

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

| | | |
|---|---|-------------------------------|
| KIRT BANISTER, Individually and on |) | CASE NO. 2022 CV 00214 |
| behalf of all others similarly situated, |) | |
| |) | |
| Plaintiff, |) | JUDGE JOHN M. DURKIN |
| |) | |
| v. |) | Courtroom No. 4 |
| |) | |
| THE FARMERS NATIONAL BANK OF |) | |
| CANFIELD D/B/A FARMERS |) | |
| NATIONAL BANK, |) | |
| |) | |
| Defendant. |) | |

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between Farmers National Bank of Canfield d/b/a Farmers National Bank (“Farmers”) on the one hand and Kirt Banister (“Banister”) on the other, individually and on behalf of a class (the “Settlement Class”) as defined below, subject to approval by the Court.

Definitions

As used in this Settlement Agreement, the following terms shall have the following meanings:

1. Settlement Administrator means KCC, LLC.
2. Class Action and/or Litigation mean the civil action pending in the Court of Common Pleas of Mahoning County, Ohio, styled *Banister v. Farmers National Bank of Canfield d/b/a Farmers National Bank*, case no. 2022 CV 00214.
3. Complaint means the complaint filed by Banister in the Litigation.

4. Class Counsel means Gerard Stranch, IV, and the law firm Stranch, Jennings & Garvey, PLLC, and Lynn A. Toops and the law firm Cohen & Malad, LLP.

5. Class Notice means the Notice to Class of Proposed Settlement of Class Action to be given to the Settlement Class pursuant to the terms of the Preliminary Approval Order. The Class Notice shall be substantially in the form attached as an exhibit to this Settlement Agreement. The only Class Notice that will be provided to the Settlement Class is that agreed upon by the Parties and approved by the Court.

6. Effective Date means either (a) if no appeal is filed from the Order of Final Approval and Final Judgment, the expiration date of the time for the filing of notice of any appeal from the Order of Final Approval and Final Judgment entered by the Court or (b) if an appeal is filed from the Order of Final Approval and Final Judgment, the latest of (i) the date of final affirmance of the Order of Final Approval and Final Judgment; (ii) the expiration of the time for a memorandum in support of jurisdiction to review the Order and, if jurisdiction is taken, the date of final affirmance of the Order of Final Approval and Final Judgment following review pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Order of Final Approval and Final Judgment or the final dismissal of any proceeding on certiorari to review the Order of Final Approval and Final Judgment.

7. Participating Class Member means all persons who are a member of the Settlement Class except for those persons who have validly requested exclusion from the settlement as provided in this Settlement Agreement and the Class Notice.

8. Monies Available for Settlement means the maximum amount of monies Farmers can be obligated to pay in exchange for the release of all Settled Claims by the Participating Class Members and shall include: (i) any payments to Participating Class Members

in accordance with this Agreement; (ii) the amount of attorneys' fees and costs awarded to Class Counsel by the Court; (iii) the fees and costs associated with claims administration; and (iv) the Incentive Payment. Notwithstanding any other provision of this Settlement Agreement, in no event shall the Monies Available for Settlement exceed the sum of Seven Hundred Eighty Five Thousand Dollars (\$785,000.00).

9. Implementation Schedule means the dates agreed upon by counsel for the Parties and approved by the Court for implementing the Settlement Agreement. The Implementation Schedule is set forth as Exhibit A to this Settlement Agreement.

10. Notice Plan means the plan for the provision of notice to all Class Members under this Settlement Agreement.

11. Class Representative means Banister.

12. Parties means the Class Representative and Farmers.

13. Released Parties means (i) Farmers; (ii) past, present or future subsidiaries, divisions, affiliates, parents, successors or assigns of Farmers; and (iii) past or present officers, directors, members, shareholders, partners, agents, employees, advisors, insurers, attorneys, representatives, trustees, heirs, executors, administrators, and predecessors or successors or assigns of any of the foregoing.

14. Class Settled Claims, with respect to the Participating Class Members (including the Class Representative), means any claim arising out of or related to the facts or claims alleged in the Complaint relating to APSN Fees, Retry Fees, and Verification Fees, as defined in Paragraph 17 below.

15. Settlement Agreement means this Agreement and all exhibits attached to it.

16. Settlement Award means the award that each Participating Class Member who does not timely opt out shall receive as described in Paragraph 28(d) of this Settlement Agreement and Release in the event that the Court approves the Settlement Agreement, the final approval order is not reversed on appeal, and no more than 1% of the members of the Settlement Class timely indicate a desire to opt out.

17. Settlement Class means all residents of Ohio who were checking account holders of Farmers, and, from 2016 through August 25, 2023, were, on their Farmers checking account(s):

- a. Assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or
- b. Assessed multiple fees on an item and/or retried item (“Retry Fees”); or
- c. Assessed fees as a result of a verification process for their account (“Verification Fees”).

18. Settlement Fairness Hearing means the hearing to be requested by the Parties and conducted by the Court, following appropriate notice to the Settlement Class and an opportunity for members of the Settlement Class to exclude themselves from participation in the Settlement Class and the proposed settlement or to object to the proposed settlement, at which hearing the Parties will move the Court to approve the fairness, reasonableness and adequacy of the terms and conditions of the proposed settlement and this Settlement Agreement and to enter an Order of Final Approval and Final Judgment.

19. Incentive Payment means a payment to the named Class Representative, in an amount approved by the Court up to Seven Thousand Five Hundred Dollars (\$7,500.00).

Recitals

20. On August 4, 2023, the Parties participated in a full day of mediation before Michael Ungar, an experienced mediator selected jointly by the Parties to conduct a mediation. The mediation continued for several days thereafter through on-going discussion through the mediator. At the conclusion of the mediation, the Parties reached a settlement subject to Court approval.

21. Class Counsel and counsel for Farmers have investigated the facts relating to the claims alleged and have made a thorough study of the legal principles applicable to the claims asserted against Farmers. Counsel for the Parties agree that there are numerous issues of fact and disputed legal issues relating to the claims sought to be asserted in the Class Action. Based upon the investigation and taking into account the sharply contested legal and factual issues involved; the expense and time necessary to prosecute the Class Action through trial; the risks, uncertainty and costs of further prosecution, including the novel issues of law present in this case with respect to the claims and defenses raised by the Parties; and the uncertainties of complex litigation and the relative benefits conferred upon the Settlement Class and the Class Representative pursuant to this Settlement Agreement; Class Counsel has concluded that a settlement with Farmers on the terms set forth in this Settlement Agreement is fair, reasonable, adequate and in the best interests of the Class Representative and the Settlement Class.

22. Farmers has asserted defenses to the claims alleged in the Class Action and expressly denies each of the claims asserted against it and any and all liability arising out of the conduct and facts alleged in the Class Action. Farmers nevertheless desires to settle the Class Action. Farmers has concluded that further defense of the Class Action would be protracted and expensive. Farmers has expended substantial amounts of time, energy and

resources and, unless this settlement is made, will continue to expend substantial amounts of time, energy and resources to the defense of the claims asserted in the Class Action. Farmers has, therefore, agreed to settle in the manner and upon the terms set forth in this Settlement Agreement in order to put to rest the claims that were or could have been asserted on behalf of the Settlement Class.

NOW THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN the undersigned, that the Class Action shall be settled, subject to the approval of the Court, upon and pursuant to the following terms and conditions:

Basic Settlement Terms

23. For settlement purposes only, the Parties agree that the Settlement Class may be certified in the Class Action, pursuant to Rule 23 of the Ohio Rules of Civil Procedure.

24. It is hereby agreed, by and between the Class Representative and Farmers, through their respective counsel of record, and subject to the approval of the Court, in consideration of the benefits inuring to the Parties hereto, and without admission of any liability or wrongdoing whatsoever by Farmers, that upon entry of the Order of Final Approval and Final Judgment: (a) the Class Representative and the Participating Class Members shall be deemed to have fully, finally and forever released and forever discharged the Released Parties from any and all Class Settled Claims.

25. Notwithstanding any other provision of this Settlement Agreement, this Agreement is intended by the Parties to be a release and a covenant not to sue as to the Class Representative and Participating Class Members which extinguishes all Class Settled Claims and precludes any attempt by the Participating Class Members to file or continue prosecution of a

lawsuit or arbitration or otherwise pursue an individual claim for relief with any local, state, or federal agency against the Released Parties with respect to the Class Settled Claims regarding any matter, incident, or thing which occurred prior to the entry of the Order of Final Approval and Final Judgment.

26. The Class Settled Claims, as defined by Paragraph 14, include any unknown claims that any of the Participating Class Members do not know or suspect to exist in their favor relating to the Class Settlement Claims at the time of the release which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement. Each of the Participating Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Class Settled Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Class Settled Claims.

27. The Monies Available for Settlement shall, in the aggregate, be no more than the maximum total amount (i.e. \$785,000.00) Farmers can be required to pay under this Settlement Agreement. Payments from the Monies Available for Settlement shall be made for (a) any cash payments to class members as provided for in Paragraph 28(d) of this Settlement Agreement; (b) the attorneys' fees, costs, and expenses to Class Counsel awarded by the Court; (c) the costs and fees of claims administration; and (d) the Incentive Payment. Once the payments designated above have been made or awarded, to the extent any funds remain from the Monies Available for Settlement, the Settlement Administrator shall pay as a *cy pres* award to the United Way of Youngstown and Mahoning Valley.

28. Subject to Court approval and for purposes of effectuating this Settlement Agreement, the following amounts shall be paid from the Monies Available for Settlement:

a. Claims Administration: All fees and costs associated with class administration, including the sending of notices to class members, the tracking of exclusion requests, and the sending of Settlement Awards shall be deducted from the Monies Available for Settlement.

b. Incentive Payment. Contemporaneously with filing a Motion for Final Approval, Class Counsel shall apply to the Court for a distribution from the Monies Available for an Incentive Payment to Banister for serving as Class Representative. Class Counsel intends to seek seven thousand five hundred dollars (\$7,500.00) of the Monies Available for Settlement. Farmers agrees not to oppose any application or motion by Class Counsel for the Incentive Payment. In the event the Court awards a lesser amount than that for which Class Counsel applies, the Settlement Agreement shall remain in full force and effect and be binding upon the Parties. Class Representative shall be solely and legally responsible to pay any and all applicable taxes on the payment made pursuant to this subparagraph and agrees to indemnify and hold harmless Farmers from any claim or liability for taxes, penalties, or interest for which Class Representative is responsible as a result of the payment or any allocation of the payment made pursuant to this subparagraph. Payment of the Incentive Payment pursuant to this paragraph and as approved by the Court shall not be made until the Effective Date.

c. Class Counsel. Before or contemporaneously with filing a Motion for Final Approval, Class Counsel shall apply to the Court for a distribution from the Monies Available for Settlement of attorneys' fees in an amount not to exceed Two Hundred Sixty One Thousand Six Hundred And Sixty-Six Dollars and Sixty-Seven Cents (\$261,666.67), constituting

one-third of the Monies Available For Settlement, plus reimbursement of reasonable litigation expenses. Farmers agrees not to oppose any application or motion by Class Counsel for attorneys' fees, costs, and expenses that does not exceed this amount. In the event the Court awards a lesser amount of fees and costs than that for which Class Counsel applies, the Settlement Agreement shall remain in full force and effect and be binding upon the Parties. The payment approved by the Court pursuant to this subparagraph (c) shall constitute full satisfaction of Farmers' and/or any of the Released Parties' obligations to pay amounts to any person, attorney, or law firm for attorneys' fees, expenses or costs incurred on behalf of the Class Representative and/or the Settlement Class, and shall relieve the Released Parties from any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Class Representative and/or the Settlement Class. Class Counsel shall be solely and legally responsible to pay any and all applicable taxes on the payment made pursuant to this subparagraph and agrees to indemnify and hold harmless Farmers from any claim or liability for taxes, penalties, or interest for which Class Counsel is responsible as a result of the payment or any allocation of the payment made pursuant to this subparagraph. Payment of fees and costs pursuant to this paragraph and as approved by the Court shall not be made until the Effective Date. A Form 1099 shall be provided to Class Counsel for the payment made pursuant to this subparagraph.

d. Participating Class Members: The balance of the Monies Available For Settlement after the payments described in Paragraphs 28(a)-(c) shall be distributed to Participating Class Members on a *pro rata* basis based on the amount of APSN Fees, Retry Fees, and Verification Fees charged to each Participating Class Member, as determined by the Settlement Administrator. Where Participating Class Members have an open

demand deposit account at Farmers, Farmers will pay those Participating Class Members directly by crediting the Participating Class Members' account, or where the Participating Class Member has more than one account Farmers shall credit one of that Participating Class Member's open accounts. Where Participating Class Members do not have an open demand deposit account at Farmers, or if Farmers is unable to successfully make a deposit to a Participating Class Member's open account, the Settlement Administrator shall mail checks for settlement payments to those Participating Class Members at the last known mailing address of those Participating Class Members. Checks shall be valid for no less than 120 days from issuance, and the Settlement Administrator may process requests for reissuance. Farmers reserves the right, in its sole discretion, to issue Forms 1099 to Participating Class Members if it believes, in its sole discretion, that it is legally required to do so.

e. Cy Pres Award: After distribution of all funds as provided in Paragraphs 28(a)-(d), the Settlement Administrator will make a *cy pres* distribution of all remaining funds to United Way of Youngstown and Mahoning Valley.

29. The Settlement Administrator shall be responsible for determining eligibility for the Settlement Awards to be paid to Participating Class Members. All eligibility and Settlement Award determinations for Participating Class Members shall be based on pertinent records or information provided by Farmers at Farmers' cost. The Settlement Administrator shall make a determination based on all of the information provided.

30. In no event shall there be any distribution of Settlement Awards to any Participating Class Member until seven (7) days after the Effective Date have expired.

31. Farmers' payment of the Monies Available for Settlement shall constitute full and complete discharge of the entire obligation of Farmers under this Settlement Agreement.

32. No person shall have any claim against Farmers or any of the Released Parties, the Class Representative, the Settlement Class, Class Counsel, Farmers' Counsel, or the Settlement Administrator based on distributions or payments made in accordance with this Settlement Agreement. This Agreement creates no rights in nor confers any benefits upon anyone not specifically named in the Agreement as receiving benefits thereunder.

33. If this Settlement Agreement is not approved in full, or is terminated, rescinded, canceled, or fails to become effective for any reason, and the Effective Date does not occur, then Farmers has no obligation to make any payments provided for in this Settlement Agreement, except that Farmers must pay any costs already incurred by the Settlement Administrator.

34. As part of this Settlement Agreement, Farmers shall not be required to enter into any consent decree, nor shall Farmers be required to agree to any provision for injunctive or prospective relief.

35. Farmers, at its sole and independent discretion, shall have the right, but not the obligation, to revoke and rescind this Settlement Agreement if requests for exclusion (opt-out) from the proposed settlement are validly and timely filed by 1% or more members of the Settlement Class. If Farmers exercises this option, all of Farmers' obligations under this Settlement Agreement shall cease to be of any force or effect; this Settlement Agreement and any orders entered in connection with the settlement (including certification of the Settlement Class) shall be vacated, rescinded, canceled and annulled; and the Parties shall return to the status quo as if the Parties had not entered into this Settlement Agreement; ***provided, however,*** that Farmers shall pay the reasonable costs of the Settlement Administrator already incurred. In addition, in such event, the Agreement and all negotiations, court orders and proceedings relating

thereto shall be without prejudice to the rights of any and all Parties, and all evidence relating to the Settlement Agreement and all negotiations shall not be admissible or discoverable in the Class Action or otherwise. The Parties expressly agree that Farmers' agreement to enter into this Settlement Agreement and/or joinder or consent to any motion for certification of the Settlement Class cannot be used as, and is not, evidence of any admission that any class is otherwise certifiable in this case or that Farmers has waived or abandoned any argument in opposition to any motion to certify any class in this case in the event that—for any reason whatsoever, including but not limited to Farmers' exercise of its rights under this Paragraph—the Effective Date should not occur. Farmers shall exercise its rights under this paragraph, if at all, on the date specified in the Implementation Schedule by giving notice of such exercise to Class Counsel.

36. The Class Representative and Farmers agree that the Implementation Schedule shall govern implementation of the Settlement Agreement, and that the dates set forth in the Implementation Schedule shall only be modified based on (1) the mutual consent of counsel for the Parties, (2) delays due to the Court's schedule, or (3) by Order of the Court.

Class Notice and Settlement Fairness Hearing

37. As part of this Settlement Agreement, the Parties agree to the following procedures for obtaining the Court's preliminary approval of the Settlement Agreement, notifying the Settlement Class, obtaining final Court approval of the Settlement Agreement and processing the Settlement Awards:

a. Class Counsel shall move the Court for preliminary approval of the Settlement Agreement. In conjunction with this request, Class Counsel shall submit, and Farmers will support, a motion for preliminary approval attaching this Settlement Agreement and supporting papers, which shall set forth the terms of this Settlement Agreement and will include

proposed forms of all notices and other documents as attached hereto necessary to implement the Settlement Agreement. Class Counsel must file the motion for preliminary approval on or before _____, 2023.

b. Solely for purposes of this Settlement Agreement, the Parties will request that the Court enter a Preliminary Order, preliminarily approving the proposed settlement, and setting a date for the Settlement Fairness Hearing. The Preliminary Order shall provide for notice of the Settlement Agreement and related matters to be given to the Settlement Class as specified herein.

c. Notice of the settlement shall be provided to the Settlement Class only as set forth herein or as otherwise ordered by the Court. Objections to the settlement and/or requests for exclusion from the Settlement Class, if any, shall be made using the procedures set forth below. The Parties believe and agree that the proposed procedures for Class Notice, which requires notice to be sent by First Class mail, provide the best practicable notice in a reasonable manner to the Settlement Class.

i. The Settlement Administrator shall be responsible, as directed by the Court, for preparing, printing, and mailing to all members of the Settlement Class, identified in Paragraph 17, the Class Notice attached as an exhibit to this Settlement Agreement. The Settlement Administrator shall also be responsible, as directed by the Court, for preparing and publishing the Class Notice attached as an exhibit to this Settlement Agreement, as set forth and in the manner described in Paragraph 37 (c)(ii) below.

ii. Class Members Are To Receive Direct Mail Notice:
Unless otherwise ordered by the Court, no later than the date specified in the Implementation Schedule, the Settlement Administrator shall send a copy of the Class Notice in the form

attached hereto to all members of the Settlement Class. Such Class Notice shall be sent via email, using the most current email address information available as provided to the Settlement Administrator by Farmers and, for those for whom Farmers does not possess email address information, via First Class regular U.S. mail, postage prepaid, using the most current mailing address information available as provided to the Settlement Administrator by Farmers. In order to provide the best notice practicable, any Class Notice returned to the Settlement Administrator as non-delivered before the deadline set forth in the Implementation Schedule for Class Members to mail Claim Forms shall be sent to the forwarding address affixed thereto. If no forwarding address is provided for a Class Notice that is returned as non-delivered, then such Class Notice will be resent by the Settlement Administrator after the address is updated through a computer search. The undelivered Class Notices will be resent within five business days after the Settlement Administrator receives notice that the Class Notice was undeliverable. In the event the procedures in this paragraph are followed, Class Counsel shall be deemed to have satisfied its obligation to provide Class Notice to members of the Settlement Class. If an intended recipient does not receive the Class Notice, the intended recipient shall nevertheless be bound by all terms of the Settlement Agreement and the Order of Final Approval and Final Judgment. Unless otherwise ordered by the Court or agreed by the parties in writing, the objection and opt-out deadlines shall not be extended for members of the Settlement Class whose original notices are re-mailed pursuant to this paragraph.

iii. The Class Notice shall provide that those members of the Settlement Class who wish to object to the settlement must file with the Court and serve on Class Counsel and Farmers' counsel a written statement of objection, ("Notice of Objection"), on or before the date set forth in the Implementation Schedule. The postmark date or Clerk of Court's

time stamp shall be the exclusive means of determining whether a Notice of Objection is timely. The Notice of Objection must be signed by hand, state (a) the full name, address, and telephone number of the person objecting; and (b) the basis for the objection. Members of the Settlement Class who fail to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement.

iv. The Class Notice shall provide that members of the Settlement Class who wish to exclude themselves from the settlement must submit a written statement requesting exclusion from the class postmarked on or before the date specified in the Implementation Schedule. Such written request for exclusion must be signed by hand and must state the full name, address, and telephone number of the person requesting exclusion. Members of the Settlement Class are free to consult counsel regarding the opt-out option. However, the opt-out must be personally signed by the member of the Settlement Class who seeks to opt-out. No member of the Settlement Class may opt-out by a request to opt-out signed by an actual or purported agent or attorney acting on behalf of the member of the Settlement Class unless that class member has been adjudicated to be incompetent or unless the purported agent or attorney is a duly appointed and authorized Representatives of the estate of the class member. No opt-out request may be made on behalf of a group of members of the Settlement Class. Each member of the Settlement Class who does not submit an opt-out request in compliance with this paragraph shall be a Participating Class Member. The opt-out request must be sent by mail to the Settlement Administrator and must be postmarked on or before the date specified in the Implementation Schedule. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted.

Any member of the Settlement Class who requests exclusion (opts-out of the settlement) will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal, or comment thereon. Unless otherwise agreed by the parties or ordered by the Courts, members of the Settlement Class who fail to submit a valid, timely, and properly completed request for exclusion on or before the date specified in the Implementation Schedule shall be bound by all terms of the Settlement Agreement and the Order of Final Approval and Final Judgment, regardless of whether they otherwise have requested exclusion from the settlement.

d. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Settlement Class to (i) submit written objections to the settlement or requests for exclusion from the settlement or (ii) appeal from the Order of Final Approval and Final Judgment.

e. Upon expiration of the deadline for requesting exclusion from the settlement as set forth in the Implementation Schedule, a Settlement Fairness Hearing shall be conducted to determine final approval of the settlement along with the amounts properly payable attorneys' fees and costs. The Parties shall present the Order of Final Approval and Final Judgment to the Court for its approval and entry. After entry of the Order of Final Approval and Final Judgment, the Court shall have continuing jurisdiction for purposes of addressing settlement administration matters.

f. The Settlement Administrator, subject to Court approval, shall be responsible for receiving and reviewing the opt-out requests submitted by members of the Settlement Class and for determining eligibility for payment. Administration of the settlement shall be completed on or before the date specified in the Implementation Schedule. Upon

completion of administration of the settlement, the Settlement Administrator shall provide written certification of such completion to the Court, Class Counsel and counsel for Farmers.

g. The Settlement Administrator, subject to Court approval, shall be responsible for distributing the Monies Available for Settlement, except as to those Participating Class Members whose open demand deposit accounts will be credited by Farmers as provided in Paragraph 28(d). Within seven (7) days of the Preliminary Order approving the Settlement, Farmers shall tender the Monies Available For Settlement, less the estimated funds to be deposited directly into open demand deposit accounts, to the Settlement Administrator for distribution consistent with this Settlement Agreement and the Court's Order. The Settlement Administrator shall place the funds into an interest bearing account at Farmers.

h. All of Farmers' own attorneys' fees and legal costs and expenses incurred in the Class Action shall be borne by Farmers from Farmers' funds and not from the Monies Available for Settlement.

i. In the event (i) the Court does not enter the Order for Preliminary Approval of the proposed settlement following the Motion for Preliminary Approval; (ii) the Court does not finally approve the proposed settlement; (iii) the Court does not enter the Order of Final Approval and Final Judgment in a form the same as, or substantially similar to, the one submitted by the Parties; or (iv) the settlement does not become final for any other reason, this Settlement Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this settlement shall be treated as void *ab initio* and all of Farmers' obligations under this Settlement Agreement shall cease to be of any force or effect, except that Farmers shall be responsible for payment of the reasonable costs of the Settlement Administrator already incurred; this Settlement Agreement and any orders entered in connection with the settlement

(including certification of the Settlement Class) shall be vacated, rescinded, canceled and annulled; within seven days of notice that the settlement does not become final, the Settlement Administrator shall return to Farmers the Monies Available For Settlement tendered by Farmers, plus the interest accrued thereon, less the cost of notice that may have already been incurred; and the Parties shall return to the status quo as if the Parties had not entered into this Settlement Agreement. In addition, in such event, the Agreement and all negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights of any and all Parties, and all evidence relating to the Settlement Agreement and all negotiations shall not be admissible or discoverable in the Class Action or otherwise. The Parties expressly agree that Farmers' agreement to enter into this Settlement Agreement and/or joinder or consent to any motion for certification of the Settlement Class cannot be used as, and is not, evidence of any admission that any class is otherwise certifiable in this case or that Farmers has waived or abandoned any argument in opposition to any motion to certify any class in this case in the event that, for any reason whatsoever, the Effective Date should not occur.

j. Within seven (7) days after the Effective Date, the Settlement Administrator shall advise Farmers of the *pro rata* distribution amount to be direct deposited to Participating Class Members with open demand deposit accounts. If this amount is greater than Farmers' estimate, the Settlement Administrator tender to Farmers the shortage. Within fourteen (14) days after the Effective Date, Farmers shall make direct deposit payments of the Settlement Awards to Participating Class Members with open demand deposit accounts. If any Mones Available for Settlement remain in Farmers' possession upon payment to the Participating Class Members, Farmers shall tender that remaining amount to the Settlement Administrator. The Settlement Administrator shall keep counsel for the Parties apprised of all Settlement Awards

made under the Settlement Agreement and upon completion of the administration of the settlement, the Settlement Administrator shall provide written notice of such completion to counsel for the Parties.

38. Farmers and the Released Parties deny any and all claims asserted or that could have been asserted on behalf of the Settlement Class and deny all wrongdoing whatsoever. This Settlement Agreement is not a concession or admission, and shall not be used against Farmers or any of the Released Parties as an admission or indication with respect to any claim of any fault, concession, or omission by Farmers or any of the Released Parties. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding, or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall in any event be:

a. construed as, offered or admitted in evidence as, received as, or deemed to be, evidence of a presumption, concession, indication, or admission by Farmers or any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage; or

b. disclosed or referred to, or offered or received in evidence, in any further proceeding in the Class Action, or any other civil, criminal, or administrative action or proceeding against Farmers or any of the Released Parties except for purposes of settling this Class Action pursuant to this Settlement Agreement or establishing that the settlement herein has occurred. The limitations set forth in this paragraph do not apply to use and/or disclosure in order for a Party to enforce this Settlement Agreement or any terms therein or to establish that such a settlement has occurred; or

c. construed as, offered or admitted in evidence as, received as, or deemed to be, evidence of a presumption, concession, indication, or admission by Farmers or any of the Released Parties.

39. The terms of this Settlement Agreement include the terms set forth in any of the attached exhibits, which are incorporated by reference as though fully set forth herein. The exhibits to this Settlement Agreement are an integral part of the Settlement Agreement. Unless specifically provided otherwise in the exhibits to this Settlement Agreement, in the event of any conflict between the Settlement Agreement and the exhibits, including the Implementation Schedule, the terms of the Settlement Agreement shall control.

40. No later than seventy (70) days after the mailing of Class Notice, the Settlement Administrator shall provide to Class Counsel and counsel for Farmers a declaration setting forth the total number of members of the Settlement Class who filed valid, timely, and properly completed requests for opt-out or exclusion from the Class Action. The Settlement Administrator shall provide to Class Counsel and counsel for Farmers a final declaration on these matters and certifying completion of the Settlement Administrator's responsibilities, as set forth herein and as agreed by the Parties and Settlement Administrator, within sixty (60) days of the Effective Date of the Settlement or such other later date as the Court or the Parties may agree upon.

41. The Parties agree to hold all proceedings in the Class Action, except such proceedings as may be necessary to implement and complete the Settlement Agreement, in abeyance pending the Settlement Fairness Hearing to be conducted by the Court.

42. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

43. This Settlement Agreement and any attached exhibits constitute the entire agreement between the Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

44. Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate the terms hereof, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their respective counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement Agreement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Court to resolve such disagreement. The person signing this Settlement Agreement on behalf of Farmers represents and warrants that he is authorized to sign this Settlement Agreement on behalf of Farmers.

45. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Released Parties, the Parties, and Participating Class Members, as previously defined.

46. All terms of this Settlement Agreement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of Ohio.

47. This Settlement Agreement may be executed in one or more counterparts and by facsimile or electronically. All executed copies of this Settlement Agreement, and

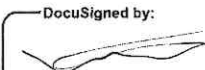
photocopies thereof (including facsimile copies of the signature pages), shall have the same force and effect and shall be legally binding and enforceable as the original.

48. The Parties believe the terms of the settlement as set forth in this Settlement Agreement are fair, adequate and reasonable and have arrived at this Settlement Agreement after arms-length negotiations and with the assistance of Michael Ungar, an experienced mediator, taking into account all relevant factors, present and potential.

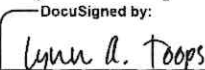
49. Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction or interpretation of this Settlement Agreement, the same shall not be construed against any of the Parties.


50. The Class Representative agrees to sign this Settlement Agreement and by signing this Settlement Agreement is bound by the terms herein stated, and further agrees not to request to be excluded from the Settlement Class and agrees not to object to any of the terms of this Settlement Agreement.

51. In the event of any dispute between the Parties regarding the terms of this Settlement Agreement, the Parties will, prior to seeking any judicial resolution, submit the dispute to Michael Ungar for mediation and facilitated resolution. Mr. Ungar's fees for any such mediation shall be split 50/50 by the Parties.

DocuSigned by:
By: 
Kirt Baister

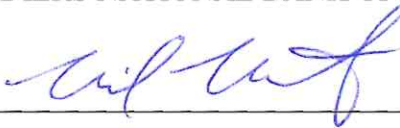
Plaintiff and Class Representatives on behalf of a class of similarly situated persons

DocuSigned by:
By: 
Lynn Toops

DocuSigned by:
By: 
J. Gerard Stanch, IV

Counsel for Plaintiff and Class Representatives on behalf of a class of similarly situated persons

FARMERS NATIONAL BANK OF CANFIELD

By: 

Its: MICHAEL MATUSZAK, COO

Defendant

EXHIBIT A

Banister, Individually and on behalf of all others similarly situated

v.

The Farmers National Bank of Canfield d/b/a Farmers National Bank

Case No. 2022 CV 00214

IMPLEMENTATION SCHEDULE

| Deadline | Activity |
|---|---|
| No later than February 21, 2024 | Class Counsel files Motion For Preliminary Approval and Application for Fees and Expenses. |
| To be determined | Court grants preliminary approval. |
| 7 days after preliminary approval order is entered | Defendant tenders \$785,000.00, less Defendant's estimate of the total of the funds to be deposited directly into open demand deposit accounts, to the Settlement Administrator. |
| 30 days after preliminary approval order is entered | Claims Administrator delivers/-mails class notice by no later than this date; Claims Administrator to perform address search and re-mail any undeliverable notices within five days of return as non-deliverable. |
| 30 days after notice is first emailed | Deadline for mailing requests for exclusion from class, and/or notices of objection to settlement. |
| 10 days after the deadline for objections and opt outs | Claims Administrator to provide affidavit to Class Counsel and counsel for Defendant with complete list of all objections and opt outs received. |
| 7 days after affidavit regarding objections and opt outs is provided to Defendant's counsel | Defendant's last day to revoke settlement based on number of requests for exclusion. |
| 3 days after Defendant's last day to revoke settlement based on exclusions | Plaintiff files Motion for Final Approval of Settlement. |
| On or before the date of the Motion for Final Approval of Settlement | Class Counsel files a Motion for Attorneys' Fees. |
| 7 Days after Effective Date | Settlement Administrator advises Defendant of <i>pro rata</i> distribution amount to be direct deposited to Participating Class Members with open demand deposit accounts. |
| | |

| | |
|--|---|
| 7 days after Effective Date | Settlement Administrator pays attorneys' fees, expenses, and Incentive Payment and mails checks to applicable Participating Class Members |
| 14 Days after Effective Date | Defendant makes direct deposits to Participating Class Members with open demand deposit accounts. |
| 120 days after Settlement Administrator mails checks | Check stale date |
| 14 days after check stale date | Settlement Administrator to provide Counsel with a final declaration regarding completion of the Settlement Administrator's responsibilities. |

EXHIBIT B

Postcard Notice of Proposed Class Action Settlement

You may be a member of the Settlement Class in an action pending in Mahoning County, Ohio Court of Common Pleas and titled Kirt Banister v. The Farmers National Bank of Canfield, No. 2022 CV 00214, in which plaintiff alleges that from 2016 through August 25, 2023, Defendant improperly: (1) assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative finds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or (2) assessed multiple fees on an item and/or retired item (“Retry Fees”); or (3) assessed fees as a result of a verification process for your account (“Verification Fees”). If you are a Class Member and if the Settlement is approved, you may be entitled to receive a cash payment from the \$785,000.00 Settlement Fund, in the form of an account credit or check.

The Court has preliminarily approved this Settlement. It will hold a Final Approval Hearing in this case on _____, 2024. You do not need to attend. At that hearing, the Court will consider whether to grant Final Approval to the Settlement and whether to approve payment from the Settlement Fund of up to \$7,500 as a Service Award to the Plaintiff for serving as the Class Representatives, up to one-third of the Settlement Fund as attorneys’ fees, plus reimbursement of Plaintiffs’ litigation costs, and settlement administration costs. If the Court grants Final Approval of the Settlement and you do not request to be excluded from the Settlement, you will release your right to bring any claim covered by the Settlement. In exchange, Defendant has agreed to issue a credit to your account if you are a current customer or a cash payment to you if you are no longer a customer.

To obtain a Long Form Notice with greater detail about the Settlement, and other important documents case related documents, please visit www._____.com. Alternatively, you may call _____.

If you do not want to participate in this Settlement – you do not want to receive a cash payment and you do not want to be bound by any judgement entered in this case - you may exclude yourself by submitting an opt-out request postmarked no later than _____, 2024. If you exclude yourself, you will not receive a cash payment. If you want to object to this Settlement because you think it is not fair, adequate, or reasonable, you may object by submitting an objection postmarked no later than _____, 2024. You may learn more about the opt-out and objection procedures by visiting www._____.com or by calling _____.

E-Mailed Notice of Proposed Class Action Settlement

Kirt Banister v. The Farmers National Bank of Canfield d/b/a Farmers National Bank
Court of Common Pleas of Mahoning County, Ohio, case no. 2022 CV 00214

If you are or were an Ohio resident who was a checking account holder for Farmers and, from 2016 through August 25, 2023, were, on the Farmers checking account: (1) assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative finds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or (2) assessed multiple fees on an item and/or retired item (“Retry Fees”); or (3) assessed fees as a result of a verification process for your account (“Verification Fees”); you may be a member of a proposed Settlement Class.

THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ THIS NOTICE CAREFULLY.

- Kirt Banister has sued Farmers and has alleged that Farmers improperly charged overdraft fees or insufficient funds fees (“NSF Fees”) on APSN transactions, Retry transactions, and Verification transactions (the “Litigation”). Farmers denies all of these claims.
- The parties in the Litigation have negotiated a Settlement to resolve the Litigation.
- The Court concluded that the Settlement Agreement falls within the range of possible approval and therefore is preliminarily approved as being sufficient. Accordingly, the Court has authorized the dissemination of notice to each Settlement Class Member.
- The Court has not found that Farmers did anything wrong. It has certified a class for settlement purposes. The Court has conditionally approved a settlement, and Farmers’ records show that you may be entitled to receive notice of the lawsuit and to receive an award under the settlement.
- Your legal rights are affected, and you have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

- (1) **DO NOTHING** – By doing nothing, you will be included in the settlement. Farmers will make a settlement payment to eligible class members reflecting a *pro rata* share of the \$785,000.00 settlement fund, after deducting Court-approved attorneys’ fees and expenses for counsel representing the class and an incentive fee to Kirt Banister, and the costs of class notice and settlement administration. You will be losing your right to separately sue Farmers, as set forth in greater detail below.
 - (2) **ASK TO BE EXCLUDED** – If you ask to be excluded, you will not receive any money. However, you keep any rights to sue Farmers separately about the same legal claims in this lawsuit.
 - (3) **OBJECT** – You may object to any aspect of settlement that you think is unfair without opting out the settlement. The specific process for objecting to the settlement is set forth in greater detail below.
- Your options are explained in this notice. To protect your legal rights, you must act before ____, 2024.

WHAT THIS NOTICE CONTAINS

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BASIC INFORMATION

1. Why did I get this notice?

The Settlement Class in this case includes all Ohio residents who were checking account holders for Farmers and, from 2016 through August 25, 2023, were, on the Farmers checking account: (1) assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative finds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or (2) assessed multiple fees on an item and/or retired item (“Retry Fees”); or (3) assessed fees as a result of a verification process for your account (“Verification Fees”); you may be a member of a proposed Settlement Class.

Farmer’s records show that you are a person who falls within the definition of the Settlement Class. This notice explains that the Court has conditionally approved a class action settlement that may affect you. You have legal rights and options that you may exercise.

2. What is the Litigation about?

The Litigation involves claims that Farmers breached its accountholder agreements by charging overdraft or NSF fees on APSN transactions, Retry transactions, and Verification transactions. Farmers denies these claims. The parties have agreed to resolve this matter in order to avoid the uncertainty and high cost of litigation.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called a “Class Representative(s)” (in this case, Kirt Banister) sue on behalf of other people whom they believe have similar claims. The people together are a “Settlement Class” and are made up of Settlement Class Members. In this case, you are a member of the “Settlement Class.” In general, the person who sued – and all the Settlement Class Members – is called the Plaintiff. The company they sued (in this case, Farmers) is called the Defendant. One court resolves the issues for everyone in the Settlement Class – except for those people who choose to exclude themselves from the Settlement Class.

THE SETTLEMENT

4. What has Farmers agreed to pay or do?

The proposed settlement calls for Farmers to establish a \$785,000.00 Settlement Fund (the "Monies Available for Settlement"), which will be used to pay class members, to pay class representative incentive payments to Kirt Banister, and to pay attorneys' fees awarded by the Court to Class Counsel. If any of the Monies Available for Settlement cannot be distributed or go unclaimed, those funds will be donated to United Way of Youngstown and Mahoning Valley (this is called a "*cy pres* distribution"). If the settlement is not approved, then Settlement Class Members will not get any benefits of the settlement and the parties will go back to Court for further proceedings, possibly including a trial.

5. What can I receive?

If the Judge approves the settlement, all Settlement Class Members who do not file a timely Opt-Out Request ("Participating Settlement Class Members") will receive benefits from the settlement in the form of a *pro rata* payment of each class members' share of the Monies Available for Settlement.

CLAIMING SETTLEMENT FUNDS

6. How do I receive my benefits under this settlement?

If you do nothing in response to this Notice, you will receive your *pro rata* share of the Monies Available for Settlement either as a direct deposit to your Farmers checking account if you have one open or in the form of a check sent by US mail.

7. What if my address changes before the Net Monies Available For Settlement are distributed?

If you change your address, or if this Notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator by letter or telephone to ensure that you receive future communications about the Litigation. If the Settlement Administrator does not have your correct address, you might not receive notice of important developments in the Litigation and you might not receive your share of the Settlement Funds.

YOUR RELEASE OF CLAIMS

8. What claims are included in the term Settled Claims?

Settled Claims means any claim arising out of or related to the facts or claims alleged in the Complaint relating to APSN Fees, Retry Fees, and Verification Fees, and includes any unknown claims that any of the Participating Class Members do not know or suspect to exist in their favor relating to the Class Settlement Claims at the time of the release which, if known by them, might have affected their settlement with, and release of, the Released Parties or might have affected their decision not to object to this Settlement. Released Parties are Farmers and its past, present or future subsidiaries, divisions, affiliates, parents, successors or assigns, and the past or present officers, directors, members, shareholders, partners, agents, employees, advisors, insurers, attorneys, representatives, trustees, heirs, executors, administrators, and predecessors or successors or assigns of any of the foregoing.

9. What does this release mean to me?

This release means that you could not bring a lawsuit against Farmers, or any of the Released Parties, for any reason relating to the Settled Claims. You would still be able to enforce other rights not related to the Settled Claims.

THE LAWYER REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court decided that Lynn A. Toops of Cohen & Malad, LLP; and J. Gerard Stranch, IV, of Stranch, Jennings & Garvey, PLLC are qualified to represent you and all Class Members. These lawyers are referred to as “Class Counsel.”

11. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

12. How will Class Counsel and the Settlement Administrator be paid?

At the Final Hearing, or at such other time as the Court may direct, Class Counsel intends to apply to the Court for an award of attorneys’ fees of one-third of the Settlement Fund (\$261,666.67), plus reimbursement of reasonable litigation expenses, to be distributed from the Monies Available for Settlement.

The parties also have agreed that KCC, LLC will serve as the Settlement Administrator of the settlement. The fees and costs of the Settlement Administrator will be paid from the Monies Available for Settlement.

ALTERNATIVES

You have alternatives to participating in the settlement and accepting settlement funds.

13. May I choose not to participate in the settlement?

Yes, you may **CHOOSE NOT TO BE A MEMBER** of the Settlement Class. To do so, you must follow the procedure below to exclude yourself from the Settlement Class, that is “opt-out,” if you do not wish to be a member of the Settlement Class. If you opt-out, you will not receive any of the benefits under the settlement, but your rights, if any, to sue the Released Persons on the Settled Claims will not be barred by the settlement. If you decide to opt-out, you must send a letter saying so to the Settlement Administrator, KCC LLC, at [ADDRESS] by _____.

14. What must the opt-out letter include?

The opt-out letter must (a) contain a reference to “*Kirt Banister v Farmers National Bank of Canfield d/b/a Farmers National Bank*, Court of Common Pleas of Mahoning County, Ohio, case no. 2022 CV 00214;” (b) include your name, address, and telephone number; (c) include a statement that you to be excluded from the class; (d) be signed personally by the person who seeks to be excluded from the class; and (e) be postmarked by _____, 2042.

15. May I submit an opt-out request on behalf of others?

No. No Settlement Class Member may opt out by having a request to opt out submitted by an actual or purported agent or attorney acting on his or her behalf. No opt out request may be made on behalf of a group of members of the Settlement Class.

16. May I oppose the settlement without opting-out?

Yes, you may oppose or object to the proposed settlement of the Litigation or any aspect of it that you think is unfair. **The Court will hold a hearing on _____, to determine whether the proposed settlement of the Litigation should be approved.** You do **not** need to attend this hearing, although you may if you wish. Each class member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed settlement, or to the award of attorneys' fees and expenses or any incentive award to the Settlement Class Representatives, shall provide to Class Counsel and Farmers' Counsel and file with the Court, at the below addresses, no later than _____ a written statement of the objection, as well as the specific reasons, if any, for each objection, including any legal support he or she wishes to bring to the Court's attention and any evidence he or she wishes to introduce in support of his or her objections.

For the Court:

Court of Common Pleas
Attn: Chambers of Judge John M. Durkin
120 Market Street
Youngstown, OH 44503

For Class Counsel:

Lynn A. Toops
COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, IN 46204
ltoops@cohenandmalad.com

For Defense Counsel:

Marcel C. Duhamel
VORYS, SATER, SEYMOUR AND PEASE LLP
200 Public Square, Suite 1400
Cleveland, OH 44114
mcduhamel@vorys.com

17. What does my objection need to include?

All written objections must be hand-signed by the Settlement Class Member and must include (1) his or her name, address and telephone number; (2) a statement of the objection(s) and any supporting evidence he or she wishes to introduce; and (3) the case name and number of the Litigation.

GETTING MORE INFORMATION

18. Can I examine the Court's file?

Yes, you may **EXAMINE THE COURT'S FILE** in the clerk's office at the Court of Common Pleas of Mahoning Counsel, Ohio, 120 Market Street, Youngstown, Ohio, 44503.

19. Additional Information?

You can obtain additional information about the lawsuit, including important documents and the Settlement Agreement, by visiting the settlement website at [URL] or by contacting the Settlement Administrator at [TELEPHONE NUMBER].

PLEASE DO NOT CONTACT THE JUDGE OR FARMERS'S COUNSEL

EXHIBIT C

**IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO**

| | | |
|--|---|-------------------------------|
| KIRT BANISTER, Individually and on behalf of all others similarly situated, |) | CASE NO. 2022 CV 00214 |
| |) | |
| Plaintiff, |) | JUDGE JOHN M. DURKIN |
| |) | |
| v. |) | Courtroom No. 4 |
| |) | |
| THE FARMERS NATIONAL BANK OF CANFIELD D/B/A FARMERS NATIONAL BANK, |) | |
| |) | |
| Defendant. |) | |

**ORDER GRANTING PRELIMINARY APPROVAL OF PROPOSED CLASS
SETTLEMENT AND DIRECTING NOTICE TO PROPOSED SETTLEMENT CLASS.**

The parties have agreed, subject to Court approval, following notice to the Settlement Class and a hearing, to settle this Action upon the terms and conditions set forth in the Settlement Agreement (“Settlement Agreement”), which was filed with the Court as an attachment to the parties’ Joint Motion for Preliminary Approval of Class Action Settlement. Based upon the Settlement Agreement and all of the files, records, and proceedings in this case, the Court has conducted a preliminary examination of the Settlement Agreement and determined that the settlement appears to be fair, reasonable and adequate. The Court finds that it is appropriate to notify the Settlement Class, and to schedule a hearing to make a final determination whether to approve the Settlement Agreement.

Accordingly, IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement and the terms of the proposed settlement are preliminarily approved as fair, reasonable, and adequate.

In accordance with the terms of the Settlement Agreement, the Court hereby conditionally certifies the Settlement Class as: all residents of Ohio who were checking account holders of Farmers, and, from 2016 through August 25, 2023, were, on their Farmers checking account(s):

- a. Assessed an overdraft fee on a debit card transaction that was authorized on sufficient funds and settled on negative funds in the same amount for which the debit card transaction was authorized (“APSN Fees”); or
- b. Assessed multiple fees on an item and/or retried item (“Retry Fees”); or
- c. Assessed fees as a result of a verification process for their account (“Verification Fees”).

2. The Court finds that the Members of the Settlement Class are so numerous that joinder of all members is impracticable. There are questions of law or fact common to the Members of the Settlement Class. The claims of the Class Representative are typical of the claims of the Settlement Class. The Class Representative will fairly and adequately protect the interests of the Settlement Class. The questions of law or fact common to the members of the Settlement Class predominate over the questions affecting only individual members. Certification of the Settlement Class is superior to other available methods for the fair and efficient adjudication of the controversy. The Class Representative shall be the representative of the Settlement Class for the purposes of implementing the settlement in accordance with the Settlement Agreement, and Lynn A. Toops of Cohen & Malad, LLP; and J. Gerard Stranch, IV, of Stranch, Jennings & Garvey, PLLC are appointed as counsel for the Settlement Class (“Class Counsel”). In the event the Settlement Agreement terminates pursuant to its terms for any reason, the conditional certification of the Settlement Class pursuant to this Order shall be vacated automatically and shall be null and void, and this action shall revert to its status immediately prior to the execution of the Settlement Agreement.

3. The Notice of Proposed Settlement (“Notice”) is approved, in the postcard form and the E-Mailed form, also the long-form notice, attached to the Joint Motion as Exhibit 2. The Notice shall be considered to be an order of the Court, and the dates set forth therein shall govern this case and the Settlement Class, unless otherwise modified.

4. Pursuant to the terms of the Settlement, Farmers will, within three business days of entry of this Order, prepare and provide to the Settlement Administrator a Class Member List in readable electronic form. The list will specify those members of the Settlement Class whose email addresses are in Farmers’ possession and shall include those email addresses.

5. As soon as practicable, but no later than thirty (30) days after this Order on Preliminary Approval (“Order”), (a) the Settlement Administrator shall send the Notice to each Class Member whose email address it possesses, and, in the event any email is returned as undeliverable, will attempt to send the Notice to the last known mailing addresses of those Class Members; and (b) the Settlement Administrator shall mail to each Class Member not notified by email a Class Notice by first class mail, postage pre-paid, addressed to his or her last known address. The envelopes shall be marked “Forwarding Service Requested.” On or before fourteen (14) days prior to the Settlement Fairness Hearing, the Settlement Administrator shall provide Class Counsel with a declaration confirming that the Class Notice was mailed to Settlement Class Members, and the steps taken during the Notice process, and Class Counsel shall file the declaration with the Court. The costs and expenses of printing, preparing and mailing the Notice shall be paid by from the Monies Available for Settlement.

6. Any member of a Settlement Class who desires to be excluded from a Settlement Class must mail by no later than thirty days (30) after first Mailing of the Notice, a written request for exclusion addressed to the Settlement Administrator as described in the Notice. The request shall otherwise include all other information listed in the Notice. No request

for exclusion will be valid unless all the information described above is included and it is timely postmarked. All such persons who properly mail requests for exclusion from a Settlement Class shall not be Settlement Class member, shall not be bound by any terms or releases contained in the settlement, and shall have no rights with respect to the settlement and no interest in the settlement benefits or proceeds. Within ten (10) days after the deadline by which requests for exclusion must be submitted to the Settlement Administrator, the Settlement Administrator shall provide to Class Counsel and counsel for Farmers a list containing the names and addresses of those who have requested exclusion.

7. Objectors must file with this Court and serve, at the addresses of Class Counsel and counsel for Farmers appearing in the Notice, copies of their objections, together with proof of service, by no later than thirty days (30) after first Mailing of the Class Notice. The objections must state the name and number of this action and otherwise comply with the requirements as articulated in the Class Notice. No Settlement Class member shall be entitled to be heard at the Settlement Fairness Hearing and no objection shall be considered unless these requirements are satisfied.

8. Any member of the Settlement Class who is not excluded from the Settlement Class and who objects to the approval of the proposed settlement may appear at the Settlement Fairness Hearing in person or through counsel to show cause why the proposed settlement should not be approved as fair, reasonable, and adequate.

9. Any Settlement Class member who does not make his objection to the settlement in the manner provided herein shall be deemed to have waived any such objection by appeal, collateral attack, or otherwise.

10. The mailing or emailing of the Class Notice as directed in this Order and in the Settlement Agreement constitutes the best notice practicable under the circumstances and sufficient notice to all members of the Settlement Class.

11. All discovery and other pretrial proceedings in this action are stayed and suspended until further order of this Court except such actions as may be necessary to implement the Settlement Agreement and this Order.

12. A hearing (the "Settlement Fairness Hearing") shall be held on _____, 2024, at ___:___ a.m./p.m. to determine whether the proposed settlement of this Action is fair, reasonable, and adequate and should be approved. The Settlement Fairness Hearing described in this paragraph may be postponed, adjourned, transferred or continued by order of the Court without further notice to the Settlement Class. After the Hearing, the Court may enter a Final Approval Order and Final Judgment approving the settlement in accordance with the Settlement Agreement that will adjudicate the rights of all class members.

13. In the event that the proposed settlement as provided in the Settlement Agreement is not approved by the Court, or for any reason the parties fail to obtain a Final Approval Order and Final Judgment as contemplated in the Settlement Agreement, or the Settlement Agreement is terminated pursuant to its terms, then the Settlement Agreement and all orders entered in connection therewith shall become null and void and of no further force and effect, and shall not be used or referred to for any purposes whatsoever. In such event, the Settlement Agreement and all negotiations and proceedings relating thereto shall be withdrawn without prejudice as to the rights of any and all parties thereto, who shall be restored to their respective positions as of the date of the execution of the Settlement Agreement, and the Settlement Administrator shall return to Farmers the Monies Available For Settlement tendered by Farmers, plus the interest accrued thereon, less the cost of notice that may have already been incurred.

IT IS SO ORDERED.

DATED: _____, 2024

JUDGE JOHN M. DURKIN