security procedures are commercially reasonable for you and that you will be bound by instructions or Communications in your name, as set forth above.

You agree to take appropriate steps to ensure that all Security Codes are protected and kept confidential. In your review of the Services, including those aspects of the Services pertaining to the issuance, use, and protection of Security Codes and security procedures, you agree to notify us if your use of the Services would necessitate or be better served by a level of security that exceeds that offered by the Services. If you fail to notify us, then you acknowledge and agree that the security procedures of the Services are appropriate for your needs and will provide you with a commercially reasonable degree of security against unauthorized use.

*Refusal To Process Communications.* We may delay or refuse to process any requested Service, including payment orders or other money transactions, or any other Communication from you. We may do so for any reason or for no reason. We may provide notice to you, but are not obligated to do so. We may delay or refuse processing, for example, if: (a) processing would or may exceed the available funds in your affected Account; (b) the Communication is not authenticated to our satisfaction or we believe it may not have been authorized by you; (c) the Communication contains incorrect, inconsistent, ambiguous, or missing information; (d) processing would or may involve funds which are subject to lien, security interest, claim, hold, dispute, or legal process prohibiting withdrawal; (e) processing would or may cause a violation of any Laws or Rules applicable to you or to us; or (f) for any other reason under this Agreement. In addition, we shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in our having exceeded any limitation upon our intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in our reasonable judgment otherwise violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority. You agree that we will have no liability to you or to any other person for any loss, damage or other harm caused by or arising out of any such delay or refusal.

*Limitations on Liability.* Unless otherwise required by applicable law, we are only responsible for performing Services 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 NO EVENT WILL WE OR ANY OF OUR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, LICENSORS, OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION LOSS OF DATA, FILES, PROFIT OR GOODWILL OR THE COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE), INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, WHETHER IN ACTION UNDER CONTRACT, NEGLIGENCE OR ANY OTHER THEORY, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ANY SERVICES, OR THE INABILITY TO USE THE SERVICES, IRRESPECTIVE OF WHETHER WE HAVE OR HAVE NOT BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE MAXIMUM AGGREGATE LIABILITY OF US FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE FORM OR CAUSE OF ACTION, SHALL BE THE LESSER OF THE AMOUNT YOU ORIGINALLY PAID FOR THE SERVICE, PRODUCTS OR MATERIALS OR \$50,000.00.

You agree to cooperate with us in any loss recovery efforts we undertake to reduce any loss or liability that arises in connection with the Services. You acknowledge that Service fees have been established in contemplation of: (A) these limitations on our liability; (B) Your agreement to review statements, confirmations, and notices promptly and to notify us immediately of any discrepancies or problems; and (C) Your agreement to assist us in any loss recovery effort.

We will not be obligated to honor, in whole or in part, any transaction or instruction or Communication which: Is not in accordance with any term or condition applicable to the relevant Service or Account; We have reason to believe may not be authorized by you or any third person whose authorization we believe is necessary or involves funds subject to hold, dispute, restriction or legal process we believe prevents their withdrawal, transfer or availability; Would result in us exceeding any limitation of our net funds position established pursuant to present or future Federal Reserve guidelines; Would violate any applicable law, rule or regulation, or any guidance or directive of any federal or state regulatory authority; Is not in accordance with any other requirement of our applicable policies, procedures or practices; or We have reasonable cause not to honor for our or your protection.

*Indemnification.* Except to the extent that we are liable under the terms of this Agreement, or of any agreement that otherwise governs your Account, you agree to indemnify and hold us, our affiliates, officers, directors, employees, consultants, agents, service providers, and licensors harmless from any and all third party claims, liability, damages and/or costs (including but not limited to reasonable attorneys' fees) arising from: (1) an Account; (2) the performance of a Service; (3) a third party claim, action, or allegation of infringement, misuse, or misappropriation based on information, data, files, or other materials submitted by you to us; (4) any fraud, manipulation, or other breach of these terms; (5) any third party claim, action, or allegation brought against us arising out of or relating to a dispute with you over the terms and conditions of an agreement, purchase or sale of any goods or services; (6) your violation of any Law or Rule or of the rights of a third party; (7) your use, or the provision of Services or use of your Account by any third party; or (8) any transaction or instruction or Communication from you to us. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses. You will not settle any action or claims on our behalf without the prior written consent from us. This indemnification is provided without regard to whether our claim for indemnification is due to the use of the Service by you or your authorized representative. This indemnification provision survives termination of this Agreement.

*Data Retention.* You will retain data on file adequate to permit remaking or reconstruction of all requested Services (including payment orders or other money transactions) for one year following the date of the execution of the request to which such data relate, and will provide the data to us upon our request. You agree to determine promptly the accuracy of all records and information regarding a Service and to notify us immediately of any errors in such records or information. Nothing in this Agreement relieves you from: (a) any responsibility imposed by law, regulation, or contract with regard to the maintenance records; or (b) any responsibility to perform audits and account reviews customarily conducted by persons or entities whose businesses are similar to your business.

*Advice of Payment; Duty to Examine.* You agree to examine any records or monthly account statements promptly upon receipt. You will notify us immediately, and in no event later than 14 days after receipt of the record or account statement, whichever is earlier, of the existence of any errors, unauthorized transactions, or irregularities reflected on the record or on the account statement. Except to the extent expressly limited by applicable law, if you fail to notify us of any such discrepancy with 14 calendar days of receipt of the record or statement containing such information, you agree that we will not be liable for any other losses resulting from your failure to give such notice or for any loss of interest with respect to a transaction that is or should have been shown. If you fail to notify us of any such discrepancy within one year of receipt of such statement or report, you will be precluded from asserting the discrepancy against us. For purposes of this Section, you will be deemed to have "received" a periodic statement at the earlier of the time that: (a) we first make it available to you for pick-up; or (b) the statement or the information is mailed or otherwise made available to you electronically.

*Providing Personal and Financial Information.* You agree to provide true, accurate, current, and complete personal and financial information about yourself and about your affiliates as requested. You agree to not misrepresent your identity.

*Collection.* If we initiate collection proceedings against you in an effort to recover any amounts owed, you agree to reimburse us for all costs and expenses, including attorneys' fees. "Attorneys' fees" includes reasonable charges for the time expended by in-house counsel.

*Corporate Authority; Partnership Authority.* If you are a corporation or LLC, the person signing this Agreement on behalf of the corporation or LLC represents and warrants that he or she has full authority to do so and that this Agreement binds the corporation or LLC. If you are a partnership, the person signing this Agreement for you represents and warrants that, he or she is a general partner of the partnership, that he or she has full authority to sign for the partnership and that this Agreement binds the partnership and all general partners of the partnership. You shall give written notice to us of any general partner's withdrawal from the partnership.

**THIS SECTION APPLIES TO CONSUMER ACCOUNTS ONLY:**

**THE FOLLOWING PROVISIONS CONTAIN IMPORTANT CONSUMER DISCLOSURES UNDER THE EFTA. The following provisions only apply to consumer accounts as defined under this Agreement and are not intended to confer any rights or benefits to commercial accounts.**

*Preauthorized Payments.*

**Right to Stop Electronic Payment and Procedure for Doing So.** If you have told us in advance to make regular electronic payments out of your Account, you can stop any of these payments. Here is how:

**You may follow the directions provided in the Services, to stop the payment through the Services, telephone us at-1-866-437-0011, or write to us at:**

Farmers & Merchants Bank Online Banking Services  
1695 Adolfo Lopez Dr.  
Seal Beach, CA 90740 U.S.A.

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 you to put your request in writing and get it to us within 14 days after you call. We will charge you a fee for each stop payment order you give. Refer to the fee schedule for fee details. A separate process will apply to the extent you wish to initiate check stop payment requests through the Services. Refer to "Paper Check Stop Payment Request" Section, above, for further details.

**Notice of Varying Amounts.** If these regular payments may vary in amount, the person you are going to pay will tell you, 10 days before each payment, when it will be made, and how much it will be. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set).

**Liability for Failure to Stop Payment of Preauthorized Electronic Transfer.** If you order us to stop one of these electronic payments three business days or more before the transfer is scheduled to be made, and we do not do so, we will be liable for your losses or damages.

**Consumer Liability.** Tell us AT ONCE if you believe any part of your Security Code, including your password, has been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your check. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit, as applicable).

If you tell us within two business days after you learn of the loss or theft of any part of your Security Code, including your password, you can lose no more than \$50 if someone used your Security Code without your permission.

If you do NOT tell us within two business days after you learn of the loss or theft of any part of your Security Code, including your password, and we can prove that we could have stopped someone from using the Security Code without your permission if had you told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, including those made by card, code, or other means, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any funds you lost after the 60 days if we can prove that we could have stopped someone from taking said funds if you informed us in time. If a good reason (such as a long trip or a hospital stay), kept you from telling us, we will extend the time periods.

**Errors and Questions.** In case of errors or questions about your electronic transfers, telephone us at 1-866-437-0011, or write to us at:

Farmers & Merchants Bank Online Banking Services  
1695 Adolfo Lopez Dr.  
Seal Beach, CA 90740 U.S.A.

**You must write or call** as soon as you can, if you think your statement is wrong or if you need more information about a transfer listed on the statement. 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 of 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; and
- The dollar amount of the suspected error.

If you tell us orally, we may require you send us the 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 more time is needed, however, we may take up to 45 days to investigate a 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.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

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 request copies of the documents that were used in the investigation.

**Electronic Check Conversion.** You may authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to: (i) pay for purchases; and (ii) pay bills.

***Financial Institution's Liability.*** If we do not complete a transfer to or from your account on time or in the correct amount according to our Agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- If, through no fault of ours, you do not have enough money in your account to make the transfer.
- The transfer would go over the credit limit on your overdraft line (if applicable).
- Circumstances beyond our control (e.g., fire, flood, power outage, equipment or technical failure or breakdown) prevent the transfer, despite reasonable precautions that we have taken.
- The computer or related system was not working properly and you knew about the breakdown when you started the transfer.
- Your funds are subject to legal process or other encumbrance restricting the transfer.

There may be other exceptions stated in this Agreement and in other agreements with you.

***Preauthorized Credits.*** If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at 1-866-437-0011 to find out whether or not the deposit has been made.

***Documentation.*** You will get a monthly account statement (unless there are no transfers in a particular month). In any case, you will get the statement at least quarterly.

**ONLINE BANKING ENROLLMENT**



| SECTION I – Personal Customer Information   |                    |                           |     |    |    |
|---|--------------------|---------------------------|-----|----|----|
| NAME  |                    | E-MAIL ADDRESS (REQUIRED) |     |    |    |
| NAME  |                    | E-MAIL ADDRESS (REQUIRED) |     |    |    |
| ADDRESS   |                    |                           |     |    |    |
| CITY  |                    | STATE                     | ZIP |    |    |
| HOME PHONE  |                    | WORK PHONE                |     |    |    |
| SECTION II– Business Customer Information   |                    |                           |     |    |    |
| COMPANY   |                    | E-MAIL ADDRESS (REQUIRED) |     |    |    |
| ADDRESS   |                    |                           |     |    |    |
| CITY  |                    | STATE                     | ZIP |    |    |
| PHONE   |                    | FAX                       |     |    |    |
| PRIMARY CONTACT FOR COMPANY (REQUIRED)  |                    |                           |     |    |    |
| SECTION III– Account Information  |                    |                           |     |    |    |
| ACCOUNT NUMBER  | CHECK ACCOUNT TYPE | CK                        | SV  | CD | LN |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
| SECTION IV– Business Cash Management Services (Multiple Login IDs)  |                    |                           |     |    |    |
| One user must be designated as an Administrator. Administration rights allow employee access to all selected online features & bank accounts. |                    |                           |     |    |    |
| NAME  | ADMINISTRATOR      | YES                       | NO  |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |
|   |                    |                           |     |    |    |

**SECTION V – Business Board Resolution**

WHEREAS, the Board has reviewed the Online Banking System Access Agreement & Electronic Funds Transfer Act Disclosure (“Agreement”) to be entered into between \_\_\_\_\_ (“Company”) and Farmers & Merchants Bank of Long Beach (“Bank”).

WHEREAS, the Board has determined it would be in the best interests of the Company to participate in the Online Banking System offered in the Agreement, and that such participation is dependent on the terms and conditions as set forth in the Agreement.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Board authorizes the following officers, acting individually or together, to negotiate, execute and deliver the Agreement to the Bank and bind the Company to the terms and conditions set forth in the Agreement:

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

2. Upon due deliberation, the Board finds the security procedures set forth in the Agreement to be commercially reasonable for verifying payment orders placed by Company pursuant to the Agreement.

3. The Board recognizes that Company employees will be able to transfer funds through the Online Banking System, and further recognizes that the Bank will not be held responsible for verifying the authenticity of any payment orders placed through the Online Banking System beyond the security procedures set forth in the Agreement. Furthermore, the Company hereby authorizes Bank to accept all such payment order instructions and treat the instructions as being authorized by Company, without further inquiry by Bank.

4. The Board recognizes that Company employees who are authorized to use the Online Banking System may initiate payment orders and may not be authorized signers on the Company’s account. The Board therefore authorizes Bank to accept all payment order instructions through the Online Banking System without regard to any restrictions to authorized signers on the Company’s account.

5. The Board recognizes that any prior or subsequent arrangements with Bank requiring one or more authorized signatures for transactions on Company’s account is not applicable to any transaction in the Online Banking System.

(x) \_\_\_\_\_  
PRESIDENT

(x) \_\_\_\_\_  
SECRETARY/ASSISTANT SECRETARY

(x) \_\_\_\_\_  
PRINT NAME DATE

(x) \_\_\_\_\_  
PRINT NAME DATE

**SECTION VI – Customer’s agreement of Terms and Acknowledgement of Receipt of Online Banking Access Agreement & Electronic Funds Transfer Act Disclosure**

I agree to the terms and hereby acknowledge receipt of the Farmers & Merchants Bank of Long Beach Online Banking system Access Agreement & Electronic Funds Transfer Act Disclosure Statement. I also understand that any prior or subsequent arrangement with the Bank requiring one or more authorized signatures for transactions on my account(s) is not applicable to any transaction performed through the Online Banking system.

This agreement is subject to change with notifications of any change addressed in the contents of the disclosure.

Please sign and return to: Farmers & Merchants Online Banking Services

1695 Adolfo Lopez Dr.  
Seal Beach, CA. 90740

\_\_\_\_\_  
CUSTOMER SIGNATURE DATE PRINT NAME

\_\_\_\_\_  
CUSTOMER SIGNATURE DATE PRINT NAME

\_\_\_\_\_  
CUSTOMER SIGNATURE DATE PRINT NAME