

# **Farmers State Bank of Brush**

## **FSB NetTeller Account Agreement**

### **Terms and Conditions**

#### **Definitions**

In this document we, our, and us refers to Farmers State Bank of Brush and any agent, independent contractor, designee or assignee that Farmers State Bank of Brush may involve in the provisions of any Internet banking services.

- You and your refers to the customer using FSB NetTeller.
- Access ID or User ID is the identification necessary to access FSB NetTeller, and will be issued by us.
- PIN or “password” is your personal identification number and is selected by you.
- “Transfer instructions” are the instructions you give us to transfer funds between accounts accessible to you via FSB NetTeller.
- Business Day is any day Monday through Friday, except for bank holidays.

#### **Our Mutual Agreement**

This agreement, along with the Regulation E Disclosure, your Deposit Account Agreement and any written application for Internet banking services, as they may be amended, serves as our agreement with you governing your use of FSB NetTeller and your deposit accounts accessed through FSB NetTeller. All of these agreements, as amended from time to time, are incorporated into this agreement by reference.

When you or your authorized party use FSB NetTeller, you accept and agree to be legally bound by the conditions and terms of all the agreements herein, to be responsible for all authorized transactions initiated through FSB NetTeller, and to be responsible for any unauthorized transactions to the extent permitted by law.

Your rights, liabilities and responsibilities for FSB NetTeller fund transfers are governed by this agreement and, to the extent applicable, by the provisions of the Federal Electronic Fund Transfer Act, the Federal Reserve Board’s Regulation E, and Colorado law.

#### **General Provisions**

Your use of FSB NetTeller is subject to the following general terms and conditions:

#### **Use of FSB NetTeller**

You may gain access to FSB NetTeller through a personal computer, FSB NetTeller User ID, and personal password. To use FSB NetTeller, you must have access to a personal computer and all equipment and services necessary to successfully connect to the Internet. You are solely responsible for the purchase, hook-up, installation, loading, operation and maintenance of all hardware, software and all related costs.

Virus Protection: We are not responsible for any electronic virus or viruses that you may encounter. We encourage our customers to routinely scan their PC and diskettes using a reliable virus product to detect and remove any viruses. Undetected or unrepaired viruses may corrupt and destroy your programs, files, and even your hardware. Additionally, you may unintentionally transmit the virus to other computers. We reserve the right to refuse FSB NetTeller service to anyone.

#### **Your User ID**

All FSB NetTeller transactions or inquiries must be initiated by use of your User ID and personal password. We will assign a FSB NetTeller User ID and password after we have accepted your application. You will use this ID and password to sign on to FSB NetTeller for the first time. At that time, you will be required to select a new password of your choice. This password will be good for the next ninety (90) days, at which time the system will prompt you to change it to ensure your continued privacy. You may also change your password at any time between required changes, as you deem necessary.

You agree that any FSB NetTeller transaction or request initiated by use of your User ID and password will be subject to and governed by this agreement.

Your User ID and password are used to access your personal account information and should be treated as you would any other sensitive, personal information. Because your User ID and password serve as the principal security measure to your accounts through FSB NetTeller, you agree that:

- You will not make your User ID or password available to any unauthorized person. If you make your User ID or password available to anyone, either intentionally or negligently, you authorize that person to access your accounts through FSB NetTeller and to give us instructions relating to your accounts. You also authorize us to comply with such instructions.
- Except to the extent prohibited by law or regulations, the following FSB NetTeller transactions using your User ID or password will be deemed to have been expressly authorized by you, and the person(s) initiating the transaction will be deemed an authorized user:
  - Any FSB NetTeller transaction which results in the transfer of funds from one account you may access through FSB NetTeller to any other account you may access through FSB NetTeller, even if a subsequent transfer by a co-owner of the second account results in the transfer of such funds to or for the benefit of the co-owner or third party.

For any FSB NetTeller transaction which you contend is unauthorized, you agree to the following:

- to cooperate fully in the investigation of the unauthorized transaction,
- to assign to us your right of recovery against the wrongdoer if we credit your account, and
- to assist and cooperate fully with us in the recovery of any loss and prosecution of the wrongdoers.

### **Errors and Questions**

In case of errors or questions concerning transactions completed with FSB NetTeller, do one of the following as soon as possible:

- Telephone Farmers State Bank of Brush at 970-842-5101 or
- Write Farmers State Bank of Brush at P O Box 324, Brush, CO 80723.
- Telephone Farmers State Bank of Akron at 970-345-2226 or
- Write Farmers State Bank of Akron at P O Box 300, Akron, CO 80720.

We must hear from you within sixty (60) days after you receive the first statement or notification in which the error or problem appeared. Please include the following information:

- Name
- Account Number
- Description of the error including the amount
- Explanation of why you believe it is an error or why you need more information

We will report back to you the results of our investigation within ten (10) business days after we hear from you. If we need more time, we may take up to forty-five (45) business days to investigate. If we choose to take up to forty-five (45) business days, we will give you provisional credit to your account with ten (10) business days. If we decide there was no error, we will furnish you with a written explanation within three (3) business days after the investigation is complete.

### **Accounts Accessible**

Subject to approval, you may designate the accounts you wish to access through FSB NetTeller. You must be owner, co-owner, or authorized signer of each designated account.

### **Overdraft**

If your use of FSB NetTeller results in an overdrawn account, and the account is not covered by an approved line of credit or authorized transfer arrangement, you agree to make immediate payment to us in the amount of the overdraft, including any related service charges. You also agree that we may charge the overdraft and related service charges against your other accounts with us to the extent permitted by law or your agreement.

### **Account Transfers**

You may transfer funds between the following accounts:

- Checking to checking or savings
- Savings to checking or savings
- Transfers to and from loan accounts may be permitted with the approval of a Loan Officer.

Transfer instructions received after 5:00 P.M. Mountain Time will not be processed until the next business day.

You may be limited by federal law or per your agreement with us as to your ability to initiate transfers. Under Federal Regulations, you may not make more than six (6) pre-authorized or automatic transfers from a savings or a money market account during a given monthly statement period. You also cannot stop payment on transfers initiated through FSB NetTeller.

### **Balance Inquiries**

Shown balances of accounts may include deposits subject to verification by us. The balances may also differ from your records due to deposits in progress, outstanding checks or other withdrawals, payments or charges. A transfer request may not result in immediate availability because of the time required to process the request. Your transfer and payment instructions are not processed instantaneously. Every transaction is processed nightly after the close of each business day. Information on FSB NetTeller may not include transactions initiated the previous day. Our banking day ends at 5:00 P.M. Mountain Time.

### **Our Liability for Incomplete Transactions**

It is our responsibility to process all transfers and other transactions initiated through FSB NetTeller in accordance with this agreement. We will be liable for damages caused by delay in process or error in process. We will not be liable if any of the following occurs:

- Funds are not available in your account,
- Funds are subject to legal process,
- You had knowledge of or questions about the possible malfunction of equipment when you initiated the transaction,
- Any natural disasters (fire, flood, tornado, etc.) or other uncontrollable circumstances (power failures, phone outages, etc.) that prevent proper completion of transactions,
- Other applicable laws and/or regulations exempt us from liability.

Limitation of Warranty and Liability: We will incur no liability if we are unable to complete any of your transaction requests because of Internet or communication line interruptions or failures. We make no promises that FSB NetTeller will be uninterrupted or free of error. If such an event may occur, our sole responsibility will be to use reasonable efforts to resume services. The foregoing shall constitute our entire liability and your exclusive remedy. In no event shall Farmers State Bank be liable for any direct, indirect, special, incidental, consequential, punitive or exemplary damages, including lost profits (even if we are advised of the possibility thereof) arising in any way out of the installation, use or maintenance of any computer equipment or the FSB NetTeller service.

**Bill Payment**

Access. On-line Bill Pay is made available through FSB NetTeller. Access to Bill Pay is registered to the FSB NetTeller user.

Account. You must designate the account from which Bill Payments are to be made. By using Bill Pay you agree that, based upon instructions received from your password, we can charge your designated account by debiting and remitting funds on your behalf.

Payees. You must designate the complete name of the payee, the payee account number, and the payee's remittance address, all exactly as shown on the billing statement or invoice. We reserve the right to refuse to pay any payee designated by you. If we do so, we will notify you promptly. You hereby agree and authorize us to utilize the most effective means to process your transaction, including, without limitation, electronic, paper, or other draft means. You may pay any payee within the United States.

Bill Payments. In scheduling Bill Payments, do not use the payment due date. If the payee is to be paid by paper check (as indicated on the payee list), you understand and agree that paper checks are mailed to the payee and the payee may not receive the Bill Payment until five (5) to eight (8) business days after the date the Bill Payment is debited from your account. If the payee is to be paid electronically (as indicated on the payee list), you understand and agree that the payee may not receive the Bill Payment until three (3) to four (4) days after the date the Bill Payment is debited from your account. You understand and agree that we are not responsible for the timely delivery of mail or the improper transmission or handling of Bill Payments by a third party such as the failure of the payee to properly post a Bill Payment to your account with the payee.

Bill Payments made after the cut-off time will be processed on the following business day. The cut-off time on each business day is 11:00 AM Mountain Time.

Farmers State Bank of Brush reserves the right to change the cut-off time. You will receive notice in advance of any change.

A recurring Bill Payment is one that is automatically rescheduled by the Bill Payment service. Based upon your selected frequency settings for the Bill Payment, a process date is calculated for the next occurrence of the Bill Payment. Payments can be set up with the following frequencies: Weekly, Bi-weekly, Monthly, Semi-monthly, Quarterly, Semi-Annually, Annually. A recurring scheduled payment can be set up in advance to any date in the future. A 'one time' payment can be set up to be processed up to five (5) years in the future.

Please allow ample time for your Bill Payments to reach your payees.

Restrictions. The payee or merchant must be located in the United States (including U.S. territories and APO's).

Available Funds. You agree to have available and collected funds on deposit in the account that you designate in amounts sufficient to pay all Bill Payments requested. Farmers State Bank of Brush reserves the right, without liability, to reject or reverse a Bill Payment if you fail to comply with the above requirements or any other terms of this Agreement. If you do not have sufficient funds in the account and Farmers State Bank of Brush has not exercised its right to reverse or reject a Bill Payment, you agree to pay for such Bill Payment obligations on demand.

Processing Times. Process occurs twice daily – at 1:00 AM Mountain Time, and at 11:00 AM Mountain Time. Payments will be processed on the date scheduled at the earliest possible processing time. If the payment was scheduled with today's date and the last processing time has passed, the payment will be processed at the next possible processing time. For example:

- A payment scheduled with today's date and entered at 9:00 AM Mountain Time will process today at 11:00 AM Mountain Time.
- A payment scheduled with today's date and entered at 1:00 PM Mountain Time will process overnight at 1:00 AM Mountain Time.
- A payment scheduled with future date, regardless of time entered will process at 1:00 AM Mountain Time on the scheduled date.

Payments do not get processed on holidays or weekends. If a scheduled payment falls on a holiday or weekend, it will be processed the Friday *before* the weekend, or the last business day *before* the holiday.

Cancelling a Payment. You may add, edit, or delete a payment up until 1:00 AM Mountain Time on the day the payment is scheduled to be sent. If a same-day payment is submitted between 1:00 AM Mountain Time and 11:00 AM Mountain Time it may be edited up until 11:00 AM Mountain Time.

Stop Payments. Once a Bill Payment has been debited from your Account, you cannot cancel or stop a Bill Payment which has been paid electronically. You may be able to stop a Bill Payment paid by paper check by contacting us by telephone before the paper check has cleared (you can contact us by telephone or check your account online to determine if the check has cleared). You may also place a Stop Payment on the paper check yourself by using FSB NetTeller. If the paper check has not cleared, we will process your Stop Payment. To be effective, a Stop Payment request must precisely identify the name of the payee, the payee account number, the check number, the amount, and scheduled date of the Bill Payment.

The stop payment order is effective for six (6) months unless renewed through FSB NetTeller or in writing before the expiration six (6) months. It will automatically terminate and Farmers State Bank is free to pay the check. In such an instance, you hereby release and further agree to release and waive any and all claims against the Bank with respect to the stop payment order or the check itself and you further agree to indemnify and hold the Bank harmless with regard to any and all claims involving the stop payment order and/or check, which includes Bank's reasonable attorney's fees and costs.

Fees. You agree to pay the fees and charges for your use of FSB NetTeller Bill Pay as set forth in the current Fee Schedule. You agree that all such fees and charges will be deducted from the account designated "Primary Checking Account" on your Application Form. If you close your Primary Checking Account, you must contact us immediately to designate another account as your Primary

Checking Account. If you fail to designate a Primary Checking Account, we will apply any such fees to any account on which you are an owner and that is subject to right of set-off.

Farmers State Bank of Brush reserves the right to charge you for research time set forth in the current Fee Schedule involving Bill Payments no longer available in your screen history.

Liability. Subject to the limitations herein, if you follow the procedures for Bill Payment set forth in this Agreement and you are assessed a penalty or late charge, our total liability to you shall be up to a maximum of fifty dollars (\$50).

In the event that you do not comply with the provisions of this Agreement, or you schedule a Bill Payment closer to its due date than the minimum required number of business days, we will have no liability and you will bear full responsibility for all penalties, late fees and all other costs.

You are liable for the transactions made by you or by a person that you authorize even if that person exceeds his or her authority. You will be responsible for any Bill Payment request you make that contains an error or is a duplicate of another Bill Payment.

**Notice of Rights and Liabilities**

Notify us immediately if your password has been lost or stolen. Failure to notify us immediately could result in the loss of all money accessible by your password or PIN. If your statement shows unauthorized transfers, notify us immediately.

If any of your accounts have co-owners, each owner will be jointly liable for any obligation from the use of FSB NetTeller to access accounts.

**Notice:** Any notice we send you electronically or via mail is considered effective. If any account has more than one owner, notification of one owner shall be considered effective notice to all.

**Information Authorization**

You authorize us to request and obtain consumer reports on you from any consumer reporting agency or any other source relating to the verification of your accounts. You authorize us to disclose any information when we believe it necessary for the conduct of our business or where disclosure is permitted by law. You authorize us to disclose any information for audit or research purposes or to law enforcement and regulatory agencies, for example, to help us prevent fraud. You authorize us to disclose information to companies that process data for us, companies that provide general administrative services for us, and consumer reporting agencies. You authorize us to disclose information to our affiliates as it relates to your transactions with us or our experience with you.

You agree to pay our standard charges for expenses incurred in the legal process, including attorney's fees.

You agree to notify us promptly of any address change.

To terminate or discontinue service, you must give written notice. You will not be entitled to any refunds. We may terminate your or other co-owners' services at any time without notice or cause. Termination or discontinuation shall not affect your liability or obligations.

This Agreement may not be assigned to any other party by you. We may assign or delegate, in whole or in part, to any third party our rights or responsibilities under this Agreement.

We will not have waived any of our rights or remedies under this Agreement unless otherwise notified via mail or electronic message. No delay shall act as a waiver of rights and remedies.

If any action at law or in equity is required to enforce the terms of this Agreement, the prevailing parties shall be entitled to attorney's fees, costs and expenses in addition to any other expenses to which the prevailing parties may be entitled. The venue and jurisdiction for this Agreement lies exclusively in the District Court of Morgan County, State of Colorado. This Agreement is governed by the laws of the State of Colorado.

We reserve the right to amend this Agreement at any time. We will provide you with notice of change. Your use of FSB NetTeller shall constitute your agreement to such changes.

February 2010