

## NETTELLER ONLINE BANKING™ AGREEMENT (COMMERCIAL/MUNICIPAL CUSTOMER)

### Bank of Richmondville

#### 1. Meaning of some words. In this agreement:

- a. "NetTeller Online Banking" means NetTeller Online Banking™, a trademark of Jack Henry & Associates, Inc.;
- b. "We," "us," "our" and "ours" mean Bank of Richmondville, 857 East Main Street, P.O. Box 40, Cobleskill, NY 12043;
- c. "You," "your" and "yours" mean any corporation, partnership, limited liability company or other business organization, or any city, town, village, school district or other governmental body, on behalf of which this agreement is signed or any individual who signs this agreement on his or her own behalf;
- d. "Your application" means your application to us for NetTeller Online Banking, as originally submitted to us or as changed by any updating information submitted to us at any time, whether through NetTeller Online Banking, in writing or in any other way;
- e. "Your deposit accounts" means all deposit accounts with us that are designated in your application and are approved by us as accessible for transfers of funds through NetTeller Online Banking;
- f. "Your line of credit accounts" mean all line of credit accounts with us that are designated in your application and are approved by us as accessible for transfers of funds through NetTeller Online Banking;
- g. "Your loan accounts" mean your line of credit accounts and all other mortgage, installment and other loan accounts with us that are designated in your application and are approved by us as accessible for transfers of funds through NetTeller Online Banking;
- h. "Authorized party" means, if you are an individual, you or, if you are a corporation, partnership, limited liability company or other business organization or a city, town, village, school district or other governmental body, any individual authorized by you to transact all business relating to your deposit accounts and your loan accounts that he or she deems necessary or appropriate;
- i. "Your administrator" means, if you are an individual, you or, if you are a corporation, partnership, limited liability company or other business organization or a city, town, village, school district or other governmental body, the individual designated in your application as the administrator of NetTeller Online Banking on your behalf;
- j. "Additional user" means any individual, whether or not an authorized party or employee of yours, designated by your administrator as a user of NetTeller Online Banking on your behalf; and
- k. "Your identification numbers" means all the customer identification numbers and personal identification numbers assigned by us to your administrator or by your administrator to any additional user, or chosen by your administrator or any additional user, for use with NetTeller Online Banking.

**2. Business use.** You represent to us that the use of NetTeller Online Banking by your administrator, any additional user or anyone else your administrator or any additional user allows to have any of your identification numbers or to use NetTeller Online Banking in any way described in Section 10 will be primarily for business purposes rather than personal, family or household purposes. You acknowledge that you will not have any right that applies under applicable law to deposit or credit accounts established primarily for personal, family or household purposes but not to deposit or credit accounts not established primarily for personal, family or household purposes (for example, the right to limited liability for unauthorized use of an internet banking service). Nothing in this agreement, any statement for any of your deposit accounts or any of your line of credit accounts that we send you or otherwise make available to you or any notice or other communication or document that we send you (for example, the use of a term defined in the Electronic Fund Transfer Act or the Truth in Lending Act or the giving of a notice required by the Electronic Fund Transfer Act or the Truth in Lending Act) will give you any right that applies under applicable law to deposit or

credit accounts established primarily for personal, family or household purposes but not to deposit or credit accounts not established primarily for personal, family or household purposes.

**3. Your administrator.** You represent to us that your administrator has an unrestricted right to act alone to withdraw funds from each of your deposit accounts (for example, by signing a check written on the account or a withdrawal form for the account) and to obtain credit under each of your line of credit accounts. We may rely on the authority of your administrator to act on your behalf in connection with NetTeller Online Banking (for example, by giving any order described in Section 10, designating any additional user and limitations on the authority of any additional user to give any order described in Section 10, terminating, or changing any limitation on, the authority of any additional user to give any order described in Section 10, designating any other individual as your administrator, choosing any of your identification numbers and requesting that any of your identification numbers be rendered ineffective) until we receive from any authorized party and have a reasonable time to act on a notice that your administrator is no longer authorized to act on your behalf in connection with NetTeller Online Banking.

**4. Additional users.** Monitoring whether any additional user is acting within his or her authority to give orders described in Section 10 is the responsibility of your administrator, and we may rely on the authority of any additional user to give any order described in Section 10 as long as the order complies with the limitations set by your administrator on NetTeller Online Banking for orders initiated by the use of the customer identification number of that additional user.

**5. Your deposit accounts.** You represent to us that none of your deposit accounts is 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. However, no limitation on a transfer of funds from any of your deposit accounts 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 transfer of funds initiated by an order described in Section 10.

**6. Disclaimer of warranties.** NETTELLER ONLINE BANKING IS PROVIDED BY US "AS IS," "AS AVAILABLE" AND, TO THE EXTENT ALLOWED BY APPLICABLE LAW, 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 EXPRESSLY 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 ONLINE BANKING.

**7. Limitation of liability.** The selection, installation, maintenance, operation and use of the computer, related equipment and services (for example, modem, telephone or other telecommunications equipment and telephone or other internet access service) and software used in connection with NetTeller Online Banking by your administrator or any additional user are your responsibility. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY LIABILITY, LOSS OR DAMAGE (FOR EXAMPLE, ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE AND EXEMPLARY DAMAGES), WHETHER BASED IN CONTRACT, TORT OR STRICT LIABILITY OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY OF THE FOLLOWING THINGS, EVEN IF WE ARE ADVISED OF OR OTHERWISE KNOW OR SHOULD KNOW OF THE POSSIBILITY OF THE LIABILITY, LOSS OR DAMAGE:

a. ANY ERROR IN THE SELECTION, INSTALLATION, MAINTENANCE, OPERATION OR USE, OR ANY

**CONFIGURATION PROBLEM OR INCOMPATIBILITY, OF THE COMPUTER, RELATED EQUIPMENT AND SERVICES OR SOFTWARE;**

**b. ANY FAILURE OR MALFUNCTION OF THE COMPUTER, RELATED EQUIPMENT AND SERVICES OR SOFTWARE;**

**c. ANY FAILURE OR MALFUNCTION OF, OR ANY COMPROMISE OF DATA SENT USING, ANY TELEPHONE OR OTHER INTERNET ACCESS SERVICE YOU USE TO CONNECT TO NETTELLER ONLINE BANKING;**

**d. ANY VIRUS OR SIMILAR PROBLEM RESULTING FROM THE USE OF NETTELLER ONLINE BANKING; OR**

**e. ANY FEATURE OR FUNCTION OF ANY OF THE SOFTWARE THAT IS NOT INVOLVED WITH NETTELLER ONLINE BANKING.**

**8. Your identification numbers.** Your identification numbers will be used to initiate orders and requests described in Section 10 through NetTeller Online Banking.

Neither your administrator nor any additional user should choose as any of your identification numbers any personal identification number for any electronic banking card that can be used to obtain access to any deposit account you have or your administrator or any additional user has with us now or in the future.

Neither your administrator nor any additional user may allow anyone else to have any of your identification numbers unless you authorize him or her to use NetTeller Online Banking in any way described in Section 10. Your administrator and each additional user must keep your identification numbers confidential and in a secure location separate from the computer, related equipment and software your administrator or any additional user uses for NetTeller Online Banking. For reasons of security, we may, at any time and without any notice to you, your administrator or any additional user, render any of your identification numbers ineffective.

We will not be liable for damages you suffer as a result of your administrator or any additional user allowing anyone else (for example, a party that aggregates account information or content of websites) to have any of your identification numbers.

**9. Your responsibility for orders.** Subject to the limitations set by your administrator on NetTeller Online Banking for orders initiated by the use of the customer identification number of any additional user, you will be responsible for and bound by each order described in Section 10 that is given through NetTeller Online Banking by your administrator, any additional user or anyone else your administrator or any additional user allows to have any of your identification numbers or to use NetTeller Online Banking in any way described in Section 10, and the order and each transfer of funds initiated by the order will be covered by this agreement as though the order had been given by you.

**10. NetTeller Online Banking.** Subject to the provisions of this agreement, NetTeller Online Banking may be used to:

a. Give an order to us to make a non-recurring transfer of funds from any of your deposit accounts to any other of your deposit accounts or any of your loan accounts or from any of your line of credit accounts to any other of your loan accounts or any of your deposit accounts as long as your application designates the account from which the transfer is to be made as an account from which transfers may be made and designates the account to which the transfer is to be made as an account to which transfers may be made;

b. Give an order to us to make a series of recurring transfers of funds of the same amount from any of your deposit accounts to any other of your deposit accounts or any of your loan accounts or from any of your line of credit accounts to any other of your loan accounts or any of your deposit accounts as long as your application designates the account from which the transfers are to be made as an account from which transfers may be made and designates the account to which the transfers are to be made as an account to which transfers may be made;

c. Give an order to us changing or canceling an order described in clause a of this sentence that was previously given through NetTeller Online Banking;

d. Give an order to us changing or canceling as to all future transfers of funds an order described in clause b of this sentence that was previously given through NetTeller Online Banking; and

e. Request information available through NetTeller Online Banking concerning any deposit or loan account with us that is approved by us as accessible for information through NetTeller Online Banking (for example, information concerning deposits in and withdrawals from a deposit account, the balance of a deposit account and, if a deposit account is one for which checks are supplied by us as a means of making withdrawals from the account, images of checks charged against the account).

**11. Initiation, processing, charging, changing and cancellation of orders.** The following rules apply to the initiation, processing, charging, changing and cancellation of orders described in Section 10 that are given through NetTeller Online Banking:

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

- i. The order must schedule the transfer to be made on a specified date;
- ii. The transfer will be scheduled to be made on the date the order schedules it to be made, except that:

A. The transfer will be scheduled to be made on our first business day after that date if that date is the day we receive the order and either that date is not a business day of ours or we receive the order after 3:30 p.m. eastern United States time on that date; and

B. The transfer will be scheduled to be made on our last business day before that date if that date is not the day we receive the order and is not a business day of ours and we receive the order by 3:30 p.m. eastern United States time on our last business day before 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 3:30 p.m. eastern United States time on the date on which the transfer is scheduled to be made.

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

i. The order must provide for the transfers to be equal in amount and regular in frequency on a weekly, semi-monthly or monthly basis and must schedule them to begin on a specified date 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, except that, if it is the first of the transfers:

A. It will be scheduled to be made on our first business day after that date if that date is the day we receive the order and either that date is not a business day of ours or we receive the order after 3:30 p.m. eastern United States time on that date; and

B. It will be scheduled to be made on our last business day before that date if that date is not the day we receive the order and is not a business day of ours and we receive the order by 3:30 p.m. eastern United States time on our last business day before 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 be changed or canceled with respect to any of the transfers until 3:30 p.m. eastern United States time on the date on which the transfer is scheduled to be made.

**12. Limitations and other rules applicable to transfers of funds.** The following limitations and other rules apply to transfers of funds initiated by orders described in Section 10 that are given through NetTeller Online Banking:

a. Any transfer of funds from any of your deposit accounts ordered through NetTeller Online Banking 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 of your line of credit accounts ordered through NetTeller Online Banking 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. If, when any order to make a transfer of funds from any of your deposit accounts given through NetTeller Online Banking is to be charged against the account with respect to the transfer, the amount of the transfer 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, in which case you will be liable for the excess, or refuse to make the transfer. 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, we may, but we will not have to, attempt to make it on a later business day of ours.

d. If, when any order to make a transfer of funds from any of your line of credit accounts given through NetTeller Online Banking 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.

e. For reasons of security, we may, at any time and without any notice to you, your administrator or any additional user, refuse to honor any order to make a transfer of funds given through NetTeller Online Banking.

f. We may, at any time and without any notice to you, your administrator or any additional user, refuse to honor any order to make a transfer of funds given through NetTeller Online Banking if the order reasonably appears to us to be fraudulent or erroneous.

g. If an order to make a transfer of funds given through NetTeller Online Banking contains an inconsistency in the name and account or other identifying number of an account or payee, financial institution or other party, we may, but we will not have to, treat the number as controlling and rely on the number in processing the order.

h. If any of your deposit accounts is a savings account or money market investment account, 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 that are:

i. A transfer of funds to any other of your deposit accounts ordered through NetTeller Online Banking;

ii. Any other computer transfer of funds to any other of your deposit accounts, any other deposit account with us or a third party;

iii. A preauthorized, automatic or telephonic transfer of funds to any other of your deposit accounts, any other deposit account with us or a third party;

iv. A transfer of funds to a third party made by using an electronic banking card (for example, a transfer of funds to pay the purchase price of goods or services); or

v. A transfer of funds made by using a check, a draft or any other order payable to a third party.

**13. Security procedures.** You acknowledge that the use of any of your identification numbers to verify that any order described in Section 10 that is given through NetTeller Online Banking has been given by you or on your behalf is a security procedure that is commercially reasonable for you. We may, but we will not have to, agree with you on a security procedure to detect any error in the transmission or content of any order described in Section 10 that is given through NetTeller Online Banking. Your administrator and each additional user must keep confidential your identification numbers and all information relating to any other security procedure referred to in this section, not reveal any of your identification numbers or any of the information to anyone not authorized to use

NetTeller Online Banking in any way described in Section 10 and notify us of any unauthorized disclosure or use of any of your identification numbers or any of the information. We may, but we will not have to, monitor the use of any of your identification numbers or any other security procedure referred to in this section and report any possible breach of any of your identification numbers or the other security procedure to you.

**14. Authorization and appointment as agent.** You authorize us and appoint us as your agent to take on your behalf any action we believe necessary or appropriate to implement any order described in Section 10 that is given through NetTeller Online Banking or to correct any error in crediting or charging any of your deposit accounts or any of your loan accounts in connection with any order described in Section 10 that is given through NetTeller Online Banking. For example, you authorize us and appoint us as your agent to on your behalf:

a. Withdraw money from any of your deposit accounts and deposit the money in any other of your deposit accounts in order to implement any order to make a transfer of funds from the first deposit account to the other deposit account given through NetTeller Online Banking;

b. Withdraw money from any of your deposit accounts and use the money to make a payment under any of your loan accounts in order to implement any order to make a transfer of funds from the deposit account to the loan account given through NetTeller Online Banking;

c. Obtain credit under any of your line of credit accounts and deposit the proceeds of the credit in any of your deposit accounts in order to implement any order to make a transfer of funds from the line of credit account to the deposit account given through NetTeller Online Banking; and

d. Obtain credit under any of your line of credit accounts and use the proceeds of the credit to make a payment under any other of your loan accounts in order to implement any order to make a transfer of funds from the line of credit account to the other loan account given through NetTeller Online Banking.

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

**15. Fees.** You must pay us each fee we impose for the use of NetTeller Online Banking or any feature of NetTeller Online Banking, which will be in addition to the fees applicable to any of your deposit accounts or any other deposit account you have with us now or in the future. We may charge any of the fees against any of your deposit accounts or any other deposit account you have with us now or in the future.

**16. Indemnification.** Except to the extent that this agreement imposes liability on us, you must indemnify us against each liability, cost and expense (for example, if we hire an attorney for advice, litigation or any other purpose, reasonable attorneys' fees and disbursements) imposed on, incurred by or asserted against us as a direct or indirect result of our accepting or following any order described in Section 10 that is given through NetTeller Online Banking or our acting on any information, notice, order or other communication or document that we receive from you, your administrator or any additional user.

**17. Notice of loss, theft, unauthorized use or error.** If you, your administrator or any additional user believes that any of your identification numbers has been lost or stolen, that any transaction involving any of your deposit accounts or any of your line of credit accounts may have been or may be made without your authorization or that we may have made an error with respect to any of your deposit accounts or any of your line of credit accounts, your administrator or that additional user must contact us at once by telephoning us at 518-234-4397 and asking for a customer service representative or writing us at, 857 East Main Street, P.O. Box 40, Cobleskill, NY 12043. If any statement for any of your deposit accounts, any other deposit account maintained by you with us or any of your line of credit accounts that we send you or otherwise make available to you indicates that a transaction involving the account may have been made without your authorization during the period covered by the statement or that we may have made an error with respect to the account during that

period, you will lose any right to make any claim against us based on the transaction or error unless your administrator notifies us in writing of the transaction or error within 14 days after the date we send you the statement or otherwise make it available to you.

**18. Your liability for unauthorized use.** How much you will have to bear of any loss of money taken from any of your deposit accounts in any transfer of funds ordered through NetTeller Online Banking by an order initiated by the use of any of your identification numbers without your authorization will be determined by applicable law and any agreement between you and us concerning the account or transfers of funds from the account, but:

a. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY LOSS OF MONEY TAKEN FROM THE ACCOUNT IN ANY TRANSFER OF FUNDS ORDERED THROUGH NETTELLER ONLINE BANKING BY AN ORDER INITIATED BY THE USE OF ANY OF YOUR IDENTIFICATION NUMBERS WITHOUT YOUR AUTHORIZATION BY YOUR ADMINISTRATOR, ANY ADDITIONAL USER OR ANYONE ELSE YOUR ADMINISTRATOR OR ANY ADDITIONAL USER ALLOWS TO HAVE ANY OF YOUR IDENTIFICATION NUMBERS OR TO USE NETTELLER ONLINE BANKING IN ANY WAY DESCRIBED IN SECTION 10;

b. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY LOSS OF MONEY TAKEN FROM THE ACCOUNT IN ANY TRANSFER OF FUNDS ORDERED THROUGH NETTELLER ONLINE BANKING BY AN ORDER INITIATED BY THE USE OF ANY OF YOUR IDENTIFICATION NUMBERS WITHOUT YOUR AUTHORIZATION BEFORE WE RECEIVE AND HAVE A REASONABLE TIME TO ACT ON A NOTICE OF THE POSSIBLE UNAUTHORIZED USE OF ANY OF YOUR IDENTIFICATION NUMBERS WITHOUT YOUR AUTHORIZATION;

c. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU FOR ANY LOSS OF MONEY TAKEN FROM THE ACCOUNT IN ANY TRANSFER OF FUNDS ORDERED THROUGH NETTELLER ONLINE BANKING BY AN ORDER INITIATED BY THE USE OF ANY OF YOUR IDENTIFICATION NUMBERS WITHOUT YOUR AUTHORIZATION UNLESS WE FAIL TO EXERCISE ORDINARY CARE IN PROCESSING THE TRANSFER; AND

d. IN THE CASE OF ANY LOSS OF MONEY TAKEN FROM THE ACCOUNT IN ANY TRANSFER OF FUNDS ORDERED THROUGH NETTELLER ONLINE BANKING BY AN ORDER INITIATED BY THE USE OF ANY OF YOUR IDENTIFICATION NUMBERS WITHOUT YOUR AUTHORIZATION, OUR LIABILITY WILL BE LIMITED, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, TO THE AMOUNT OF THE TRANSFER LESS ANY AMOUNT THAT, EVEN WITH OUR EXERCISE OF ORDINARY CARE, WOULD HAVE BEEN LOST.

**19. Our liability for failure to make transfers of funds.** Our liability for damages you suffer as a result of our failure to make, on time and in the correct amount, any transfer of funds to or from any of your deposit accounts ordered by a timely and properly initiated order to make the transfer given through NetTeller Online Banking will be determined by applicable law and any agreement between you and us concerning the account, but:

a. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY LIABILITY, LOSS OR DAMAGE NOT RESULTING DIRECTLY FROM OUR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; AND

b. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY LIABILITY, LOSS OR DAMAGE (FOR EXAMPLE, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE AND EXEMPLARY DAMAGES), WHETHER BASED IN CONTRACT, TORT OR STRICT LIABILITY OR OTHERWISE, IN ADDITION TO ACTUAL DAMAGE, EVEN IF WE ARE ADVISED OF OR OTHERWISE

**KNOW OR SHOULD KNOW OF THE POSSIBILITY OF THE LIABILITY, LOSS OR DAMAGE.**

Whether the order is timely will be determined under Section 11. The order will not be properly initiated unless:

a. The computer, related equipment and software used for NetTeller Online Banking by your administrator or any additional user and each telephone and other internet access service used by your administrator or any additional user to connect to NetTeller Online Banking are properly functioning;

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

c. The order is described in Section 10 and is correct and complete; and

d. The transfer would not be subject to any limitation referred to in Section 12.

**WITHOUT LIMITING THE FIRST SENTENCE OF THIS SECTION, EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU IF ANY OF THE FOLLOWING THINGS HAPPENS:**

a. WE DO NOT RECEIVE THE ORDER;

b. BEFORE THE ORDER IS TO BE CHARGED AGAINST THE ACCOUNT FROM WHICH THE TRANSFER IS TO BE MADE, YOUR RIGHT, OR THE RIGHT OF YOUR ADMINISTRATOR OR THE ADDITIONAL USER PURPORTEDLY GIVING THE ORDER, TO USE NETTELLER ONLINE BANKING OR THE FEATURE OF NETTELLER ONLINE BANKING INVOLVED IN THE TRANSFER IS CANCELED;

c. WHEN THE ORDER IS PROCESSED OR IS TO BE CHARGED AGAINST THE ACCOUNT FROM WHICH THE TRANSFER IS TO BE MADE, WE IN GOOD FAITH BELIEVE THAT THE ORDER WAS GIVEN WITHOUT YOUR AUTHORIZATION (FOR EXAMPLE, BECAUSE ANY OF YOUR IDENTIFICATION NUMBERS HAS BEEN REPORTED AS LOST OR STOLEN) OR IS FRAUDULENT;

d. 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 TRANSFER OF FUNDS 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 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);

f. 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;

g. WHEN THE ORDER IS PROCESSED OR IS TO BE CHARGED AGAINST THE ACCOUNT FROM WHICH THE TRANSFER IS TO BE MADE, MONEY IN THE ACCOUNT IS SUBJECT TO ANY LEGAL PROCESS (FOR EXAMPLE, A TAX LEVY, A SUBPOENA OR AN ORDER PROVIDING FOR RESTRAINT, ATTACHMENT, GARNISHMENT OR EXECUTION) 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;

h. WHEN THE ORDER IS GIVEN, NETTELLER ONLINE BANKING OR THE FEATURE OF NETTELLER ONLINE

**BANKING INVOLVED IN THE TRANSFER IS NOT FUNCTIONING PROPERLY OR IS OTHERWISE UNAVAILABLE;**

**i. WE ARE PREVENTED FROM MAKING THE TRANSFER BY A TECHNICAL MALFUNCTION;**

**j. AN OCCURRENCE BEYOND OUR CONTROL (FOR EXAMPLE, A FIRE, FLOOD, FAILURE OR MALFUNCTION OF ANY COMPUTER OR TELECOMMUNICATIONS EQUIPMENT OR SERVICE, ACT OF WAR OR TERRORISM OR GOVERNMENTAL ACTION OR INACTION) PREVENTS US FROM MAKING THE TRANSFER;**

**k. WE IN GOOD FAITH BELIEVE THAT THERE IS A DISPUTE AS TO THE IDENTITY OF YOUR ADMINISTRATOR OR ANY ADDITIONAL USER OR THE AUTHORITY OF YOUR ADMINISTRATOR OR ANY ADDITIONAL USER TO USE NETTELLER ONLINE BANKING IN ANY WAY DESCRIBED IN SECTION 10; AND**

**l. OUR FAILURE TO MAKE THE TRANSFER IS JUSTIFIED BY ANY PROVISION OF THIS AGREEMENT, BY ANY PROVISION OF ANY OTHER AGREEMENT BETWEEN YOU AND US CONCERNING ANY OF YOUR DEPOSIT ACCOUNTS, ANY OF YOUR LOAN ACCOUNTS, ANY LINE OF CREDIT ACCOUNT OR OTHER OVERDRAFT FACILITY WITH US TO WHICH ANY OF YOUR DEPOSIT ACCOUNTS IS TIED OR TRANSFERS OF FUNDS TO OR FROM ANY OF YOUR DEPOSIT ACCOUNTS, ANY OF YOUR LOAN ACCOUNTS OR THE LINE OF CREDIT ACCOUNT OR OTHER OVERDRAFT FACILITY, BY ANY SECURITY PROCEDURE DESCRIBED IN SECTION 13 OR BY APPLICABLE LAW.**

**20. Our liability for failure to comply with order to stop transfer of funds.** Our liability for damages you suffer as a result of our failure to comply with any order to stop a transfer of funds ordered through NetTeller Online Banking that you have a right to stop under applicable law will be determined by applicable law and any agreement between you and us concerning the account from which the transfer is to be made, but:

**a. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY LIABILITY, LOSS OR DAMAGE NOT RESULTING DIRECTLY FROM OUR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; AND**

**b. EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY LIABILITY, LOSS OR DAMAGE (FOR EXAMPLE, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE AND EXEMPLARY DAMAGES), WHETHER BASED IN CONTRACT, TORT OR STRICT LIABILITY OR OTHERWISE, IN ADDITION TO ACTUAL DAMAGE, EVEN IF WE ARE ADVISED OF OR OTHERWISE KNOW OR SHOULD KNOW OF THE POSSIBILITY OF THE LIABILITY, LOSS OR DAMAGE.**

**21. Cancellation.** You or your administrator may cancel your right to use NetTeller Online Banking or any feature of NetTeller Online Banking at any time by notifying us in writing. The cancellation will not take effect until we receive the notice and have a reasonable time to act on it. At any time, for any reason and without any notice to you, your administrator or any additional user, we may cancel your right, or the right of your administrator or any additional user, to use NetTeller Online Banking or any feature of NetTeller Online Banking. The cancellation will take effect immediately unless we decide to have it take effect later. Once the cancellation by you or us of your right to use NetTeller Online Banking or any feature of NetTeller Online Banking takes effect, we may, but we will not have to, process any order described in Section 10 that is given through NetTeller Online Banking before the cancellation takes effect and would involve the use of a feature of NetTeller Online Banking that your right to use has been canceled. Once the cancellation by us of the right of your administrator or any additional user to use NetTeller Online Banking or any feature of NetTeller Online Banking takes effect, we may, but we will not have to, process any order described in Section 10 that is purportedly given through NetTeller Online Banking by him or her before the cancellation takes effect and would involve the use of a feature of NetTeller Online Banking that his or her right to use has been canceled.

The cancellation by you or us of your right, or the right of your administrator or any additional user, to use NetTeller Online Banking or any feature of NetTeller Online Banking will not affect any of your obligations under this agreement. For example, you will remain liable under Section 16.

**22. Electronic mail.** We will not have to take any action based on any communication sent to us by electronic mail (for example, electronic mail sent to us through NetTeller Online Banking) until we receive and have a reasonable time to act on the communication. Electronic mail (for example, electronic mail sent to us through NetTeller Online Banking) must not be used to communicate to us information that is urgent or requires a prompt response or prompt action (for example, a stop payment order, a report of a lost or stolen card or a report of an unauthorized transaction involving a deposit account or line of credit account).

**23. Recording of information.** You consent to the recording by us or any party providing any service to us in connection with NetTeller Online Banking of any information, notice, order or other communication sent through NetTeller Online Banking or by electronic mail (for example, electronic mail sent to us through NetTeller Online Banking).

**24. Reasonable time to act.** A reasonable time for us to act on any information, notice, order or other communication or document received by us (for example, electronic mail sent to us through NetTeller Online Banking) will not end until at least the close of business on our first business day after our business day we receive the information, notice, order or other communication or document.

**25. Notices and change of address.** Any notice or other communication or document concerning this agreement or NetTeller Online Banking that we send you may be sent in any way not prohibited by applicable law (for example, through NetTeller Online Banking or by electronic mail). If sent by mail, the notice or other communication or document may be sent to your current mailing address shown in our records concerning NetTeller Online Banking and may be sent by regular mail. If your mailing address or electronic mail address changes, you must promptly notify us of the new address in writing. Except as otherwise provided in this agreement or by applicable law:

a. Any notice or other communication or document concerning this agreement or NetTeller Online Banking that we send you will take effect when we send it; and

b. Any notice or other communication or document concerning this agreement or NetTeller Online Banking that you send, or your administrator or any additional user sends, us 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.

**26. Changes in agreement.** No change in this agreement can be made except as provided in this section. We may change this agreement at any time. We will send you any notice of the change that applicable law requires us to send you. If applicable law does not require us to send you any notice of the change, we will either send you a notice of it or post a notice of it on our World Wide Web site unless we consider it to be for reasons of security.

**27. Changes in NetTeller Online Banking.** We may change NetTeller Online Banking at any time by adding, deleting or changing any feature of NetTeller Online Banking. We will send you any notice of the change that applicable law requires us to send you. If applicable law does not require us to send you any notice of the change, we will either send you a notice of it or post a notice of it on our World Wide Web site unless we consider it to be for reasons of security. By the use of any added or changed feature of NetTeller Online Banking by your administrator, any additional user or anyone else your administrator or any additional user allows to have any of your identification numbers or to use NetTeller Online Banking in any way described in Section 10, you will be agreeing to be bound by all our requirements concerning the added or changed feature.

**28. Changes in fees.** We may at any time establish a new fee or change an existing fee you must pay for the use of NetTeller Online Banking or any feature of NetTeller Online Banking. If we establish a new fee or increase an existing fee you must pay for the use of NetTeller Online Banking or any feature of NetTeller Online Banking, we will send you any notice of the new fee or increase that applicable law requires us to send you. If applicable law does not require us to send you any notice of

the new fee or increase, we will either send you a notice of it or post a notice of it on our World Wide Web site. We will not have to notify you if we decrease or eliminate an existing fee for the use of NetTeller Online Banking or any feature of NetTeller Online Banking.

**29. No notice or loss of rights.** We may exercise, give up, fail to exercise or delay exercising any of our rights with respect to you or NetTeller Online Banking without any notice to you, your administrator or any additional user. By exercising, giving up, failing to exercise or delaying the exercise of any of the rights on any occasion, we will not lose that right on any other occasion or lose any other of the rights.

**30. Giving up of rights.** None of our rights with respect to you or NetTeller Online Banking can be given up by us except in a writing signed by us.

**31. No transfer of rights and obligations.** You may not transfer any of your rights and obligations under this agreement or with respect to NetTeller Online Banking to anyone else. Any transfer of any of the rights and obligations will be void.

**32. 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.

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

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

**35. Entire agreement.** Except for any agreement between you and us concerning any of your deposit accounts, any of your loan accounts, any line of credit account or other overdraft facility with us to which any of your deposit accounts is tied, transfers of funds to or from any of your

deposit accounts, any of your loan accounts or the line of credit account or other overdraft facility or any security procedure described in Section 13, this agreement is the final and complete agreement between you and us concerning NetTeller Online Banking. 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 Online Banking 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 Online Banking.

**36. Waiver of trial by jury. YOU IRREVOCABLY GIVE UP ANY RIGHT YOU MAY HAVE TO A TRIAL BY JURY IN ANY LAWSUIT BY US AGAINST YOU OR BY YOU AGAINST US INVOLVING NETTELLER ONLINE BANKING.**

**37. Agreement.** By signing this agreement, you agree to be bound by all provisions of this agreement, all our instructions and requirements concerning NetTeller Online Banking or any feature of NetTeller Online Banking and all legal terms and conditions contained on our World Wide Web site. Also, if your administrator or any additional user uses NetTeller Online Banking in any way described in Section 10 or allows anyone else to have any of your identification numbers or to use NetTeller Online Banking in any way described in Section 10, you agree to be bound by all those provisions, instructions, requirements and legal terms and conditions.

\_\_\_\_\_  
By \_\_\_\_\_

\_\_\_\_\_, 20 \_\_\_\_

February 2005