



First Midwest Bank

A division of  OLD NATIONAL BANK

**BUSINESS MOBILE BANKING SERVICES
INCLUDING BUSINESS MOBILE REMOTE DEPOSIT SERVICE
ENROLLMENT TERMS AND CONDITIONS (“END USER TERMS” or “AGREEMENT”)**

The Business Mobile Banking Services, including Business Mobile Remote Deposit Service (subject to eligibility) (“*Business Mobile Banking Services*”) is provided to you (“*End User*” or “*you/your*”) by First Midwest Bank (“*First Midwest*” or “*we/us/our*”) and powered by a third party (“*Licensor*”) mobile technology solution. Section A of these End User Terms is a legal agreement between you and First Midwest Bank. Section B of these End User Terms is a legal agreement between you and the Licensor.

SECTION A

FIRST MIDWEST BANK TERMS AND CONDITIONS

Thank you for using First Midwest Bank Business Mobile Banking Services. In case of questions, please contact First Midwest’s customer service at customer.service@firstmidwest.com or call 877.203.6724.

1. The Business Mobile Banking Services are provided by us and not by any other third party. To enroll in Business Mobile Banking Services, you must also be enrolled in First Midwest Bank’s Business Online Banking Service and/or Business Express (“*Business Online Banking Service(s)*”). You acknowledge that you have read and agreed to the terms and conditions governing Business Online Banking Services as provided for in the Business Online Banking Services Agreement (“*Business Online Agreement*”) and/or the Treasury Management Services Agreement (“*TMSA*”), as applicable, both of which apply to Business Mobile Banking Services. You also acknowledge and agree to these End User Terms, which supplement the Business Online Agreement and the TMSA when you enroll in Business Mobile Banking Services.

2. We are not responsible or liable for the acts, omissions, systems or services provided by Licensor or any of the provisions of Section B, which is the responsibility of Licensor.

3. As used in these End User Terms, “*Business Mobile Banking*” and “*Business Mobile Banking Service(s)*” means a service that allows you to use a Mobile Device to access the Business Online Banking Service; “*Mobile Device*” means a device specified by us other than a desktop computer, including a mobile phone, tablet or personal digital assistant (PDA) that is Internet (web) enabled; “*Business Mobile Remote Deposit Service*” means a service that allows you to make deposits using the electronic image of a check or Substitute Check with your Mobile Device. Capitalized terms not defined in the End User Terms shall have the meaning provided in the Business Online Agreement, the TMSA or your Business Deposit Account Agreement (“*BAA*”), as applicable.

Business Mobile Banking Services

1. Services and Functionality. Not all of the services or functionality of Business Online Banking Services are available when you use a Mobile Device and the Business Mobile Banking Services and functionality available to you may vary based on the Mobile Device you use. We will notify you which Business Online Banking Services and functionality are available through Business Mobile Banking and which are available using your Mobile Device. For those Business Online Banking Services available through your Mobile Device, the Business Online Banking Services may use different terminology and appear in different formats when viewed through your Mobile Device. You may be required to follow different instructions to access Business Online Banking Services through your Mobile Device. Processing of payment and transfer instructions may take longer through Business Mobile Banking.

2. Third Party Charges. Your wireless provider’s rates apply to Internet access, including messaging rates that apply to short message service (“*SMS*”) usage. We do not charge for any content; however, downloadable content may incur additional charges from your wireless provider. Please contact your wireless provider for information about your Internet access and messaging plans. Your wireless provider may impose Internet access, message and/or charge

limitations for using the Business Mobile Banking Service that are outside of our control. All such charges are billed by and payable to your wireless provider. You are responsible for any charges from your wireless provider. We are not responsible for any damages resulting from your failure to comply with any terms and conditions of your wireless provider.

3. Authorized User. You represent that you are the owner or a authorized user of the Mobile Device you use to receive our Business Mobile Banking Service, and that you are authorized to approve the applicable charges. You agree that we may send messages through your wireless provider to you and that your wireless provider is acting as your agent when sending and receiving messages.

4. Access and Limitations on Liability. Business Mobile Banking, including instructions for payment, transfer and other transactions, may be delayed, misdirected, mishandled, interrupted, contain inaccurate content or otherwise be negatively impacted by factors relating to your Mobile Device, your Internet service provider, wireless provider or third parties, or due to other reasons outside of our control. WE WILL NOT BE LIABLE FOR LOSSES OR DAMAGES DUE TO ANY SUCH DELAYS, INTERRUPTIONS OR NEGATIVE IMPACTS TO BUSINESS MOBILE BANKING AND YOU AGREE THAT NEITHER WE NOR OUR SERVICE PROVIDERS WILL BE LIABLE FOR ANY ERRORS OR DELAYS IN THE CONTENT, OR FOR ANY ACTIONS TAKEN IN RELIANCE THEREON. BUSINESS MOBILE BANKING SERVICES INCLUDING BUSINESS MOBILE REMOTE DEPOSIT SERVICES ARE PROVIDED ON AN AS IS, AS AVAILABLE BASIS. WE AND OUR SERVICE PROVIDERS MAKE NO REPRESENTATION OR WARRANTY RELATING TO THE BUSINESS MOBILE BANKING SERVICE, INCLUDING, WITHOUT LIMITATION, EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND TITLE, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OR NON-PERFORMANCE OF THE BUSINESS MOBILE BANKING SERVICE IS FOR US TO USE COMMERCIALY REASONABLE EFFORTS TO REPAIR THE BUSINESS MOBILE BANKING SERVICE.

5. Transmission and Use of Your Information. You provide your express consent to us, our agents and service providers to use the telephone or mobile phone number, e-mail address or other delivery location we have in our records to contact you to provide the Business Online Banking Services including Business Mobile Banking Services, to otherwise operate, develop and improve the Business Mobile Banking Service, and for any other purpose including marketing. You agree we, our agents and third party vendors may contact you by any means including use of an auto dialer or predictive dialer or pre-recorded message. You understand and agree that Business Mobile Banking messages may not be encrypted and may contain personal or confidential information about you such as your mobile phone number, your wireless provider's name, the date, time and content of any mobile banking messages including account activity and status of your Accounts, and other information that you or we may provide. Your wireless provider and other service providers may also collect data from your Business Mobile Banking usage, and their practices are governed by their own policies. We are not responsible or liable for the acts or policies of such service providers. We will only use the information you provide to us from your Business Mobile Banking usage in connection with our Business Online Banking Service. Nonetheless, we reserve the right at all times to disclose any information as necessary to satisfy any law, regulation or governmental request, to avoid liability, or to protect our rights or property. When you complete forms online or otherwise provide us information in connection with our Business Mobile Banking Service, you agree to provide accurate, complete, and true information.

6. Content. Our Business Mobile Banking Service as well as the content and materials you may receive or access through your use of Business Mobile Banking are proprietary to us and our Licensors, and are for your personal, non-commercial use only. You will not damage, impair, interfere with or disrupt our Business Online Banking Service, Business Mobile Banking Service, or their functionality.

7. Use Outside of the U.S. You agree that if you are using our Business Mobile Banking Service outside the United States, you are responsible for having access to the appropriate wireless and/or telecommunications networks and are responsible for all associated fees and charges.

8. Termination and Changes. We reserve the right to change these End User Terms from time to time, including the right to change fees, upon notice to you, and we reserve the right to discontinue our Business Mobile Banking Service at any time without notice. We may suspend or terminate the Business Mobile Banking Service to you if we believe you are in breach of our End User Terms, the Business Online Agreement, the TMSA or your BAA with us. If your Business Online Banking Service is terminated, your Business Mobile Banking Service will also terminate. The

Business Mobile Banking Service will also terminate in the event your wireless service terminates or lapses. All terms which by their nature contemplate performance after termination will survive termination of these End User Terms.

9. Official Records and Statements. Business Mobile Banking is provided for your convenience and does not replace your Account statement, which is the official record of your Account.

10. INDEMNIFICATION. YOU AGREE TO INDEMNIFY, DEFEND AND HOLD US HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, LIABILITY, COST AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING FROM YOUR USE OF THE BUSINESS MOBILE BANKING SERVICE, YOUR PROVISION OF A TELEPHONE OR MOBILE PHONE NUMBER, E-MAIL ADDRESS, OR OTHER DELIVERY LOCATION THAT IS NOT YOUR OWN, OR YOUR VIOLATION OF APPLICABLE FEDERAL, STATE OR LOCAL LAW, REGULATION OR ORDINANCE.

Business Mobile Remote Deposit Service

1. Business Mobile Remote Deposit Service. The Business Mobile Remote Deposit Service allows you to make deposits of the electronic image of a check or Substitute Check (each an "Item") to your eligible Accounts by capturing an electronic image of the Item with a capture device (such as a camera) on your Mobile Device and submitting images and associated information to us for processing. All terms and conditions of the Business Mobile Banking Services provided above including Access and Limitations on Liability (Section 4), Official Records and Statements (Section 9), and Indemnification (Section 10) apply to the Business Mobile Remote Deposit Service.

2. Eligible Items. You agree:

- to deposit only images that originated as paper checks, and no third-party or electronic checks may be deposited using the Business Mobile Remote Deposit Service;
- to implement and maintain security measures, including firewall protection, in compliance with your obligations under these End User Terms;
- to properly endorse all Items using the Business Mobile Remote Deposit Service;
- not to deposit Items into your Account unless you have authority to do so;
- not to exceed the deposit limits we establish;
- after you submit an Item for deposit using the Business Mobile Remote Deposit Service you will not redeposit, otherwise transfer or negotiate the original Item;
- after you submit an Item for deposit you are solely responsible for the storage or destruction of the original Items as further provided below;
- the electronic image of the Item will become the legal representation of the Item for all purposes;
- any image we receive accurately and legibly represents all of the information on the front and back sides of the original Item as originally drawn; and
- to promptly provide us with a written notice of any claim you receive regarding the Business Mobile Remote Deposit Service.

3. Image Quality. The image of an Item transmitted using the Business Mobile Remote Deposit Service must be legible and clear. It must not be altered. It must capture all pertinent information from the front and back sides of the Item. Image quality must comply with industry requirements established and updated by the ANSI, Federal Reserve Board and any other regulatory agency. You authorize us to convert Items to IRDs or transmit them as an image. If the electronic files and/or images transmit to us with respect to any Item do not comply with our requirements for content and/or format, we may, in our sole discretion:

- further transmit the Item and data in the form received from you;

- repair or attempt to repair the Item or data and then further transmit it;
- process the Item as photocopies in lieu of originals; or
- return the data and Item to you unprocessed and charge back your Account.

4. Endorsement. You agree to properly endorse all Items captured and submitted using the Business Mobile Remote Deposit Service.

5. Processing Time and Availability of Funds. We may return or refuse to accept all or any part of a deposit to your Account using the Service at any time and will not be liable for doing so even if such action causes outstanding checks or other debits to your Account to be dishonored and returned. Images of Items transmitted by you are not considered received by us until you receive an electronic confirmation of the receipt of the deposit from us. Receipt of the confirmation from us does not mean that the transmission was error-free or complete. If we receive the image of an Item for deposit on or before 5:00 p.m. Central Time on a Banking Day, we will consider that day the day of deposit. If we receive the image of an Item for deposit after 5:00 p.m. Central Time or on a non-Banking Day, we will consider the next Banking Day as the day of deposit. You understand and agree that funds from Items deposited under the Business Mobile Remote Deposit Service are not subject to Federal Reserve Board Regulation CC (a availability of funds). Items submitted through the Business Mobile Remote Deposit Service are not subject to the Funds Availability Policy applicable to the Account. Funds from deposits made via the Business Mobile Remote Deposit Service generally will be available for withdrawals by the next Banking Day.

6. Disposal of Transmitted Items. You are responsible for retaining each original Item in a safe and secure environment in accordance with applicable laws as in effect from time to time. After forty-five (45) days following transmittal to us and receipt of a confirmation from us that the image of the Item has been received, you agree to mark the Item as "VOID" and properly dispose it to ensure it is not presented for deposit again. You will properly store the original Items and take appropriate measures to ensure they are not deposited a second time. You will promptly (but in any event within five (5) Business Days) provide any retained original Item to us as requested to aid in the clearing and collection process to resolve claims by third parties with respect to any Item or as we otherwise deem necessary.

7. Restrictions and Limitations. You agree your deposits using the Business Mobile Remote Deposit Service will not exceed the limitations, as may be changed from time to time, provided for within the functionality of the Business Mobile Remote Deposit Service.

8. Minimum Hardware and Software Requirements. In order to use the Business Mobile Remote Deposit Service, you must obtain and maintain, at your expense, compatible hardware and software including an Internet enabled Mobile Device as specified by us within the Business Online Agreement.

9. Eligibility, Suspension and Termination. You must meet the eligibility requirements in order to use the Business Mobile Remote Deposit Service. We have the right to suspend or terminate the Business Mobile Remote Deposit Service at any time if you or your Account(s) do not meet our eligibility requirements or if you are in violation of these End User Terms, the Business Online Agreement, the TMSA or your BAA with us. We may also terminate the Business Mobile Remote Deposit Service in the event your wireless service terminates or lapses.

10. Errors. You agree to promptly review each Account statement and notify us of any errors. All deposits made through the Service will be deemed to be correct, unless you notify us of any errors to deposits made through the Service immediately but no later than 30 (thirty) days after the applicable Account statement is mailed or otherwise provided to you or as otherwise specified in your Business Online Agreement, TMSA and BAA with us.

11. Changes. We reserve the right to change the Business Mobile Remote Deposit Service at any time without notice to you. We reserve the right to deny, suspend or revoke access to the Business Mobile Remote Deposit Service immediately, in whole or in part, in our sole discretion, without notice, if we believe you are in breach of these Sections or this Agreement or another agreement related to your Account with us, or are otherwise using or accessing the Business Mobile Remote Deposit Services inconsistent with the terms and conditions hereof. Further, we have the right to suspend the Business Mobile Remote Deposit Service immediately in the event of an emergency or in the event of acts or circumstances beyond our control. Any termination will not affect any obligations arising prior to termination, such as the obligation to process any Items that were processed or in the process of being transmitted or collected prior to the termination date, or any returns of the same.

SECTION B

END USER LICENSE AGREEMENT TERMS FOR THE DOWNLOADABLE APP

To be Agreed to by End User Prior to Use of the Downloadable App

1. Ownership. You ("End User" or "you/your") acknowledge and agree that a third party provider or licensor ("Licensor") to your financial services provider ("First Midwest Bank") is the owner of all right, title and interest in and to the downloaded software to be used for access to business mobile banking services from your financial services provider and the computer programs contained therein in machine readable object code form as well as any accompanying user documentation along with all subsequent copies, updates or versions thereof which are made available to you (if any), regardless of the media or form in which they may exist (collectively the "Software").

2. License. Subject to the terms and conditions of this Agreement, you are hereby granted a limited, nonexclusive license to use the Software in accordance with the terms of this Agreement. All rights not expressly granted to you by this Agreement are hereby reserved by the owner of the Software. Nothing in this license will entitle you to receive hard-copy documentation, technical support, telephone assistance, or updates to the Software. This Agreement may be terminated at any time, for any reason or no reason. Upon termination, you agree to immediately destroy all copies of the Software in your possession or control.

3. Restrictions. You shall not: (i) modify, revise or create any derivative works of the Software; (ii) decompile, reverse engineer or otherwise attempt to derive the source code for the Software; (iii) redistribute, sell, rent, lease, sublicense, or otherwise transfer rights to the Software; or (iv) remove or alter any proprietary notices, legends, symbols or labels in the Software, including, but not limited to, any trademark, logo or copyright.

4. Disclaimer Warranty. THE SOFTWARE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NO WARRANTY IS PROVIDED THAT THE SOFTWARE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. YOUR USE OF THE SOFTWARE AND ANY OTHER MATERIAL OR SERVICES DOWNLOADED OR MADE AVAILABLE TO YOU THROUGH THE SOFTWARE IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.

5. Limitations of Warranty. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR, THE PROVIDER (FIRST MIDWEST BANK) OF ANY FINANCIAL SERVICES AVAILABLE THROUGH OR RELATED TO THE SOFTWARE, ANY OF THEIR CONTRACTORS OR PROVIDERS OR ANY OF EACH OF THEIR AFFILIATES BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH ANY CLAIM IS BASED. IN ANY CASE, LIABILITY OF LICENSOR OR ANY OF THE OTHER PERSONS OR ENTITIES DESCRIBED IN THE PRECEDING SENTENCE ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE SHALL NOT EXCEED IN THE AGGREGATE THE LESSER OF \$10.00 OR THE SUM OF THE FEES PAID BY YOU FOR THIS LICENSE.

6. U.S. Government Restricted Rights. The Software is commercial computer software subject to RESTRICTED RIGHTS. In accordance with 48 CFR 12.212 (Computer software) or DFARS 227.7202 (Commercial computer software and commercial computer software documentation), as applicable, the use, duplication, and disclosure of the Software by the United States of America, its agencies or instrumentalities is subject to the restrictions set forth in this Agreement.

7. Miscellaneous. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. This Agreement will be governed by and construed in accordance with the laws of the state of Florida excluding that body of laws pertaining to conflict of laws. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, such provision will be enforced to the maximum extent possible and the other provisions will remain effective and enforceable. All disputes relating to this Agreement are subject to the exclusive jurisdiction

of the courts of Florida and the parties expressly consent to jurisdiction and venue thereof and therein. The parties confirm that this Agreement and all related documentation is and will be in the English language. The application of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly waived and excluded.

8. Content and Services. Neither Licensor nor the provider of the wireless network is the provider of any financial services available through or related to the Software, and neither Licensor nor the provider of the wireless network or any contractor of the provider of the financial services available through or related to the Software, is responsible for any of the materials, information, products or services made available to you via the Software.