MERCHANTS BANK

E-STATEMENT DELIVERY AGREEMENT AND DISCLOSURE

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE CONSENTING TO THIS SERVICE:

This E-Statement Delivery Agreement and Disclosure ("Agreement") is between Merchants Bank, and Merchants Bank Customer (Business and/or Consumer) regarding Customer's election for the receipt of statements, notices and disclosures electronically.

1. **Recitals:** This Agreement represents an amendment to Your Deposit Account Terms and Conditions presently in place between Merchants Bank, ("Bank") and certain depositors (sometimes referred to herein as "you," "your," "yours," and "Depositor"). To the extent there is any conflict between any statement made in this Agreement and Your Deposit Account Terms and Conditions, this Agreement shall control.

2. **Consent For Electronic Delivery:** By signing the E-Statements Request Form ("Consent Form"), you consent and authorize the Bank, at its discretion, to electronically deliver your account statement(s) and notices in lieu of providing such statement(s), notices and disclosures in paper form. Your consent and agreement shall relate to all forms of disclosures and notices under applicable law as a result of the various agreements between you and the Bank and shall remain valid until such time as you exercise your right to revoke this consent. Your consent applies to disclosures and notices that the Bank is required to provide to you under applicable Federal and State statutes and their implementing regulations, as amended from time to time, including:

   Truth in Lending Act
   Truth in Savings Act
   Fair Credit Reporting Act
   Electronic Funds Transfer Act
   Home Mortgage Disclosure Act
   Fair Housing Act
   Equal Credit Opportunity Act

   Other Federal and State statutes may be enacted or amended in the future to provide for electronic delivery of account statements and notices. Your signature(s) on the Consent Form will also authorize us, at our discretion, to provide electronic delivery of such statements and notices pursuant to these statutes after they become effective. If there is more than one Depositor that is a party to the account, notice to any one Depositor will be effective for all. You understand that you have the right

to obtain a paper copy of any of the above described disclosures or e-statements. To revoke this consent or request a paper copy of any electronic disclosure or notice provided pursuant to this consent, you must write the bank at Attn: Electronic Banking 900 2nd Avenue SW Cullman, AL 35055.

3. **Security:** We will use commercially reasonable measures, consistent with industry standards, to maintain a reasonable level of security over the information contained in the electronically delivered account statement(s) and notices; however, you should be aware that the electronic transmission of information on the Internet is not without risk. Upon your election of the e-statements service, the bank will "prenote" your e-mail address by sending you at test e-mail and requiring you to reply to us prior to initiating our e-statement services. Our security consists of 128-bit encryption of the data on the e-mailed statement to protect it while in transit over the Internet. Subject to paragraph eight (8) below, once you receive and open you e-mailed statement, it is decrypted by use of Adobe Reader 5.0 or higher and a unique password until such time you exit the e-mailed statement, when it is once again encrypted at the 128-bit level and password protected. You understand that these standards are dynamic and constantly developing. By signing the Consent Form, you acknowledge and understand that there are risks to the electronic delivery of account statements and notices.

   SPECIFICALLY, THERE ARE RISKS TO ELECTRONIC DELIVERY OF ACCOUNT STATEMENT(S) AND OTHER INFORMATION, INCLUDING, BUT NOT LIMITED TO, DELAY OR FAILURE OF DELIVERY DUE TO TECHNICAL DIFFICULTIES, WEATHER CONDITIONS, MATTERS BEYOND THE BANK'S REASONABLE CONTROL OR INTERCEPTION AND/OR ALTERATION OF SUCH ACCOUNT STATEMENT(S) BY THIRD PARTIES DESPITE THE BANK'S COMMERCIALLY REASONABLE SECURITY MEASURES.

   BY SIGNING THE CONSENT FORM, YOU REPRESENT THAT YOU HAVE CONSIDERED OUR SECURITY MEASURES AND FIND THAT OUR SECURITY MEASURES ARE COMMERCIALLY REASONABLE. IN REACHING THIS CONCLUSION, YOU HAVE CONSIDERED THE HISTORICAL AND POTENTIAL FUTURE CONTENT OF YOUR ACCOUNT STATEMENT(S); THE RISKS ASSOCIATED WITH ELECTRONIC DELIVERY OF ACCOUNT STATEMENT(S) AND OUR SECURITY PROCEDURES. IF YOU CONCLUDE THAT OUR SECURITY PROCEDURES CEASE TO BE COMMERCIALLY REASONABLE IN THE FUTURE, YOU MUST TERMINATE THIS AGREEMENT IMMEDIATELY IN ACCORDANCE WITH THE PROVISIONS FOUND HEREIN.

4. **Hardware and Software Requirements:** In order to receive a statement via e-mail, your computer hardware, software and your Internet service provider ("ISP") must meet certain specifications. These are:

PC/Window Users
Pentium Class Computer
64 MB RAM
Microsoft Windows 95 OSR 2.0, Windows 98 SE, Windows Millennium Edition, Windows NT 4.0 with Service Pack 5, Windows 2000 or Windows XP, Adobe Reader 5.0 or greater (installation requires 24 MB of free disk space.)

MAC Users
PowerPC Processor
64 MB RAM
MAC OS 8.6*, 9.0.4, 9.1, or MAC OS X*
Adobe Reader 5.0 or greater (installation requires 24 MB free disk space)
(User needs will dictate amount of free disk space needed for e-statement retention.)

*Some Adobe Reader 5.0 features may not be available.

PC/Linux Users
Linux 2.2 kernel or X86 computer
64 MB RAM
Adobe Reader 5.0 or greater (installation requires 24 MB free disk space)
(User needs will dictate amount of free disk space needed for e-statement retention.)

Internet Service Provider (ISP)
Must allow e-mail attachments up to 1 MB
Must allow .PDF extension through firewall

In order for you to retain this information you will need a printer for printed copies and/or a hard drive or other storage device for electronic copies.

You agree to notify the Bank immediately if you are unable to access any of the information that has been delivered by the Bank in an electronic form or manner.

5. **E-Mail Address:** With your consent, the Bank will send your periodic account statement(s) to you via e-mail to the last known e-mail address provided by you. You agree to notify us promptly in a signed writing (by personal delivery or by U. S. registered or certified mail) of any change to your e-mail address. **For your protection, and for security purposes, the Bank will not accept any change of e-mail addresses via e-mail or**

telephone. If you have not notified us in writing of any change to your e-mail address, you agree that your failure to provide us with a good e-mail address is the lack of ordinary care on your part. You understand that it is your responsibility to update your e-mail address(es) to insure proper delivery or account statement(s), notices and disclosures. If we become aware that you are not receiving your e-mail statement(s) and notices, we will send your e-mail statement(s) and notices to you via U. S. Mail to your last address known to us.

If you have a "multiple-party account" as defined in Your Deposit Account Terms and Conditions, your e-mail address may be changed using the procedure described above by any authorized party to your account. THE BANK SHALL HAVE NO OBLIGATION OR LIABILITY TO ANY OF THE PARTIES TO A MULTIPLE-PARTY ACCOUNT IF THE E-MAIL ADDRESS IS CHANGED USING THE PROCEDURE SET FORTH ABOVE.

6. **Prompt Review of E-Mail Statements:** You must promptly review your e-mail statement upon receipt and any accompanying items and notify our customer service area in writing or by calling 1-256-734-8110 (within the applicable time periods specified in Your Deposit Account Terms and Conditions) of any error, unauthorized signature, lack of signature, alteration or other irregularity. If you allow someone other than you to review your statements, you must still review the statement for any errors, unauthorized signature, lack of signature, alteration or other irregularities because you will be responsible for the wrongful acts of your employees and agents. Any applicable time periods within which you must notify us of any errors on your statement(s) shall begin on the E-Mail statement Date (found in the subject line of the statement e-mail) regardless of when you receive and/or open the e-mail statement(s).

7. **Changing Your Password**: If you would like to change your password, you must notify our E-Statement department in a signed writing (by letter sent via U. S. Mail or delivered in person) to request the password change. **For your protection and for security purposes, we will not accept any change of password notices via e-mail or telephone.** The procedure for changing your current password is to simply set forth in a letter your new password. We will then notify you via e-mail delivery of your most recent statement to verify the change to your new password.

   If you have a "multiple party account" as defined in Your Deposit Account Terms and Conditions, your password may be changed using the procedure described above by any authorized party to your account. THE BANK SHALL HAVE NO OBLIGATION OR LIABILITY TO ANY OF THE PARTIES TO A MULTIPLE-PARTY ACCOUNT IF THE PASSWORD IS CHANGED USING THE PROCEDURES SET FORTH ABOVE.

You agree that the Bank has no control as to the persons who have access to your personal computer and your password once it is in your possession. The Bank will not be liable for any unauthorized access to your personal computer using your password. You agree that it is your responsibility to initiate and maintain adequate procedures to prevent any unauthorized access to your personal computer or unauthorized use of your password.

8. **Disclaimer of Warranty:** WE MAKE NO WARRANTIES OF ANY KIND WITH RESPECT TO THE SOFTWARE PROGRAM USED TO ACCESS THE E-MAIL STATEMENT SERVICES, AND WE DO NOT WARRANT THAT THE SOFTWARE PROGRAM OR THAT E-MAIL STATEMENT SERVICES WILL MEET YOUR SPECIFIC REQUIREMENTS. WE MAKE NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE USE AND ADEQUACY OF THE SOFTWARE PROGRAM OR THE E-MAIL STATEMENT SERVICES WE PROVIDE UNDER THIS AGREEMENT. WE DISCLAIM ANY AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. **Notice of Unauthorized Access:** If you believe that your e-mail statement is lost or that someone has obtained access to your e-mail statement without your permission, call our Electronic Banking area at 1-256-734-8110 or write us at Merchants Bank, E-Statement Department, 900 2nd Avenue SW Cullman, AL 35055.

10. **Liability; Indemnification:** NOTWITHSTANDING ANY PROVISION TO THE CONTRARY CONTAINED IN THIS AGREEMENT, WE SHALL BE RESPONSIBLE FOR ONLY PERFORMING THE E-MAIL STATEMENT(S) SERVICES AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT.

    WE SHALL BE LIABLE ONLY FOR MATERIAL LOSSES, WHICH ARE THE DIRECT RESULT OF OUR OWN NEGLIGENCE OR INTENTIONAL MISCONDUCT IN PERFORMING THESE E-MAIL STATEMENT SERVICES. WE SHALL HAVE NO LIABILITY FOR FAILURE TO PERFORM ANY E-MAIL STATEMENT SERVICES OR FOR ANY DISRUPTION OR DELAY IN PERFORMING E-MAIL STATEMENT SERVICES IN THE EVENT SUCH FAILURE, DISRUPTION OR DELAY IS DUE TO CIRCUMSTANCES BEYOND OUR REASONABLE CONTROL, INCLUDING, BUT NOT LIMITED TO, FAILURE OR DISRUPTION OF ELECTRIC POWER, COMPUTER EQUIPMENT, TELECOMMUNICATIONS SYSTEMS, YOUR ISP, OR WEATHER CONDITIONS. WE SHALL HAVE NO LIABILITY FOR ANY

CONSEQUENTIAL, SPECIAL, PUNITIVE DAMAGES OR INDIRECT LOSS UNDER ANY CIRCUMSTANCES.

EXCEPT TO THE EXTENT WE ARE LIABLE UNDER THIS AGREEMENT, YOU AGREE TO INDEMNIFY AND HOLD US AND OUR DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS HARMLESS FROM ALL CLAIMS, DEMANDS, JUDGMENTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THESE E-MAIL STATEMENT SERVICES. YOU AGREE THAT THIS INDEMNIFICATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

11. **Withdrawing Consent for Electronic Delivery:** You understand that you have a right to terminate this Agreement and thereby withdraw consent for the Bank to communicate electronically. In order to withdraw consent and terminate this Agreement, you must notify the Bank in writing and such withdrawal of consent and termination shall be effective 10 days following the Bank's receipt of the written withdrawal of consent and termination signed by you to the Bank at the following address: Merchants Bank, Electronic Banking Department 900 2nd Avenue SW Cullman, AL 35055. There are no fees associated with terminating this Agreement. This Agreement shall remain in full force and effect until it is terminated by either party as shall remain in full force and effect until it is terminated by either party as provided in this Agreement. We also have the right to terminate this Agreement immediately, with or without cause, or if you fail to comply with the terms of this Agreement or any other agreement which you may have with us or any applicable rule or regulation which may govern your account(s), including Your Deposit Account Terms and Conditions. If we terminate this Agreement for any of these reasons, such termination shall be effective on the effective date specified in a written notice mailed to you, and not on the date when the notice is mailed or received. Any amendment or revision to this Agreement must be executed in writing by an authorized party to your account and attached to our copy of the Agreement as well as noted in our account records.