

# FineMark National Bank & Trust

## Electronic Statement Disclosure Agreement

### **DEFINITIONS**

In this Agreement, the words “you” and “your” mean the owner(s) and/or signer(s) authorized by FineMark National Bank & Trust to receive electronic delivery of periodic statements under this Agreement. The words “we”, “our” and “us” mean FineMark National Bank & Trust. The words “account(s)” mean bank and/or loan accounts at FineMark National Bank & Trust.

### **AGREEMENT**

This Agreement outlines the terms governing your receipt of periodic statements for your accounts at FineMark National Bank & Trust. The frequency of the periodic statements and notices is outlined in the separate account agreements you received when you opened the accounts. By accepting this Agreement, whether electronic acceptance on--line or through written acceptance by signing below, you are agreeing to all of the terms and conditions below.

The terms and conditions of the account agreements and disclosures for each of your FineMark National Bank & Trust accounts as well as your other agreements with FineMark National Bank & Trust will continue in effect unless contradicted by this Agreement, in which case, this Agreement will prevail.

### **CONSENT TO ELECTRONIC STATEMENTS AND NOTICES**

By entering into this Agreement, you are consenting to receive all future bank and/or loan account statements electronically through the email address you provide to the bank. You agree that FineMark National Bank & Trust will not be required to send you paper statements through the mail to your mailing address on record. You will notify the bank immediately of any change in your email address. You may request a paper copy of a periodic statement within 60 days from the date your email statement is made available to you.

You also agree that we may provide notices about your accounts, changes in terms, future account disclosures or electronic fund transfer disclosures, to you through electronic mail when that service becomes available.

### **BUSINESS DAYS AND HOURS OF OPERATION**

FineMark National Bank & Trust’s business days, for the purposes of this agreement, are Monday through Friday, except for holidays as observed by the Federal Reserve Bank.

### **SECURITY AND CONFIDENTIALITY**

You agree to protect the information about your accounts, including the account numbers and your personal identification numbers that provide you access to your account statement through email. You agree to promptly examine your account statements when they are made available to you. You understand that your identification information and personal identification numbers and account numbers together or apart may allow unauthorized access to your account information. Data transferred through email statements is not encrypted. The internet is not secure and data transmitted and emails occur openly on the Internet and could be viewed or monitored by others. We cannot and do not warrant against this.

## **COMMUNICATIONS BETWEEN FINEMARK NATIONAL BANK & TRUST AND YOU**

You may contact us via email, in person, through the mail or by telephone regarding your accounts to update your contact information or to request paper copies.

- Regarding your bank account(s): [clientservice@finemarkbank.com](mailto:clientservice@finemarkbank.com)
- Regarding your loan account(s): [loanclientservicing@finemarkbank.com](mailto:loanclientservicing@finemarkbank.com)

FineMark National Bank & Trust  
8695 College Parkway, Suite 100  
Fort Myers, FL 33919  
877-461-5901

## **HARDWARE AND SOFTWARE REQUIREMENTS**

To access online statements, you must have a personal computer or other device that is capable of accessing the internet and an internet web browser capable of supporting 128-bit or better encryption, like Microsoft Internet Explorer or Google Chrome.

Additionally, you must have software that allows you to receive and view files and documents in Portable Document Format (“PDF”). Adobe Acrobat Reader is an example of such software.

It is recommended that you use the latest version of your web browser and PDF software.

Your access to this page verifies that your system/device has the necessary hardware and software to permit you to receive and access PDF files.

## **LIABILITY FOR MULTIPLE USERS OF YOUR ACCOUNT**

You hereby release us from any liability and agree not to make any claim or bring any action against us for honoring or allowing any actions or transmissions where you have authorized another person to perform a transaction or to access your account(s) and/or you have given your personal information, personal identification codes or account numbers to such person, or, in the case of a jointly held account, the person is one of the owners of the account. You agree to indemnify and hold us harmless from and against any and all such liability (including but not limited to reasonable attorney fees) arising from any such claims or actions.

## **CHANGE IN TERMS**

We reserve the right to change or amend this Agreement from time to time and provide notice of it to you through email or the U.S. mail.

## **YOUR RIGHT TO TERMINATE**

You may, at any time, terminate your use of the electronic statement service and resume mailing of paper statements by notifying FineMark National Bank & Trust through email, through the U.S. mail or by telephoning FineMark National Bank & Trust at:

FineMark National Bank & Trust Main Office  
8695 College Parkway, Suite 100  
Fort Myers, FL 33919  
877-461-5901  
[Opt-out@finemarkbank.com](mailto:Opt-out@finemarkbank.com)

## **OUR RIGHT TO TERMINATE**

We may, at our discretion, cancel your ability to access the Services at any time and for any reason by providing notice to you through email, the U.S. mail or by telephone.

## **LIABILITY FOR LOSS**

Except for where the law requires a different standard, you agree that neither we, nor our parent company, if any, subsidiaries, affiliates, or the service providers shall be responsible for damages, errors, loss, property damage or bodily injury, whether caused by the equipment, software, us or by internet browser providers such as Netscape navigator browser, or Microsoft Explorer browser or by internet access providers or by online service providers or by any agent or subcontractor of any of the above, nor shall we or the service providers be responsible for any direct, indirect, special or consequential, economic or other damages arising from, in any way, out of the installation, use or maintenance of the equipment, software, internet browser, access software, this agreement, the unavailability of electronic services or any errors in information provided through this service, even if we or a service provider have been advised of or are otherwise aware of the possibility of, except as limited by applicable law. The maximum aggregate liability of FineMark National Bank & Trust for all claims arising out of or relating to this Agreement, regardless of the form or cause of action, shall be the lesser of the amount you originally paid for the service or one hundred (\$100) U.S. Dollars.

We will not be liable to you for any consequential, incidental or indirect damages arising from the use, misuse or lack of availability of the electronic delivery services, or for any loss of any data, even if we have been informed of the possibility of such damages. We make no warranty to you about the equipment or the software, merchantability or fitness for a particular purpose.

## **SEVERABILITY**

Each provision of this agreement shall be interpreted in a manner that makes the provision effective and valid under applicable law. If applicable law prohibits or invalidates any part or provision of this agreement, that particular part or provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provision of this Agreement.

## **CUMULATIVE REMEDIES**

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, ordinance or otherwise.

## **DELAYS/FORCE MAJEURE**

The obligations of the Bank shall be suspended to the extent required when the obligations are hindered or prevented from being performed because of labor disputes, war, riots, civil commotion, acts of God, fires, floods, failure of suppliers and/or subcontractors to perform, failure of power, restrictive governmental law and/or regulations, storms, accidents or any other cause which is reasonably beyond the control of the Bank.

**PRIVACY POLICY**

Please refer to our separate Privacy Act Disclosure notice for complete information about FineMark National Bank & Trust's Privacy Policy.

**GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its conflicts of law provisions and will be subject to the provisions of all applicable operating circulars of the Federal Reserve Bank and any other applicable provisions of Federal law.

**MEDIATION**

Should any dispute arise between you and the bank relating to the account, and if following the good faith negotiation of the dispute, it cannot be resolved, it shall first be submitted to mediation. Mediation shall be conducted at the nearest office of the mediation organization mutually agreed upon by you and the bank.