

## **ONLINE BANKING & BILL PAYMENT AGREEMENT**

The first time you access your accounts through Online Banking, you agree to be bound by the terms and conditions of this Online Banking Agreement ("Agreement") and acknowledge its receipt and your understanding of its terms.

### **Introduction**

This Agreement explains the terms and conditions for accessing accounts and conducting transactions at First National Bank of Polk County ("Institution", "we", "us" and "our") via our on-line Online Banking site(s) ("Online Banking"). As used in this Agreement, the terms "you" and "your" refer to each person signing an Online Banking Application.

### **Benefits of Online Banking**

Through Online Banking, you can manage eligible accounts from your home or office on a personal computer. Online Banking can be used to conduct any of the following "On-line Financial Services":

Obtain balances and transaction histories on all eligible accounts enrolled in Online Banking (All account balances and transaction histories reflect activity through the close of the previous banking day);

Transfer money between eligible accounts (The number of transfers you can make from an account is limited as described in the applicable account agreement. In addition, if a hold is placed on any funds deposited in an eligible account, you may not transfer the portion of funds being held until that hold expires); transfer money to pay Institution for overdraft protection, consumer loans, home equity loans, or certain other eligible loans; and pay bills to any merchant, financial institution or an individual with a U.S. address.

Institution may, from time to time, introduce new On-line Financial Services. By using those services when they become available, you agree to be bound by the terms contained in this Agreement, and its subsequent amendments.

### **Security & Protecting Your Account**

We are strongly committed to protecting the security and confidentiality of our customer accounts information. We use several techniques to help secure our Online Banking service, including the following:

- You can only access Institution with certain browsers that have a high security standard.
- Your account numbers are never displayed in full - only the last 4 digits can be viewed.
- You must have a valid Online Banking User ID and password to logon.
- If no action is taken for 10 minutes, you will be automatically logged off the Online Banking service.

### **Requirements**

To access On-line Financial Services you must have Windows: IE. 4.01 SP1 and 5.0, Netscape Navigator 4.08, and Netscape Communicator 4.7 or compatible web browser and 128 bit data encryption.

In addition to compatible software, you must have an Online Banking User ID, a password and maintain one or more of the following eligible accounts at Institution:

- Basic Checking
- Personal Checking
- Interest Checking
- Senior Checking
- Personal Money Market
- Business Checking
- Business Interest Checking
- Business Money Market

### **Password**

Your password will give you access to Institution accounts via Online Banking. Institution is entitled to act on any instructions it receives using your password. For security purposes, it is recommended that you memorize your password and do not write it down. We also recommend that you change your password regularly to try and avoid misappropriation by a third party. Your password can be changed at our Online Banking site. You are responsible for keeping your password and account data confidential. When you give someone your password, you are authorizing that person to use Online Banking and the On-line Financial Services. You are responsible for all transactions performed using your password, even if you did not intend or authorize them. In addition, fraudulent transactions initiated using your password will be charged against your account(s).

### **Accessibility**

You can usually access On-line Financial Services seven (7) days a week, twenty-four (24) hours a day. However, at certain

times, some or all of Online Banking or On-line Financial Services may not be available due to system maintenance or reasons beyond Institution's control. Institution does not warrant that Online Banking or On-line Financial Services will be available at all times. When unavailable, you may use an automated teller machine ("ATM") or call our call office to conduct your transactions. An On-line Financial Service transaction initiated prior to 7PM (Eastern Time) on a banking day is posted to your account the same day. All transfers completed after 7 PM (Eastern Time), or on a non-banking day, will be posted the following banking day.

### **Fees and Charges**

There is currently no charge for the use of the On-line Financial Services described in this Agreement

### **Restrictions**

You may not appropriate any information or material that violates any copyright, trademark or other proprietary or intellectual property rights of any person or entity while using the Online Banking or On-line Financial Services. You may not gain, or attempt to gain, access to any Online Banking and/or On-line Financial Service server, network or data not specifically permitted to you by Institution or its suppliers, and you must not include any obscene, libelous, scandalous or defamatory content in any communications with Institution or its suppliers.

### **Accessing the Service**

When you complete your internet banking enrollment form, you will be given an opportunity to request a Subscriber I.D. and Password. You will use the User ID and password to access both the Internet Banking product and the Bill Pay product.

Each time you access the Service, you will be asked to enter your User ID and Password. The correct responses will give you access to the Service.

### **Bill Payment Service**

This is your bill paying agreement with First National Bank of Polk County. You may use First National Bank of Polk County's bill paying service, Bill Pay, to direct First National Bank of Polk County to make payments from your designated checking (account) to the Merchants you choose in accordance with this agreement. The terms and conditions of this Agreement are in addition to the Account agreements, disclosures and other documents in effect from time to time governing your Account (the Account Rules).

"You" or "your" means each person who signs the bill paying enrollment form or is otherwise authorized to use the Service. "Merchant" means anyone, including the Financial Institution, you designate and the Financial Institution accepts as a payee.

### **HOW TO SET UP MERCHANTS/PAYMENTS**

When you sign onto the bill pay system you will establish your list of Merchants by selecting the Add button on the Set up Accounts and Payee screen. You may add a new fixed payment for any Merchant but only if they are on your authorized list of payees. If the Merchant is not set up for electronic payments, the service will generate a paper check for payment. The check will carry your account number and will clear directly through your account. A unique check number will appear on your statement for easy recognition. The Financial Institution reserves the right to refuse the designation of a Merchant for any reason.

The Financial Institution is not responsible if a Bill Payment can not be made due to incomplete, incorrect, or outdated information provided by you regarding a Merchant or if you attempt to pay a Merchant that is not on your Authorized Payee list.

### **THE BILL PAYING PROCESS**

The Financial Institution will process variable payments on the business day (generally Monday through Friday, except holidays) you designate the bill is to be processed, provided the payment request is received prior to the cut-off time set by the Financial Institution, which is currently 4:00 p.m. EST. Variable bill requests received after the business day cut off time, or at any time on a non-business day will be processed on the next business day. The Financial Institution reserves its right to change the cut-off time by giving you notice if it changes.

FOR RECURRING PAYMENT REQUESTS, IF YOU DESIGNATE A PROCESSING DATE OF THE 28TH THROUGH THE 31ST OF A MONTH, YOU MUST SELECT THE OPTION OF "LAST BUSINESS DAY" FOR PROCESSING TO BE ALWAYS BE INITIATED ON THE LAST CALENDAR DAY OF THE MONTH. Otherwise, recurring payment requests will be processed on the dates you have designated, unless such date falls on a non-business day resulting in your payment being processed on the next business day.

YOU MUST ALLOW AT LEAST FIVE (5) BUSINESS DAYS, PRIOR TO THE DUE DATE, FOR EACH BILL PAYMENT

(RECURRING OR VARIABLE) TO REACH THE MERCHANT. (IT IS THE RESPONSIBILITY OF THE SUBSCRIBER TO SCHEDULE/ACTIVATE RECURRING PAYMENTS) Due to circumstances beyond our control, some Merchants take longer to post payments than others. We suggest sending your first payment eight (8) business days in advance of the Due Date. After your first payment has posted you will have a better understanding of how much time to allow for each Merchant.

You must select a Payment Date that is at least five (5) business days before the actual Due Date reflected on your Payee statement. If your actual Due Date falls on a non-business day you must select a Payment Date that is at least one business day before the actual Due Date. Payment Dates should be prior to any late date or grace period.

When you have scheduled a payment, you authorize the Financial Institution to debit your Payment Account and remit funds on your behalf. You certify that your Payment Account is an account from which you are authorized to make payments and any payment you make will be debited from this account. You also authorize the credit of returned payments from using the Bill Pay Service.

The Bill Pay Service will incur no liability and a Service Guarantee shall be void if the Bill Pay Service is unable to complete any payments initiated because of any of the following:

1. You have not provided the Bill Pay Service with the correct payment account information, or the correct name, address, phone number, or account information for the Merchant upon initiation of the payment; and/or,
2. Circumstances beyond the control of the Bill Pay Service (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction and the Bill Pay Service has taken reasonable precautions to avoid those circumstances;
3. The payment-processing center is not working properly and you know or have been advised by the Bill Pay Service about the malfunction before you execute the transaction;

You agree to have available and collected funds on deposit in the account you designate in amounts sufficient to pay for all Bill Payments requested, as well as, any other payment obligations you have to the Financial Institution. The Financial Institution reserves the right, without liability, to reject or reverse a Bill Payment if you fail to comply with this requirement or any other terms of this agreement. If you do not have sufficient funds in the Account and the Financial Institution has not exercised its right to reverse or reject a Bill Payment, you agree to pay for such payment obligations on demand. You further agree the Financial Institution, at its option, may charge any of your accounts with the Financial Institution to cover such payment obligations.

The Bill Pay Service reserves the right to select the method in which to remit funds on your behalf to your Merchant.

Any Bill Payment can be changed or canceled, provided you access the Service prior to the cut-off time on the business day prior to the business day the Bill Payment is going to be initiated.

#### RETURNED PAYMENTS

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

#### LIABILITY

You are solely responsible for controlling the safekeeping of, and access to, your password. You are liable for all transactions you make or that you authorize another person to make even if that person exceeds his or her authority. If you want to terminate another person's authority, you must notify the Financial Institution and arrange to change your password. You will be responsible for any Bill Payment request you make that contains an error or is a duplicate of another Bill Payment. The Financial Institution is not responsible for a Bill Payment that is not made if you did not properly follow the instructions for making a Bill Payment. The Financial Institution is not liable for any failure to make a Bill Payment if you fail to promptly notify the Financial Institution after you learn that you have not received credit from a Merchant for a Bill Payment. The Financial Institution is not responsible for your acts or omissions or those of any other person, including, without limitation, any transmission or communications facility, and no such party shall be deemed to be the Financial Institution's agent. In any event, the Financial Institution will not be liable for any special, consequential, incidental, or punitive losses, damages, or expenses in connection with this Agreement or the Service, even if the Financial Institution has knowledge of the possibility of them. The Financial Institution is not liable for any act, failure to act or delay in acting if it is caused, in whole or in part, by any cause beyond the Financial Institution's reasonable control.

## AMENDMENT AND TERMINATION

The Financial Institution has the right to change this Agreement at any time by notice mailed to you at the last address shown for the Account on the Financial Institution's records, by posting notice in branches of the Financial Institution, or as otherwise permitted by law.

The Financial Institution has the right to terminate this Agreement at any time. You may terminate this Agreement by written notice to the Financial Institution. The Financial Institution is not responsible for any fixed payment made before the Financial Institution has a reasonable opportunity to act on your termination notice. You remain obligated for any payments made by the Financial Institution on your behalf.

## FEES

The fee for the Bill Paying Service is free for the first 3 months; then \$4.95 a month afterwards for an unlimited number of monthly payments.

### **Additional Charges for Customer requested Services and Other Items**

These charges will only be assessed if you request one or more of the services listed here. There will be NO Charge for any item if needed to correct a Financial Institution error.

- Return Check due to Subscriber Error.....\$ 5.00
- Check Copy Mailed or Faxed to Subscriber or Bank .....\$ 5.00
- Check Copy Mailed to Merchant .....\$ 7.00
- Stop Payment .....\$ 10.00
- Return ACH items due to Subscriber or Bank Error .....\$ 10.00
- Overnight Carrier Delivery Charge per item .....\$ 15.00
- Special/Custom Report Charge .....\$ 25.00
- Research Fee for items over 8 months old .....\$ 25.00

The Financial Institution reserves the right to charge you for research time involving payments no longer available in your screen history. You will be informed of any such charges before they are incurred.

Some Bill payments are processed by Electronic Fund Transfers (EFT). Please see the Electronic Fund Transfers Disclosure Statement included, or, received when you opened your account, which discloses important information concerning your rights and obligations.

## Responsibility

Neither Institution nor its suppliers will be liable for any transaction if: (i) you do not have enough money in your account to complete the transaction; (ii) a legal order prohibit withdrawals from your account; (iii) your account is closed or has been frozen; (iv) the transaction would cause your balance to go over the credit limit for any credit arrangement set up to cover overdrafts; (v) you, or anyone you allow, commits fraud or violates any law or regulation in connection with Online Banking or On-line Financial Services; (vi) any electronic terminal, telecommunication device or part of the electronic fund transfer system is not working properly; (vii) you did not provide us with complete and correct payment or transfer information; (viii) you did not properly follow the instructions for use of Online Banking or On-line Financial Services; (ix) you knew that Online Banking and/or the On-line Financial Services were not operating properly at the time you initiated the transaction or payment; (xi) there is postal delay; or (xi) circumstances beyond our control (such as fire, flood or improper transmission or handling by a third party) that prevent, hinder or delay the transaction.

## Unauthorized Transactions

You should notify us immediately if you believe anyone has improperly obtained your password or if you suspect any fraudulent activity in your account(s). If your password has been compromised and you tell us within two (2) business days of discovering the loss or misappropriation, you can lose no more than \$50. If you do not tell us within the two (2) business day period, you could lose as much as \$500 if we could have stopped the use of your accounts had we received notice in a timely manner. You should contact us, or the bill payment provider, as applicable, as soon as you identify any errors or discrepancies in your statement or transaction record, or if you need any information about a transaction listed on the statement or transaction record. We must hear from you no later than sixty (60) days after we have sent the first statement on which the problem or error appeared (If you notify us verbally, we may require that you send us your complaint or question in writing or electronically within ten (10) business days). If you fail to notify us within the sixty (60) day period, you may not recover any of the money you lost if we can establish that the loss could have been avoided had you notified us on time. We may extend these time periods for

good reasons such as out-of-town travel or extended hospital stays.

When you report a problem or discrepancy, please: (i) tell us your name and account number; (ii) describe the error or the transaction you are unsure about, and explain why you believe it is in error or what additional information you need; (iii) tell us the dollar amount of any suspected error; and (iv) for a bill payment, tell us the number of the account used to pay the bill, the applicable payee name and account number, the date the payment was sent, the payment amount and the payment reference number. Generally speaking, we will tell you the results of our investigation within ten (10) business days, or twenty (20) business days in the case of point of sale or international transactions, after we hear from you. However, we may take up to forty-five (45) days, or ninety (90) days in the case of point of sale or international transactions, to investigate your complaint or question. In this case, we may provisionally credit your account so that you have use of the money during the time it takes us to complete our investigation. If you fail to provide your complaint or question in writing within ten (10) business days of a request from us to do so, we reserve the right to not credit your account. If we confirm an error, we will correct your account record within ten (10) business days, or twenty (20) business days in the case of point of sale or international transaction. If we determine that there was no error, we will send you a written explanation within three (3) business days after we conclude our investigation and will debit any interim amounts credited to your account. You may request copies of any documents that we use in our investigation.

For these situations and inquires, please contact us at:

First National Bank of Polk Co

Internet Banking Dept.

(770)748-1750

Mon-Wed 9am-4pm

Thur & Fri 9am-5pm

### **Electronic Mail (E-mail)**

Sending E-mail is a very good way to communicate with Institution regarding your accounts or the On-line Financial Services. However, your e-mail is actually sent via your own software and, as a result, is not secure. Because of this, you should not include confidential information, such as account numbers and balances in any e-mail to Institution. You cannot use e-mail to initiate On-line Financial Service transactions. All such transactions must be initiated using the appropriate functions within the Online Banking site. Institution will not be liable for any errors, omissions, claims, or problems of any kind involving your e-mail.

### **Disclosure of Information**

Information submitted to Institution or its suppliers is the property of those parties, and they are free to use and disclose that information, or any ideas, concepts, know-how or techniques contained in that information to any third party for any purpose whatsoever, except as specifically agreed by Institution or prohibited by law.

### **Links to other Sites**

Information that Institution publishes on the World Wide Web may contain links to other sites and third parties may establish links to Institution's site. Institution makes no representations about any other web site that you may access to, from or through this site. Unless expressly stated in writing, Institution does not endorse the products or services offered by any company or person linked to this site nor is Institution responsible for any software or the content of any information published on the site of any third party. You should take precautions when downloading files from sites to protect your computer software and data from viruses and other destructive programs.

### **Virus Protection**

Institution is not responsible for any electronic virus that you may encounter using the On-line Fund Services. We encourage you to routinely scan your computer and diskettes using reliable virus protection product to detect and remove viruses. If undetected and unrepaired, a virus can corrupt and destroy your programs, files and hardware.

### **Damages and Warranties**

In addition to the terms previously disclosed, Institution is not responsible for any losses, errors, injuries, expenses, claims, attorney's fees, interest or other damages, whether direct, indirect, special, punitive, incidental or consequential, (collectively, "Losses") caused by Online Banking or the use of the On-line Financial Services or in any way arising out of the installation, use or maintenance of your personal computer hardware or software, including any software provided by Institution or one of its suppliers. In addition, Institution disclaims any responsibility for any electronic virus (es) Customer may encounter after installation of such software or use of Online Banking or the On-line Financial Services. Without limiting the foregoing, neither Institution nor its suppliers shall be liable for any: (i) failure to perform or any Losses arising out of an event or condition beyond their reasonable control, including but not limited to communications breakdown or interruption, acts of God or labor disputes; or (ii) the loss, confidentiality or security of any data while in transit via the Internet, communication lines, postal system or ACH

network. Institution and its suppliers provide Online Banking and the On-line Financial Services from their own sites and they make no representation or warranty that any information, material or functions included in Online Banking or the On-line Financial Services are appropriate for use by you in your jurisdiction. If you choose to use Online Banking and/or the On-line Financial Services, you do so on your own initiative and are solely responsible for compliance with applicable local laws and regulations. Neither Institution nor its suppliers warrant the adequacy, accuracy or completeness of any information provided as a part of Online Banking, the On-line Financial Services, or contained in any third party sites linked to or from Institution's web site. INSTITUTION MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY, FUNCTIONALITY OR PERFORMANCE OF ONLINE BANKING, ON-LINE FINANCIAL SERVICES, OR ANY SOFTWARE THAT MAY BE USED IN CONNECTION WITH SAME. INSTITUTION DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ERROR-FREE OPERATION.

### **Indemnification**

Customer shall indemnify, defend and hold harmless Institution and its officers, employees, directors, suppliers and agents, in their individual capacities or otherwise, from and against any Losses arising out of: (i) Customer's negligence; (ii) Customer's failure to comply with applicable law; or (iii) Customer's failure to comply with the terms of this Agreement.

### **Additional Remedies**

Due to the likelihood of irreparable injury, Institution shall be entitled to an injunction prohibiting any breach of this Agreement by Customer.

### **Termination and Changes in Terms**

Institution reserves the right to terminate this Agreement or to change the charges, fees or other terms described in this Agreement at any time. When changes are made, we will notify you by: 1) electronic mail; 2) physical mail at the address shown in our records; and/or 3) update of our web site.

### **Applicable Rules, Laws, and Regulations**

You submit to the jurisdiction of, and this Agreement shall be governed by the laws of, the State of Florida, U.S.A., as well as the federal laws of the U.S.A. Venue for any action arising out of this Agreement shall be in a state court of competent jurisdiction covering Pinellas County, Florida, U.S.A. The prevailing party in any such action shall be entitled to the recovery of its reasonable attorney's fees, costs, and expenses.

### **Assignment**

Institution may assign its rights and/or delegate all or a portion of its duties under this Agreement to a third party.

### **Integration**

This Agreement constitutes the entire understanding of the parties with respect to the subject matter of this Agreement, and all prior agreements, understandings and representations concerning such subject matter are canceled in their entirety. Notwithstanding the foregoing, this Agreement is in addition to any other agreements between you and Institution.

### **Severability**

If there is a conflict between the terms and conditions of this Agreement and one or more terms contained in another agreement between you and the Institution, this Agreement will control.

### **Waiver**

Institution shall not, by the mere lapse of time, without giving notice or taking other action, be deemed to have waived any of its rights under this Agreement. No waiver by Institution of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of this Agreement.

### **Force Majeure**

Neither party shall be liable for any loss nor damage due to causes beyond its control, including fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or omissions of communications carriers, or other causes beyond that party's control. Either party may terminate this Agreement immediately on written notice if the other party is prevented from performing its obligations under this Agreement for a period of more than thirty (30) days due to the reasons set forth in this subsection.

### **Construction**

This Agreement shall be construed equally against the parties regardless of who is more responsible for its preparation. If there is a conflict between a part of this Agreement and any present or future law, the part of this Agreement that is affected shall be

