

NETTELLER ONLINE BANKING AGREEMENT (CONSUMER)

Five Star Bank

Meaning of some words. In this agreement:

- a. "We," "us," "our" and "ours" mean Five Star Bank, 220 Liberty Street, P.O. Box 227, Warsaw, NY 14569;
- b. "NetTeller" means an internet banking service being provided by us or on our behalf, including but not limited to all such internet banking services and features set forth in Section 6 of this Agreement;
- c. "You", "your" and "yours" mean any individual who enrolls in NetTeller for use in connection with deposit accounts at least one of which is established primarily for personal, family or household purposes;
- d. "Approved deposit account" means any deposit account of yours with us that is approved by us as accessible for transfers of funds through NetTeller;
- e. "Approved payment account" means any approved deposit account that is approved by us to be used for payments through NetTeller;
- f. "Approved line of credit" account means any line of credit account of yours with us that is approved by us as accessible for transfers of funds through NetTeller;
- g. "Approved loan account" means any approved line of credit account or any other loan account of yours with us that is approved by us as accessible for transfers of funds through NetTeller;
- h. "Identifier" means any identifier (for example, a password) assigned by us or any agent of ours to you, or chosen by you, for use in connection with NetTeller;
- i. "Instruction to us" means any instruction, notice, order or other communication given to us in connection with NetTeller (for example, an order described in Section 7 or 8 of this agreement);
- j. "Electronic document" means any periodic statement for an approved deposit account or approved loan account, any image of a check or other item that would normally be provided with a periodic statement for an approved deposit account, any communication that would normally be provided with a periodic statement for an approved deposit account or approved loan account and that is chosen to be sent to you through NetTeller (for example, a change of terms notice, an annual privacy notice or another notice that is required by applicable law or an agreement between you and us) or any other communication relating to an approved deposit account or approved loan account that is chosen to be sent to you through NetTeller (for example, an automated clearing house, wire transfer or overdraft item notice);
- k. "Mobile banking device" means any wireless device (for example, a cellular phone or tablet) that is capable of being used in connection with NetTeller and is approved by us for use by you or on your behalf in connection with NetTeller; and
- l. "Liability or expense" means, with respect to any obligation of yours to indemnify or reimburse us or any agent of ours, any liability, loss, cost or expense (for example, an attorney fee or disbursement, whether the attorney is hired for advice, litigation or any other purpose, or a cost of investigation or litigation).
- m. "MCD service" means the Mobile Check Deposit service being provided by us through AirTeller.

2. Deposit accounts. You represent and warrant to us that no deposit account from which a withdrawal of funds will be initiated by any order given by you or on your behalf through NetTeller will be a fiduciary account, an account for which two or more

persons are required to sign a check written on the account or a withdrawal form for the account or an account subject to a similar restriction. But no limitation on a withdrawal of funds from any deposit account from which a withdrawal of funds will be initiated by any order given by you or on your behalf through NetTeller arising because the account is a fiduciary account, because the account is one for which two or more persons are required to sign a check written on the account or a withdrawal form for the account or because the account is subject to a similar restriction will apply to any withdrawal of funds from the account initiated by any order given by you or on your behalf through NetTeller.

3. **Identifier.** You may not allow anyone else to have any identifier unless you authorize him or her to use NetTeller on your behalf. You must keep each identifier in a secure location separate from any equipment (for example, a computer or mobile banking device) or software you use in connection with NetTeller. For reasons of security, we or any agent of ours may render any identifier ineffective. **WE WILL NOT BE LIABLE FOR DAMAGES YOU SUFFER AS A RESULT OF YOUR ALLOWING ANYONE ELSE (FOR EXAMPLE, A PARTY THAT AGGREGATES ACCOUNT INFORMATION OR CONTENT OF WEBSITES) TO HAVE ANY IDENTIFIER.**

4. **Your responsibility for instructions.** Except to the extent prohibited by applicable law, you will be responsible for and bound by each instruction given by you or anyone else you allow to have any identifier or to use NetTeller, and the instruction to us and, if the instruction to us is any order described in Section 7 or 8 of this agreement, each transfer of funds or payment initiated by the instruction to us will be covered by this agreement as though the instruction to us had been given by you.

5. **Prohibition of certain transactions.** NetTeller may not be used by you or on your behalf for any prohibited or unenforceable transaction (for example, an illegal gambling transaction, a purchase of an illegal product or a transaction with an individual, organization or government on which the federal government has imposed economic or trade sanctions), but, if it is, you waive any claim that the transaction should not have been charged against any approved deposit account or approved line of credit account on the ground that the transaction was prohibited or unenforceable, and you must indemnify us against any liability or expense that is incurred by, imposed on or asserted against us as a result of any claim arising out of the transaction.

6. **NetTeller.** NetTeller includes a number of features, including, Bill Pay, AirTeller, electronic statement delivery and online financial management. Bill Pay is always included in NetTeller and can be activated by entering a valid email address, account number, and enrolling. AirTeller, electronic statement delivery and online financial management will be available to you only if chosen by you and approved by us. If chosen by you and approved by us, AirTeller allows the use of a mobile banking device in connection with NetTeller and contains such features as MCD service.

7. **Use of NetTeller.** NetTeller may be used by you or on your behalf as described in the Electronic Fund Transfers Disclosure (EFT), a copy of which was provided to you at account opening and subject to the provisions of this agreement, to:

- a. Request information available through NetTeller concerning any approved deposit account or approved loan account that is approved by us as accessible for information through NetTeller (for example, information concerning deposits in, withdrawals from and the balance of the account);
- b. Receive notice of the availability at our website of electronic documents for any approved deposit account or approved loan account through the electronic statement delivery feature of NetTeller; and
- c. Assist in managing your finances in ways available through the online financial management feature of NetTeller (for example, viewing and categorizing transactions involving an approved deposit account or approved loan account, creating summaries of spending and cash flows, creating and updating budgets, measuring progress in adhering to budgets and meeting financial goals and aggregating information about accounts of yours with us or other financial institutions and content of websites).

Any order to stop, or to renew an order to stop, the payment of a check given by you or on your behalf through NetTeller will be subject to our general rules concerning orders to stop the payment of a check, except that the order need not be confirmed in writing. For example, the order will be effective for six months after the date it is placed against the account on which the check

is written.

Because the balance available for withdrawal from an approved deposit account may vary from time to time during any day, you may not rely on any statement obtained through NetTeller as to the balance available for withdrawal from the approved deposit account at any time other than the time the statement is obtained.

8. Use of NetTeller Bill Pay. NetTeller Bill Pay may be used by you or on your behalf as described in the EFT, a copy of which was provided to you at account opening and subject to the provisions of this agreement, to:

a. Request information available through NetTeller Bill Pay concerning payments from any approved payment account made through NetTeller Bill Pay.

Any payment from any approved payment account made through NetTeller Bill Pay will be made by either a transfer of funds through an automated clearing house to the payee of the payment or the sending of a check to the payee. Because the payee will not receive a payment stub with the payment and because the payee may process payments made without a payment stub at a different location than is normally the case or may take longer than is normally the case to process those payments, it may be advisable for you to verify with the payee the address to which the payment should be sent and the period of time required for the posting of the payment.

It is not advisable to use NetTeller Bill Pay to make a payment to a governmental body (for example, a payment of a tax bill).

9. Initiation, processing, charging, changing and cancellation of orders given through NetTeller. The following rules apply to the initiation, processing, charging, changing and cancellation of orders given by you or on your behalf through NetTeller:

a. If an order to make an immediate non-recurring transfer of funds is given through NetTeller:

i. The transfer will be scheduled to be made on the day we receive the order unless that day is not a business day of ours or we receive the order after 7:00 p.m. eastern United States time that day, in which case it will be scheduled to be made on our first business day after that day;

ii. The transfer may be charged against the account from which it is to be made as early as the day we receive the order; and

iii. The order may not be changed or canceled.

b. If an order to make a future non-recurring transfer of funds is given through NetTeller:

i. The order must schedule the transfer to be made on a specified date after the day we receive the order;

ii. The transfer will be scheduled to be made on the date the order schedules it to be made unless that date is not a business day of ours, in which case it will be scheduled to be made on our first business day after that date;

iii. The transfer may be charged against the account from which it is to be made as early as the date on which it is scheduled to be made; and

iv. The order may be changed or canceled until 7:00 p.m. eastern United States time on the date on which the transfer is scheduled to be made.

c. If an order to make a series of recurring transfers of funds is given through NetTeller:

i. The order must provide for the transfers to be equal in amount and regular in frequency on a weekly, bi-weekly, semi-monthly, monthly, quarterly, semi-annual or annual basis and must schedule them to begin and end on specified dates after the

day we receive the order;

ii. Each of the transfers will be scheduled to be made on the date the order schedules it to be made unless that date is not a business day of ours, in which case it will be scheduled to be made on our first business day after that date;

iii. Each of the transfers may be charged against the account from which it is to be made as early as the date on which it is scheduled to be made; and

iv. The order may not be changed, but the order may be canceled with respect to any of the transfers until 7:00 p.m. eastern United States time on the date on which the transfer is scheduled to be made.

10. Initiation, processing, charging, changing and cancellation of orders given through NetTeller Bill Pay. The following rules apply to the initiation, processing, charging, changing and cancellation of orders given by you or on your behalf through NetTeller Bill Pay:

a. If an order to make an immediate non-recurring payment is given through NetTeller Bill Pay:

i. The order must provide as the payee of the payment a party that is located in the United States, would not be receiving the payment under a court order and is not regarded by us as ineligible for payment through NetTeller Bill Pay;

ii. The order may not provide for the payment to be made in other than United States currency;

iii. The order may not provide for the payment to be more than the amount specified in the EFT;

iv. The payment will be scheduled to be made on the day we receive the order except that it will be scheduled to be made on the first day after that day that is not a Saturday, Sunday or legal holiday if that day is a Saturday, Sunday or legal holiday or we receive the order after 3:00 p.m. eastern United States time that day;

v. The payment may be charged against the account from which it is to be made as early as the date we receive the order; and

vi. The order may be changed or canceled until 3:00 p.m. eastern United States time on the date the payment is scheduled to be made.

b. If an order to make a future non-recurring payment is given through NetTeller Bill Pay:

i. The order must provide as the payee of the payment a party that is located in the United States, would not be receiving the payment under a court order and is not regarded by us as ineligible for payment through NetTeller Bill Pay;

ii. The order may not provide for the payment to be made in other than United States currency;

iii. The order may not provide for the payment to be more than the amount specified in the EFT;

iv. The order must schedule the payment to be made on a specified date on or after the day we receive the order;

v. The payment will be scheduled to be made on the date the order schedules it to be made, except that:

A. If that date is the day we receive the order and that day is a Saturday, Sunday or legal holiday or we receive the order after 3:00 p.m. eastern United States time that day, it will be scheduled to be made on the first day after that day that is not a Saturday, Sunday or legal holiday; and

B. If that date is not the day we receive the order, it will be scheduled to be made on the last day before that day that is not a

Saturday, Sunday or legal holiday or a day on which we receive the order after 3:00 p.m. eastern United States time;

vi. The payment may be charged against the account from which it is to be made as early as the date we receive the order; and

vii. The order may be changed or canceled until 3:00 p.m. eastern United States time on the date on which the payment is scheduled to be made.

c. If an order to make a series of recurring payments is given through NetTeller Bill Pay:

i. The order must provide for the same payee of all of the payments and must provide as the payee a party that is located in the United States, would not be receiving the payments under a court order and is not regarded by us as ineligible for payment through NetTeller Bill Pay;

ii. The order may not provide for any of the payments to be made in other than United States currency;

iii. The order must provide for the payments to be equal in amount, no more than the amount specified in the EFT each and regular in frequency on a weekly, biweekly, semi-monthly, monthly, quarterly, semi annual or annual basis and must schedule them to begin on a specified date;

iv. Each of the payments will be scheduled to be made on the date the order schedules it to be made, except that:

A. If that date is the day we receive the order and that day is a Saturday, Sunday or legal holiday or we receive the order after 3:00 p.m. eastern United States time that day, it will be scheduled to be made on the first day after that day that is not a Saturday, Sunday or legal holiday; and

B. If that date is not the day we receive the order, it will be scheduled to be made on the last day before that day that is not a Saturday, Sunday or legal holiday or a day on which we receive the order after 3:00 p.m. eastern United States time;

v. Each of the payments may be charged against the account from which it is to be made as early as the date on which it is scheduled to be made; and

vi. The order may be changed or canceled with respect to any of the payments until 3:00 p.m. eastern United States time on the date on which the payment is scheduled to be made.

11. Limitations and other rules applicable to transfers of funds and payments. The following limitations and other rules apply to transfers of funds and payments initiated by orders given by you or on your behalf through NetTeller:

a. Any transfer of funds from a deposit account ordered through NetTeller will be subject to the funds being available for withdrawal from the account when the order to make the transfer is to be charged against the account with respect to the transfer.

b. Any transfer of funds from any approved line of credit account ordered through NetTeller will be subject to the funds being available as credit under the account when the order to make the transfer is to be charged against the account.

c. Any payment ordered through NetTeller Bill Pay will be subject to the funds that are to be used to make the payment being available for withdrawal from the account from which the payment is to be made when the order to make the payment is to be charged against the account with respect to the payment.

d. If, when any order to make a transfer of funds or payment from a deposit account of yours with us given through NetTeller is to be charged against the account with respect to the transfer or payment, the amount of the transfer or payment exceeds the amount of money available for withdrawal from the account (taking into consideration, if the account is tied to a line of credit

account or other overdraft facility with us, the amount of credit available under the line of credit account or other overdraft facility), we may either make the transfer or payment, in which case you will be liable for the excess, or refuse to make the transfer or payment. In either case, you will be liable for any fee applicable to the withdrawal or attempted withdrawal of money from the account in excess of the amount of money available for withdrawal from the account. But, if we refuse to make the transfer or payment, we may attempt to make it on a later business day of ours.

e. If, when any order to make a transfer of funds from any of approved line of credit account given through NetTeller is to be charged against the account, the amount of the transfer exceeds the amount of credit available under the account, we may either make the transfer, in which case the amount of the transfer will be considered to be credit extended under the account, or refuse to make the transfer. In either case, you will be liable for any fee applicable to the obtaining of the credit or attempted obtaining of credit in excess of the amount of credit available under the account.

f. For reasons of security, we may refuse to honor any order to make a transfer of funds or payment given through NetTeller.

g. We may refuse to honor any order to make a transfer of funds or payment given through NetTeller if the order reasonably appears to us to be fraudulent or erroneous.

h. If an order to make a transfer of funds or payment given through NetTeller contains an inconsistency in the name and account or other identifying number of an account or payee, financial institution or other party, we may treat the number as controlling and rely on the number in processing the order.

i. If any approved deposit account is a savings account for purposes of Federal Reserve requirements, during any monthly period at the end of which we review the account there may be no more than six transfers of funds from the account as specified in the account opening disclosures.

j. You will be responsible for assuring that any order to make a payment given by you or on your behalf through NetTeller Bill Pay is given to us in sufficient time for the order to be processed and the payment to be sent so that the payment is received by the payee of the payment by the date the payment is to become due without taking into consideration any grace period provided by the payee, and you will be responsible, and we will not be liable, for any consequence of your not assuring that that is done (for example, any finance or late charge resulting from the payment being made late). If the payment is to be made by a transfer of funds through an automated clearing house to the payee, up to three of our business days after the day we receive the order if that day is a business day of ours, or up to five of our business days after our first business day after that day if that day is not a business day of ours, will be necessary to allow for processing of the order so that the payment is received by the payee by the date it is to become due. If the payment is to be made by the preparation and sending to the payee of a check, up to seven of our business days after the day we receive the order if that day is a business day of ours, or up to ten of our business days after our first business day after that day if that day is not a business day of ours, will be necessary to allow for the processing of the order so that the payment is received by the payee by the date it is to become due.

k. We may refuse to honor any order to make a payment given through NetTeller Bill Pay if, because the order identifies the same payee, payment date and amount, it appears to duplicate another order to make a payment given through NetTeller Bill Pay.

12. Notice of availability of electronic documents through NetTeller. If the electronic statement delivery feature of NetTeller is chosen by you and approved by us for any approved deposit account or approved loan account:

a. You represent and warrant to us that any electronic mail address provided to us by you or on your behalf for use in connection with the use of the electronic statement delivery feature for the account is a valid and active electronic mail address and belongs to you.

b. You must promptly notify us of any change in any electronic mail address provided to us by you or on your behalf for use in connection with the use of the electronic statement delivery feature for the account by changing the electronic mail address in

your NetTeller profile.

c. You must indemnify us against any liability or expense that is incurred by, imposed on or asserted against us as a result of any claim arising from any email address provided to us by you or on your behalf for use in connection with the use of the electronic statement delivery feature for the account being invalid or inactive or not belonging to you.

d. Whenever an electronic document for the account(s) is ready to be made available to you at our website, we will send to the current electronic mail address provided to us by you or on your behalf for use in connection with the use of the electronic statement delivery feature for the account(s) a notice that the electronic document is available to you at our website. The electronic document will be available to you at our website for 15 months, provided it was sent to you electronically, except that it will not be available to you at our website after cancellation of the electronic statement delivery feature in connection with the account takes effect. Except to the extent that applicable law requires otherwise, the electronic notice will be the only notice that we send to you concerning the availability of the electronic document to you. The electronic notice will constitute delivery of the electronic document to you, whether or not it is viewed or printed by you or on your behalf. Neither you nor anyone acting on your behalf may use the reply function for electronic mail to reply to the notice (for example, by using the reply function to request any information or service or a paper copy of any electronic document or other item or to cancel the electronic statement delivery feature in connection with the account), but, if that happens, we will not be obligated to do anything in response to the reply. If the electronic notice is returned to us as undeliverable, we will send it a second time. If it is again returned to us as undeliverable, we will send it a third time. If the electronic notice is again returned to us as undeliverable, we will stop sending you electronic documents for the account(s) and resume sending you paper copies of electronic documents for the account(s) at the mailing address shown for you in our records concerning the account(s).

e. We may discontinue sending you paper copies of electronic documents for the account. For as long as we are required by applicable law to keep a copy of any electronic document for the account, you may request a copy of the electronic document by writing us at Five Star Bank, 220 Liberty Street, Warsaw, NY 14569, Attention: Deposit Services Department. The request will not constitute a request to cancel the electronic statement delivery feature in connection with the account. Even if we discontinue sending you paper copies of electronic documents for the account, we may resume sending them (for example, because we believe that you are not receiving notices that an electronic document for the account is available to you at our website or because we believe that there is a risk that you may not be able to receive electronically, view and print electronic documents for the account). If the account is closed, the final periodic statement for the account that we send you or otherwise make available to you will be a paper copy.

f. If you cancel the electronic statement delivery feature in connection with the account, we may continue to make electronic documents for the account available to you at our website until the cancellation takes effect.

g. No cancellation of the electronic statement delivery feature in connection with the account will affect the validity or legal effect of any electronic document provided for the account.

13. Use of AirTeller and mobile banking device. AirTeller and a mobile banking device may be used by you or on your behalf as described in the EFT, a copy of which was provided to you at account opening and subject to the provisions of this agreement. If AirTeller and a mobile banking device are used in connection with NetTeller:

a. You represent and warrant to us that you are authorized to use the mobile banking device and that the phone number of the mobile banking device is a valid and active phone number and belongs to you.

b. You must promptly notify us of any change in the mobile banking device or its phone number.

c. You must indemnify us against any liability or expense that is incurred by, imposed on or asserted against us as a result of any claim arising from any phone number for the mobile banking device being invalid or inactive or not belonging to you.

d. We may limit the types, number, frequency and amounts of transfers of funds and payments that may be initiated by orders

given through NetTeller using AirTeller and the mobile banking device, and we may refuse to make any transfer of funds or payment initiated by an order given through NetTeller using AirTeller and the mobile banking device.

e. You are responsible for all fees and other charges imposed by any telecommunication or internet access service for the use of AirTeller and the mobile banking device in connection with NetTeller (for example, a fee or other charge for transmitting data or a text message).

f. You acknowledge that any telecommunication or internet access service used in connection with the mobile banking device may impose limitations and fees and other charges (for example, with respect to the transmission of data or text messages) that may restrict the use of AirTeller and the mobile banking device in connection with NetTeller.

14. Use of AirTeller for MCD service. If the MCD service of AirTeller is used:

a. You may make deposits to your approved deposit accounts from your camera-enabled mobile banking device by capturing check images and electronically delivering such images to us.

b. Only 'checks' as such term is defined in Federal Reserve Regulation CC ('Regulation CC') may be transmitted to us through the MCD service and each check shall be deemed an 'item' within the meaning of Article 4 of the Uniform Commercial Code of New York, as enacted, and as the same may be amended from time to time.

c. Certain checks shall not be permitted to be transmitted to us for deposit through the MCD service, including:

i. checks payable to any person or entity other than you (third-party checks);

ii. checks drawn off of a financial institution outside of the United States;

iii. checks not payable in United States currency;

iv. checks with an alteration on the front;

v. checks which you suspect are fraudulent or unauthorized;

vi. checks previously converted to a 'substitute check' as such term is defined in Regulation CC;

vii. checks dated more than 6 months prior to the date of your transmission of such check to us;

viii. insurance claim checks;

ix. checks which have been previously transmitted to us through the MCD service or remotely deposited in any other financial institution; or

x. checks prohibited by our procedures for the MCD service or otherwise not acceptable under the terms of your approved deposit account.

d. You represent, warrant and covenant to us that:

i. you are 18 years old or older;

ii. your use of the MCD service is for your personal use only and not for any business.

iii. each check you transmit to us through the MCD service is, and at all times has been, authentic and not counterfeit, forged or

fraudulent;

iv. each check image you transmit to us through the MCD service is a true and accurate rendition of the front and back of the original check without any alteration and the payor of such check shall have no defense against payment of the check;

v. the amount, payee(s), signature(s) and endorsement(s) on each check image you transmit to us through the MCD service and on the original check are legible, genuine and accurate;

vi. you are authorized to enforce and obtain payment of the original check for each check image you transmit to us through the MCD service;

vii. the original check for each check image that you transmit to us through the MCD service has not and will not be submitted to payment at any other financial institution;

viii. the original check for each check image that you transmit to us through the MCD service has not and will not be endorsed to any third party,

ix. there are no other duplicate images of the original check for each check image that you transmit us through the MCD service;

x. you have possession of the original check for each check image that you transmit to us through the MCD service and will retain possession of the check in accordance with the terms set forth in this agreement.

e. You agree to follow any and all procedures and instructions for use of the MCD service as we may establish from time to time. These procedures include:

i. each check image accurately captures the front and back of each check, including the amount of the check (both written and numeric), the payee of the check, the signature of the maker of the check, the check number, the endorsement information, the preprinted information on the check identifying the maker and the paying financial institution, the magnetic ink character recognition line, and any other data and information as is required herein and by Regulation CC and such other applicable laws and regulations governing the payment of checks.

ii. each check transmitted to us through the MCD service is made payable to you. You will endorse any check transmitted to us through the MCD service by including your signature and the words, 'For Mobile Deposit Only into Account' followed by the last four digits of your approved deposit account number. Without the proper endorsement, the processing of your deposit may be refused or delayed. Any loss we incur from an irregular endorsement or other markings by you will be your responsibility.

iii. Upon your receipt of a confirmation from us that we received your check image, you will clearly mark the original check 'VOID' and securely store the original check for 60 days. At our request, from time to time, you will deliver the original check to us at your expense within 5 business days. If you fail to deliver the original check to us in a timely manner, the check amount will be reversed from your approved deposit account regardless of whether such action may cause your approved deposit account to not have sufficient funds and pay associated fees. Promptly after the expiration of the 60-day retention period, you will destroy the original check by shredding or another commercially acceptable means of destruction.

iv. not more than 500 checks totaling an aggregate maximum amount of \$2,500 may be transmitted to us through the MCD service for deposit each day. Not more than 750 checks totaling an aggregate amount of \$10,000 may be transmitted to us through the MCD service for deposit each month. Any deposit made in contravention of the foregoing deposit limits shall be accepted or rejected in our sole discretion. We may modify the foregoing deposit limits from time to time in our sole discretion, and you agree to comply with all such limits. If the deposit limits are increased, no notice will be required. Any other changes to the deposit limits will be provided as specified elsewhere in this agreement.

f. All checks for deposit transmitted to us through the MCD service are subject to verification and final inspection. You will be liable to us for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claims made against us relating to such deposits. We will not be liable for any service or late charges that may be imposed against you due to our rejection of any check that you transmitted to us through the MCD service. In all cases, you are responsible for any loss or overdraft plus any applicable fees to your account due to a check being returned. We may reject any check transmitted through the MCD service in our sole discretion without notice to you and we will not be liable for any such rejection or failure to notify you of such rejection. If any check is rejected by us for deposit through the MCD Service, you must physically deposit the original check.

g. Check deposits made through the MCD service will be credited to your approved deposit account in accordance with our Funds Availability Policy, a copy of which was provided to you at account opening.

h. In accordance with Section 18 of this agreement we reserve the right to charge fees for the MCD service at our discretion. The use of the MCD service does not constitute an 'electronic fund transfer' under the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.) and Federal Reserve Regulation E.

15. Authorization and appointment as agent. You authorize us and each agent of ours and appoint us and the agent as your agent to take on your behalf any action that we consider or the agent considers to be necessary or appropriate to implement any order given by you or on your behalf through NetTeller or to correct any error in crediting or charging any approved deposit account or approved loan account in connection with any order given by you or on your behalf through NetTeller. For example, you authorize us and the agent and appoint us and the agent as your agent to on your behalf:

a. Withdraw money from any approved deposit account and deposit the money in any other approved deposit account in order to implement any order to make a transfer of funds from the first approved deposit account to the other approved deposit account given by you or on your behalf through NetTeller;

b. Withdraw money from any approved deposit account and use the money to make a payment under any approved loan account in order to implement any order to make a transfer of funds from the approved deposit account to the approved loan account given by you or on your behalf through NetTeller;

c. Obtain credit under any approved line of credit account and deposit the proceeds of the credit in any approved deposit account in order to implement any order to make a transfer of funds from the approved line of credit account to the approved deposit account given by you or on your behalf through NetTeller;

d. Obtain credit under any approved line of credit account and use the proceeds of the credit to make a payment under any other approved loan account in order to implement any order to make a transfer of funds from the approved line of credit account to the other approved loan account given by you or on your behalf through NetTeller; and

e. Withdraw money from any approved payment account in order to implement any order to make a payment from the account given by you or on your behalf through NetTeller Bill Pay.

The withdrawal or directing the withdrawal of money from any approved deposit account or the obtaining of credit under any approved line of credit account under the authority given and the appointment as your agent made in the first sentence of this section will be as effective as though you had signed a check or withdrawal form to make the withdrawal or to obtain the credit.

16. Notice of loss, theft or unauthorized access or use. If you believe that any identifier has been lost or stolen, that there has been without your authorization any access to any equipment (for example, a computer or mobile banking device) used in connection with NetTeller by you or on your behalf or that any transaction involving an approved deposit account may have been or may be made using NetTeller without your authorization, you must contact us at once by telephoning us at 877-226-5578 and asking for our Fraud Department or writing us at Five Star Bank, 220 Liberty Street, Warsaw, NY 14569, Attention: Fraud Department.

17. **Your liability for unauthorized use.** How much you will have to bear of any loss of money taken from any approved deposit account in any transfer of funds or payment ordered through NetTeller by an order initiated without your authorization will be determined by applicable law.

18. **Fees.** You must pay us each fee we impose for the use of NetTeller by you or on your behalf and, as required by applicable law, each sales, use, excise, value added, utility or similar tax imposed in connection with the fee. The fee will be in addition to the fees applicable to any approved deposit account or approved line of credit account from or to which any transfer of funds or payment is made using NetTeller. We may charge any approved deposit account or any other deposit account of yours with us for the amount of the fee and the sales, use, excise, value added, utility or similar tax. We will not be liable if we do so and, as a result, we do not allow or make any withdrawal from the account.

19. **Reimbursement and indemnification.** Without limiting any other obligation you have under this agreement to reimburse us, you must reimburse us for any liability or expense incurred by us as a result of our hiring an attorney to enforce any of your obligations under this agreement or with respect to NetTeller. Without limiting any other obligation you have under this agreement to indemnify us, you must, except to the extent that this agreement imposes liability on us or to the extent prohibited by applicable law, indemnify us and each agent of ours against any liability or expense that is incurred by, imposed on or asserted against us or the agent as a result of any claim arising in connection with the use of NetTeller by you or on your behalf (for example, as a result of our following any instruction to us, acting on any information or document that we receive from you or anyone acting on your behalf or any failure by you or anyone acting on your behalf to maintain the security of any identifier or any equipment (for example, a computer or mobile banking device)). We may charge the amount of the liability or expense for which you must reimburse us or against which you must indemnify us against any approved deposit account or any other deposit account of yours with us or collect it in any other way.

20. **Disclaimer of warranties. TO THE EXTENT ALLOWED BY APPLICABLE LAW, NETTELLER IS PROVIDED BY US AS IS, AS AVAILABLE AND WITHOUT ANY WARRANTY OF ANY KIND. WITHOUT LIMITING THE PRECEDING SENTENCE, WE DO NOT MAKE, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, AND WE DISCLAIM, TO THE EXTENT ALLOWED BY APPLICABLE LAW, ANY EXPRESS, IMPLIED, STATUTORY OR OTHER WARRANTY OF ANY KIND (FOR EXAMPLE, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) CONCERNING NETTELLER.**

21. **Equipment, services and software.** You are responsible for the selection, installation, maintenance, operation and use of any equipment (for example, a computer or mobile banking device), service (for example, a telecommunication or internet access service) or software (for example, any application used with a mobile banking device) used by you or on your behalf in connection with NetTeller. You assume all risks of loss resulting from the selection, installation, maintenance, operation or use of the equipment, service or software (for example, any failure of a telecommunication or internet access service to provide, or a delay by a telecommunication or internet access service in providing, a service). **EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE FOR ANY DAMAGES (FOR EXAMPLE, ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES), WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR OTHER TORT OR STRICT LIABILITY OR OTHERWISE, THAT RESULT FROM ANY ERROR IN SELECTING, INSTALLING, MAINTAINING, OPERATING OR USING, UNAVAILABILITY, FAILURE, MALFUNCTION OR INTERRUPTION OF, COMPROMISE OF DATA SENT USING OR VIRUS OR SIMILAR PROBLEM RESULTING FROM THE EQUIPMENT, SERVICE OR SOFTWARE, EVEN IF WE ARE NOTIFIED OF OR OTHERWISE KNOW OR SHOULD KNOW OF THE POSSIBILITY OF THOSE DAMAGES.**

You must indemnify us against any liability or expense that is incurred by, imposed on or asserted against us as a result of any claim that the operation or use of the equipment, service or software by you or on your behalf in connection with NetTeller infringes any copyright, patent, trademark, trade secret or other property right of any party.

22. **Limitation of liability. EXCEPT TO THE EXTENT REQUIRED BY THIS AGREEMENT OR APPLICABLE**

LAW, WE WILL NOT BE LIABLE IN CONNECTION WITH NETTELLER FOR:

a. ANY DAMAGES NOT RESULTING DIRECTLY FROM OUR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT;

b. ANY DAMAGES (FOR EXAMPLE, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES) IN ADDITION TO ACTUAL DAMAGES, WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR OTHER TORT OR STRICT LIABILITY OR OTHERWISE, EVEN IF WE ARE NOTIFIED OF OR OTHERWISE KNOW OR SHOULD KNOW OF THE POSSIBILITY OF THOSE DAMAGES;

c. ANY DAMAGES IN EXCESS OF ANY COMPENSATION PROVIDED BY APPLICABLE LAW OR ANY APPLICABLE RULE OF ANY BANKING OR PAYMENT SYSTEM;

d. ANY CIRCUMSTANCE BEYOND OUR REASONABLE CONTROL (FOR EXAMPLE, A FLOOD OR OTHER NATURAL CATASTROPHE, WEATHER CONDITION, FIRE, RIOT OR OTHER CIVIL DISOBEDIENCE, ACT OF WAR OR TERRORISM, NATIONAL EMERGENCY, EMBARGO, STRIKE OR OTHER LABOR DISPUTE, DEFECT IN OR UNAVAILABILITY, FAILURE, MALFUNCTION OR INTERRUPTION OF ANY EQUIPMENT, SERVICE OR SOFTWARE (FOR EXAMPLE, A TELECOMMUNICATION, INTERNET ACCESS, ELECTRONIC OR OTHER MAIL, COURIER OR OTHER TRANSMISSION OR COMMUNICATION SERVICE), SUSPENSION OF PAYMENTS BY ANY OTHER FINANCIAL INSTITUTION OR OPERATOR OF AN AUTOMATED CLEARING HOUSE OR ACTION OR INACTION OF ANY GOVERNMENTAL BODY, BANKING OR PAYMENT SYSTEM, CORRESPONDENT BANK OR SERVICE PROVIDER); OR

e. ANY FAILURE TO TAKE OR DELAY IN TAKING ANY ACTION IF WE BELIEVE THAT TAKING THE ACTION WOULD VIOLATE, OR THAT FAILING TO TAKE OR DELAY IN TAKING THE ACTION WOULD BE EXCUSED BY, APPLICABLE LAW, ANY RULE OF ANY BANKING OR PAYMENT SYSTEM OR ANY GOVERNMENTAL GUIDELINE OR PROGRAM.

23. Our liability for failure to make transfers of funds and payments. With exceptions, we will be liable to the extent provided by applicable law for damages you suffer as a result of our failure to make or cause to be made, on time and in the correct amount, any transfer of funds or payment to or from any deposit account ordered by a timely and properly initiated order to make the transfer or payment given by you or on your behalf through NetTeller.

Whether the order is timely will be determined under Section 9 or 10 of this agreement and, if the order is to make a payment, clause j of Section 11 of this agreement. The order will not be properly initiated unless:

a. All equipment, services and software used by you or on your behalf in connection with NetTeller are properly functioning;

b. The instructions and requirements on how to give the order are properly followed;

c. The order is described in Section 7 or 8 of this agreement and is correct and complete (for example, if the order is to make a payment, the order includes the correct name and address of the payee of the payment, the correct account number of the account to which the payment is to be made and the correct amount of the payment); and

d. The transfer or payment would not be subject to any limitation referred to in Section 11 of this agreement.

Examples of exceptions to our liability are as follows:

a. We do not receive the order;

- b. Before the order is to be charged against the account from which the transfer or payment is to be made, your right to use NetTeller or the feature of NetTeller involved in the transfer or payment is canceled or suspended;
- c. When the order is processed or is to be charged against the account from which the transfer or payment is to be made, we in good faith believe that the order was given without your authorization (for example, because an identifier has been reported as lost or stolen) or is illegal or fraudulent;
- d. The order is to make a transfer of funds and, before the order is to be charged against the account from which the transfer is to be made, either that account or the account to which the transfer is to be made is closed;
- e. The order is to make a payment and we do not receive the order in time to allow us to make the payment and allow the payee of the payment to properly credit it by the date on which it is to become due, we make the payment in time to allow the payee to properly credit it by the date on which it is to become due but the payee fails to do so or before the order is to be charged against the account from which the payment is to be made the account is closed;
- f. The order is to make a transfer of funds or payment from a deposit account and through no fault of ours, when the order is processed or is to be charged against the account, the amount of the transfer or payment exceeds the amount of money available for withdrawal from the account (taking into consideration, if the account is tied to a line of credit account or other overdraft facility with us, the amount of credit available under the line of credit account or other overdraft facility);
- g. The order is to make a transfer of funds from a line of credit account and through no fault of ours, when we process the order or when the order is to be charged against the account, the amount of the transfer exceeds the amount of credit available under the account;
- h. When the order is processed or is to be charged against the account from which the transfer or payment is to be made, money in the account is subject to any legal process (for example, a tax or other levy, execution, attachment, injunction or restraining, forfeiture, seizure or other court or administrative order) or administrative hold restricting its removal from the account, is collateral for a loan or other extension of credit or is the subject of a dispute or legal proceeding;
- i. When the order is given, NetTeller or the feature of NetTeller involved in the transfer or payment is not functioning properly or is otherwise unavailable because maintenance work is being performed on it;
- j. We are prevented from making the transfer or payment by a technical malfunction and when the order is given the individual giving it knows that NetTeller or the feature of NetTeller involved in the transfer or payment is not functioning properly;
- k. Any circumstance beyond our reasonable control (for example, a flood or other natural catastrophe, weather condition, fire, riot or other civil disobedience, act of war or terrorism, national emergency, embargo, strike or other labor dispute, defect in or unavailability, failure, malfunction or interruption of any equipment, service or software (for example, a telecommunication, internet access, electronic or other mail, courier or other transmission or communication service), suspension of payments by any other financial institution or operator of an automated clearing house or action or inaction of any governmental body, banking or payment system, correspondent bank or service provider) prevents us from making the transfer or payment despite our exercise of reasonable care to prevent the occurrence and our exercise of diligence to make the transfer or payment despite the occurrence; or
- l. Our failure to make the transfer or payment is justified by any provision of this agreement, by any provision of any other agreement between you and us concerning any approved deposit account, any approved loan account, any line of credit account or other overdraft facility with us to which any approved deposit account is tied or transfers of funds or payments to or from any approved deposit account, any approved loan account or the line of credit account or other overdraft facility or by applicable law.

If we are liable for damages you suffer as a result of our failure to make the transfer or payment on time and in the correct

amount, we will be liable for actual damages only and not consequential or punitive damages if the failure was not intentional and resulted from a bona fide error despite our maintenance of procedures reasonably adapted to avoid the error.

24. Certain obligations with respect to NetTeller. You must:

- a. Comply, and assure that everyone acting on your behalf in connection with NetTeller complies, with applicable law;
- b. Take, and assure that everyone acting on your behalf in connection with NetTeller takes, each action that we consider or any agent of ours considers to be necessary or appropriate in connection with NetTeller, whether to comply with applicable law, any rule of any banking or payment system or any governmental guideline or program or otherwise; and
- c. Cooperate with us to minimize any loss, to pursue any claim against any third party and to defend against any claim by any third party if we incur any liability in connection with the provision of any service to you in connection with NetTeller.

25. Cancellation or suspension. You may cancel your right to use NetTeller or any feature of NetTeller at any time by notifying us of the cancellation. The cancellation will not take effect until we receive the notice and have a reasonable time to act on it. We may cancel or suspend your right to use NetTeller, any feature of NetTeller or any means of accessing NetTeller (for example, a mobile banking device). The cancellation or suspension will take effect immediately unless we decide to have it take effect later. Despite the cancellation by you of your right to use NetTeller or any feature of NetTeller or the cancellation or suspension by us of your right to use NetTeller, any feature of NetTeller or any means of accessing NetTeller (for example, a mobile banking device), we may process any order given through NetTeller. The cancellation or suspension will not affect any of your obligations under this agreement. For example, you will remain liable under Sections 18 and 19 of this agreement.

26. Notices. Any notice or other communication or document concerning this agreement or NetTeller that is sent to you by us or on our behalf may be sent in any way allowed by applicable law (for example, electronic mail or facsimile). If sent by mail, the notice or other communication or document will be sent to your current mailing address shown in our records concerning NetTeller and may be sent by regular mail. If sent by electronic mail, it will be sent to your current electronic mail address shown in those records. If sent by facsimile, it will be sent to your current telephone number for receipt of facsimiles shown in those records. If your mailing address, electronic mail address or telephone number for receipt of facsimiles changes, you must promptly notify us of the new mailing address, electronic mail address or telephone number. To notify us of the new mailing address or telephone number, write us at Five Star Bank, 220 Liberty Street, Warsaw, NY 14569 or visit any of our branches. To notify us of the new electronic mail address, change the electronic mail address in your NetTeller Teller profile. Except as otherwise provided in this agreement or by applicable law:

- a. Any notice or other communication or document concerning this agreement or NetTeller that is sent to you by us or on our behalf will take effect when it is sent; and
- b. Any notice or other communication or document concerning this agreement or NetTeller that is sent to us by you or on your behalf must be in writing and sent by mail or courier and will not take effect until we receive it and have a reasonable time to act on it.

27. Limitation on obligations. Except to the extent required by applicable law, we will not have with respect to NetTeller any obligation to you not expressly stated in this agreement.

28. Reliance on instructions, information and documents. We may treat as given by you or on your behalf and rely on any instruction to us or any information or document with respect to NetTeller that we in good faith believe to have been given or provided by you or on your behalf, and we will not have any obligation to verify that the instruction to us, information or document was actually given or provided, or was authorized to be given or provided, by you or on your behalf or that the instruction to us, information or document is accurate or complete.

29. Reasonable time to act. A reasonable time for us to act on any instruction to us or any information or document concerning

this agreement or NetTeller that is received by us from you or anyone acting on your behalf will not end until at least the close of business on our second business day after our business day we receive the instruction to us, information or document.

30. Credit information. We may investigate your credit record and obtain any credit report that we consider to be necessary or appropriate in connection with any aspect of our dealings with you with respect to NetTeller (for example, considering whether to cancel or suspend your right to use NetTeller and investigating any dispute concerning any transfer of funds or payment ordered through NetTeller). We may furnish, and you irrevocably consent to our furnishing, information concerning any aspect of our dealings with you with respect to NetTeller to other financial institutions and credit reporting agencies.

31. Obtaining of information. You irrevocably consent to the obtaining by us or any agent of ours of any information that we consider or the agent considers to be necessary or appropriate to complete any transfer of funds or payment ordered through NetTeller or to resolve any error concerning the transfer or payment.

32. Monitoring and recording of instructions. In the regular course of our business, we or any agent of ours may monitor and record, and you irrevocably consent to the monitoring and recording by us or any agent of ours of, any instruction to us, regardless of how the instruction to us is communicated or transmitted.

33. Transfer of claims. If we credit any deposit account or line of credit account of yours with us or reimburse you in any other way for any amount in connection with any transfer of funds or payment made using NetTeller that you claim should not have been charged against the account (for example, because of a dispute concerning the transfer or payment or because of any possible illegal, fraudulent or unauthorized use of NetTeller), you transfer to us each claim (other than a tort claim) that you have against anyone involved in the transfer or payment, you must not pursue the claim without first obtaining our permission in writing, and you must assist us in any way we ask in our pursuing the claim.

34. Changes in agreement. No change in this agreement can be made except as provided in this section. We may change this agreement. Unless applicable law requires otherwise, we will send you a notice of the change or post it on the NetTeller section of our website and, unless we determine that the change is required by an emergency (for example, a breach or potential breach of security), will do so at least 30 days before the date the change takes effect, unless otherwise stated within this agreement. If any notice of the change that we send to you is returned to us as undeliverable, the change will still take effect. Your continued use of NetTeller or any features of NetTeller will constitute your acceptance of the terms and conditions set forth in this agreement, including any changes, whether or not the change was received by you.

35. Changes in NetTeller. We may change NetTeller by adding, deleting or changing any feature of NetTeller. Unless applicable law requires otherwise, we will send you a notice of the change or post it on the NetTeller section of our website and, unless we determine that the change is required by an emergency (for example, a breach or potential breach of security), will do so at least 30 days before the date the change takes effect, unless otherwise stated within this agreement. If any notice of the change that we send to you is returned to us as undeliverable, the change will still take effect. Your continued use of NetTeller or any features of NetTeller will constitute your acceptance of the terms and conditions set forth in this agreement, including any changes, whether or not the change was received by you.

36. Changes in fees. We may establish a new fee or change an existing fee that you must pay in connection with NetTeller. If we establish a new fee or increase an existing fee that you must pay in connection with NetTeller, we will send you a notice of the new fee or increase or post it on the NetTeller section of our website at least 21 days before the date the new fee or increase takes effect unless applicable law requires otherwise. If any notice of the change that we send to you is returned to us as undeliverable, the new fee or increase will still take effect. We will not have to notify you if we decrease or eliminate an existing fee that you must pay in connection with NetTeller.

37. No notice or loss of rights. We may exercise, waive, fail to exercise or delay exercising any of our rights under this agreement, with respect to NetTeller or against you, anyone else or any property without notifying you. By on any occasion exercising, waiving, failing to exercise or delaying the exercise of any of those rights, we will not lose that right on any other occasion or lose any other of those rights.

38. **Waiver of rights by us.** None of our rights under this agreement, with respect to NetTeller or against you, anyone else or any property can be waived by us except in a writing signed by us.

39. **No transfer by you.** You may not transfer any of your rights and obligations under this agreement or with respect to NetTeller to anyone else. Any transfer of any of those rights and obligations will be void.

40. **Transfer by us.** We may transfer any of our rights and obligations under this agreement or with respect to NetTeller to anyone else.

41. **Permitted actions.** We will not be obligated to take or liable for not taking any action in connection with NetTeller that this agreement or applicable law allows but does not require us to take. Except to the extent limited by this agreement or applicable law, we may at any time, in our sole discretion, for any reason and without notifying you or obtaining your consent, take any action in connection with NetTeller that this agreement or applicable law allows us to take. For example, except to the extent limited by this agreement or applicable law, we may at any time, in our sole discretion, for any reason and without notifying you or obtaining your consent, cancel or suspend your right to use NetTeller, any feature of NetTeller or any means of accessing NetTeller (for example, a mobile banking device) or change this agreement.

42. **Conflicts.** If any part of this agreement conflicts with applicable law, that law will control, and this agreement will be considered changed to the extent necessary to comply with that law.

43. **Continued effectiveness.** If any part of this agreement is determined to be invalid, the rest of this agreement will remain in effect.

44. **What law applies.** Any legal question concerning this agreement or NetTeller will be decided in accordance with, to the extent applicable, federal law and, to the extent that federal law is inapplicable, New York State law without regard to the law of any other state or other jurisdiction.

45. **Entire agreement.** Except for any agreement between you and us concerning any approved deposit account, any approved loan account, any line of credit account or other overdraft facility with us to which any approved deposit account is tied or transfers of funds or payments to or from any approved deposit account, any approved loan account or the line of credit account or other overdraft facility, this agreement is the final and complete agreement between you and us concerning NetTeller. If any part of any agreement described in the preceding sentence is incompatible with any part of this agreement, the part of this agreement will control. Any statement concerning NetTeller made by any of our employees or anyone else is not part of this agreement. This agreement replaces any other agreement now existing between you and us concerning NetTeller.

46. **Waiver of trial by jury. YOU IRREVOCABLY WAIVE ANY RIGHT YOU HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING BY US AGAINST YOU OR BY YOU AGAINST US INVOLVING THIS AGREEMENT OR NETTELLER.**

47. **Consent to jurisdiction and forum; Waiver of venue objection.** You irrevocably agree to submit to the exclusive jurisdiction and forum of any federal or state court located within the State of New York and County of Monroe over any dispute arising out of or relating to this agreement or NetTeller and you hereby irrevocably agree that all claims in respect of such dispute or any suit, action or proceeding relating thereto will be heard and determined in such courts. You irrevocably waive to the fullest extent permitted by applicable law, any objection which you may have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. You hereby agree that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

48. **Commencement of Action.** Except to the extent applicable law requires action by you within an earlier or specified time period, any action brought by you against us in connection with or relating to any dispute arising from this agreement must be

commenced within fifteen (15) months of the date the incident complained of occurred.

49. **Agreement.** By enrolling in NetTeller, using NetTeller or NetTeller features, or allowing anyone else to have any identifier or to use NetTeller, you agree to be bound by all provisions of this agreement, all our instructions and requirements concerning NetTeller and all legal terms and conditions contained on our website.

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