

Terms and Conditions for Mobile Banking Services

Last updated July 08, 2014

Thank you for using the Mobile Banking Services ("Services") and any related Software ("Software") provided by The Farmers & Merchants State Bank ("F&M") combined with your handheld's text messaging capabilities. By participating in the Services or using the Software, you are agreeing to the following terms and conditions, in addition to any terms and conditions to which you have previously agreed with respect to the underlying electronic banking and bill pay services of which the Service is a part. F&M in its discretion may modify these Terms and Conditions at any time. Standard messaging charges apply.

Agreement:

In using a supported mobile device, F&M offers customers three methods of mobile access to their account information (e.g., for checking balances and last transactions) via text messaging (Short Message Service/SMS), mobile device applications, and mobile browsers. Additionally, mobile device application and mobile browser methods can perform account transfers and payments. User is responsible for all standard charges and fees imposed by their wireless provider for text messaging, data usage, or other wireless services.

You must be an enrolled Online Banking user to have access to F&M Mobile Banking Services. If your Online Banking Services are disabled or terminated, these Services will also be disabled or terminated. The Services are provided as a convenience and do not replace monthly account statements which are the official record of your accounts. F&M may amend terms, modify or cancel the Service, or any of its features without prior notice.

You understand and agree that these Services may not be encrypted and may include personal or confidential information about you, such as your account activity or status. Delivery and receipt of information, including instructions for payment, transfer, and other move money transactions, through the Services may be delayed or impacted by factor(s) pertaining to your internet service provider(s), wireless providers, phone carriers, other parties, or because of other reasons outside of F&M's control. You agree that F&M will not be liable for losses or damages arising from failed, delayed, or misdirected delivery and mishandling of, or inaccurate content in information and instructions sent through the Service; any errors in such information; any action you may or may not take in reliance on the information or Services; or any disclosure of account information to third parties resulting from your use of the Service. We will not be liable to you for special, indirect, or consequential damages.

Notify F&M immediately of any changes to your mobile device. If you lose or believe someone has obtained unauthorized access to your device or if you terminate service for your mobile device, you agree to cancel enrollment associated with the Device immediately.

Anyone with access to your mobile device may be able to access the contents of the text messages or alerts. It is your responsibility to secure these devices, such as by using and protecting your user name(s) and password(s) and deactivating a compromised mobile phone number or device, in order to protect the confidentiality of this information. [Take appropriate precautions when using public Wireless Local Areas Networks for use of the Services.] You consent to, and agree that F&M will not be liable for, any disclosures which occur if you do not take appropriate steps to prevent access to your information by unauthorized persons. You agree to indemnify, defend, and hold harmless from any third party claims, liability, damages, or costs arising from your use of the Services or from you providing us with a phone number that is not your own.

Terms and Conditions:

1. **Program:** F&M offers their customers mobile access to their account information (e.g., for checking balances and last transactions) over the Short Message Service (SMS), as well as the option to set up alerts for their accounts (e.g., low balance alerts). Enrollment requires identification of the user's banking relationship with F&M as well as providing a mobile phone number. The mobile phone number's verification is completed by the user receiving an SMS message with a verification code which they will have to enter through Online Banking. Additionally, customers may select the type of alerts and other preferences which will determine, together with their account data, the frequency of alerts delivered to the customer. This program will be ongoing. Standard messaging charges apply. Customers will be allowed to opt out of this program at any time.

2. **Questions:** You can contact us at ecommerce@fm-bank.com or 888-446-2451, or send a text message with the word "HELP" to this number: 96924. We can answer any questions you have about the program.
3. **To Stop the Program:** To stop the messages from coming to your phone, you can opt out of the program via SMS. Just send a text that says "STOP" to this number: 96924. You'll receive a one-time opt-out confirmation text message. After that, you will not receive any future messages. This does not terminate your enrollment for the Services.
4. **The Services and/or Software:** The Services and/or Software may not be available at any time for any reason outside of the reasonable control of F&M or any service provider.

The Terms and Conditions for these Services do not replace or supersede any other agreements for any of your accounts; they are in addition to any other agreements. Enrollment and use of the Services constitutes agreement to the Terms and Conditions for these Services.

Privacy and User Information. You acknowledge that in connection with your use of the Services, F&M and its affiliates and service providers, including Fiserv Solutions, Inc., and its affiliates, may receive and may share with one another names, domain names, addresses, passwords, telephone and device numbers, the content of messages, data files and other data and information provided by you or from other sources in connection with the Services or Software (collectively "User Information"). F&M and its affiliates and service providers will maintain reasonable safeguards to protect the information from unauthorized disclosure or use, but reserve the right to use and disclose this information as reasonably necessary to deliver the Services and as otherwise permitted by law, including compliance with court orders or lawful instructions from a government agency, to protect the personal safety of subscribers or the public, to defend claims, and as otherwise authorized by you. F&M and its affiliates and service providers also reserve the right to monitor use of the Services and Software for purposes of verifying compliance with the law, these terms and conditions and any applicable license, but disclaim any obligation to monitor, filter, or edit any content.

Restrictions on Use. You agree not to use the Services and Software in or for any illegal, fraudulent, unauthorized or improper manner or purpose and will only be used in compliance with all applicable laws, rules and regulations, including all applicable state, federal, and international Internet, data, telecommunications, telemarketing, "spam," and import/export laws and regulations, including the U.S. Export Administration Regulations. Without limiting the foregoing, you agree that you will not use the Services and Software to transmit or disseminate: (i) junk mail, spam, or unsolicited material to persons or entities that have not agreed to receive such material or to whom you do not otherwise have a legal right to send such material; (ii) material that infringes or violates any third party's intellectual property rights, rights of publicity, privacy, or confidentiality, or the rights or legal obligations of any wireless service provider or any of its clients or subscribers; (iii) material or data, that is illegal, or material or data, as determined by F&M (in its sole discretion), that is harassing, coercive, defamatory, libelous, abusive, threatening, obscene, or otherwise objectionable, materials that are harmful to minors or excessive in quantity, or materials the transmission of which could diminish or harm the reputation of F&M or any third-party service provider involved in the provision of the Services; or (iv) material or data that is alcoholic beverage-related (e.g., beer, wine, or liquor), tobacco-related (e.g., cigarettes, cigars, pipes, chewing tobacco), guns or weapons-related (e.g., firearms, bullets), illegal drugs-related (e.g., marijuana, cocaine), pornographic-related (e.g., adult themes, sexual content), crime-related (e.g., organized crime, notorious characters), violence-related (e.g., violent games), death-related (e.g., funeral homes, mortuaries), hate-related (e.g. racist organizations), gambling-related (e.g., casinos, lotteries), specifically mentions any wireless carrier or copies or parodies the products or Services of any wireless carrier; (v) viruses, Trojan horses, worms, time bombs, cancelbots, or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data, or personal information; (vi) any material or information that is false, misleading, or inaccurate; (vii) any material that would expose F&M, any third-party service provider involved in providing the Services, or any other third party to liability; or (viii) any signal or impulse that could cause electrical, magnetic, optical, or other technical harm to the equipment or facilities of Fiserv Solutions, Inc., or any third party. You agree that you will not attempt to: (i) access any Software or Services for which your use has not been authorized; or (ii) use or attempt to use a third party's account; or (iii) interfere in any manner the provision of the Services or Software, the security of the Services or Software, or other customers of the Services or Software, or otherwise abuse the Services or Software.

This Addendum is effective July 8, 2014

Use of F&M Mobile Deposit Capture Service is governed by this Addendum to the F&M Mobile Banking Services Terms and Conditions and the Online Banking Agreement Terms and Conditions.

1. **Introduction.** This Mobile Deposit Agreement (the "Agreement") is entered into by The Farmers & Merchants State Bank ("F&M") and you. The Agreement governs your use of the Mobile Deposit Capture Service ("Mobile Deposit") offered by F&M. By enrolling to use the Mobile Deposit Capture Service, you agree to be bound by the terms and conditions contained in this Addendum. The terms and conditions in this Addendum are in addition to, and do not cancel, supersede or replace, the Online Banking Agreement, F&M Mobile Banking Services Terms & Conditions, and/or any other agreements, rules, disclosures, procedures, standards, policies, or signature cards relating to your deposits, loans, services, or other business relationships with F&M.
2. **Description of Service.** Mobile Deposit allows you to deposit money into certain F&M accounts with your mobile device camera using the Mobile Application or "Mobile App". To use Mobile Deposit, you must be an F&M account holder and have agreed to the Online Banking Agreement and F&M Mobile Banking Services Terms & Conditions. You may transmit deposits to F&M electronically only from a mobile capture device located in the United States.
3. **Acceptance of Terms.** Your use of F&M Mobile Deposit Capture Service constitutes your agreement to the terms and conditions of this Addendum and F&M Mobile Banking Services Terms and Conditions, as well as the Online Banking Agreement Terms and Conditions. This Addendum may be subject to change from time to time. F&M will notify you of changes and will update the Addendum on our website and with our Online Banking Agreement Terms and Conditions. Your continued use of the Mobile Deposit will indicate your consent to be bound by revisions to the Addendum.
4. **Fees.** There is currently no service charge to use Mobile Deposit. If that changes, F&M will provide notice in advance. Internet data usage rates may apply from your Internet service provider and/or mobile carrier.
5. **Equipment.** To use Mobile Deposit, you must obtain, use and maintain, at your expense, compatible hardware and software. F&M is not responsible for any third party software you may need to use the Mobile Deposit. F&M may also change hardware and software requirements at any time or may require you to upgrade your Mobile App to continue using Mobile Deposit. Any such software is accepted by you as is and is subject to the terms and conditions of the software agreement you enter into directly with the third party software provider at the time of download and installation. F&M does not guarantee that all mobile devices and operating systems are compatible with Mobile Deposit.
6. **Types of Checks.** You can only deposit checks using Mobile Deposit, however, there are some checks that you cannot deposit. These include:
 - a. Checks payable to any person or entity other than you, or to you and another party.
 - b. Checks payable jointly, unless deposited into an account in the name of all payees.
 - c. Checks payable to any person or entity other than the person or entity that owns the account that the check is being deposited into.
 - d. Checks containing any alteration of which you know or believe to be fraudulent or not authorized by the owner of the account on which the check is drawn.
 - e. Checks that are not in original form with an original signature, such as substitute checks or remotely created checks.
 - f. Checks drawn on a financial institution located outside the United States.
 - g. Checks not payable in United States currency.
 - h. Checks dated more than 6 months prior to the date of deposit.
 - i. Checks or items on which a stop payment order has been issued or for which there are insufficient funds.
 - j. Checks that have previously been submitted through Mobile Deposit or through a remote deposit capture service offered at any other financial institution.
 - k. Checks with any endorsement on the back other than that specified in this Addendum.
 - l. Money Orders.
 - m. Cashier's/Official Checks.

- n. Traveler's Checks.
- o. Insurance Drafts.
- p. Credit Card Cash Advance Checks.

7. **Endorsements.** You agree to restrictively endorse any checks transmitted through Mobile Deposit with the following (or as otherwise instructed by F&M) :

Signed endorsement – Names of all payees as written on the front of the check
“For Deposit Only” – should be included as part of the endorsement(s)

8. **Receipt of Deposits.** F&M reserves the right to reject any check transmitted through Mobile Deposit, at our discretion, without liability to you. F&M is not responsible for processing or transmission errors that may occur, or for deposited items that it does not receive.
9. **Cut-Off Times for Deposits.** The daily cut-off time for electronic deposit is 4:00 PM ET on any business day. Business days are Monday through Friday, excluding state or federal holidays. This daily cut-off time is subject to change by F&M without notice to you.

Deposits sent using Mobile Deposit may be “submitted” any time of day, night, weekend, or holiday. However, deposits received by F&M after the daily cut-off time for electronic deposits will be deposited the next business day, provided that the deposit meets all requirements for acceptance and successful processing. Deposits submitted on holidays or weekends will also be deposited the next business day, provided the deposit meets all requirements for acceptance and successful processing.

10. **Availability of Funds Deposited.** You understand and agree that funds transmitted using Mobile Deposit are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. Generally, if an image of an item you transmit through Mobile Deposit is received and accepted before F&M's cut-off time for Mobile Deposit, F&M considers that business day to be the day of your deposit. Funds from deposits received, accepted, and successfully processed through the Mobile Deposit generally will be available for withdrawal the first business day after the day of your deposit.

All deposits are subject to verification by F&M and may be rejected, limited, or returned by F&M for any reason without liability to you even if these actions cause outstanding checks or other debits to your account to be dishonored or returned. In most cases, once a check or item is verified by F&M the balance of the check will be made available to you the first business day after the day of deposit. Successful processing of a check or item could be delayed due to bank review and verification procedures. F&M may apply additional delays on the availability of funds based on any other factors as determined by F&M in its sole discretion.

11. **Image Quality.** The front and back images of an item transmitted to F&M must be legible. Items with poor image quality may delay the deposit process, and you may be instructed to deposit the check using other methods. You agree that F&M shall not be liable for any damages resulting from items with poor image quality, including those related to rejection of, or the delayed or improper crediting of such a check, or from any inaccurate information you supply regarding the check or item.
12. **Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in F&M's sole discretion subject to the Deposit Account Terms & Conditions governing your account.
13. **Returned Items.** You are solely responsible for any check or item for which you have been given provisional credit, and any such check or item that is returned or rejected may be charged back to your Account plus any associated fees that may apply. You acknowledge that all credits received for deposits made through Mobile Deposit are provisional, subject to verification, and final settlement. Any items that F&M returns to you will be returned in the form of an electronic image or an Image Replacement Document (IRD).
14. **Errors.** You must notify F&M of any errors, or suspected errors, related to the items deposited through the Mobile Deposit as soon as possible after they occur, and in no event later than 60 days after the related account statement is sent. You can contact F&M by calling 1-800-451-7843 or by visiting a branch. Unless you notify F&M within 60 days, the account statement containing the deposits made through Mobile Deposit is deemed correct, and you cannot bring a claim against F&M for any alleged errors.
15. **Deposit Limits.** F&M may establish limits on the number of checks and/or the total amount of checks deposited

using Mobile Deposit. These limits may change from time to time without notice. Items transmitted that exceed your limits may result in a rejection of the deposit. Please refer to Mobile Banking FAQ's on F&M's website for the current limits.

16. **Destruction of Original Check.** Once you have deposited the check successfully, mark the front of the check with the date of deposit and store the check in a secure location for 14 days. This prevents the check from being presented for deposit another time. You agree never to re-present to F&M or any other party a check or item that has been deposited through the Mobile Deposit. You will be liable for checks that are presented and/or deposited more than once. After 14 days, and after you have confirmed the deposited funds have been applied to your account correctly, you must destroy the check by shredding or other means.
17. **Indemnity.** You warrant to F&M that:
 - a. You will only transmit eligible checks and items that you are entitled to, and ensure that all checks and items include all required original signatures.
 - b. Images will meet F&M's image quality standards.
 - c. You will not transmit an image or images of the same check or item to F&M more than once and will not deposit or negotiate, or seek to deposit or negotiate, such check or item with any other party.
 - d. You will not deposit or re-present the original check for deposit.
 - e. All information you provide to F&M is accurate and true, and that all transmitted images accurately reflect the front and back of the check.
 - f. You will comply with this Agreement and all applicable rules, laws and regulations.
 - g. You will use Mobile Deposit only for your own deposits.
 - h. Any user of this Mobile Deposit is at least 18 years of age.
 - i. You agree to indemnify and hold harmless F&M from any loss for breach of this warranty provision or the terms of this Agreement.
18. **Security of Your Mobile Device.** You are responsible for (i) maintaining the confidentiality and security of your Mobile Devices, access number(s), password(s), security question(s) and answer(s), account number (s), login information, and any other security or access information, used by you to access Mobile Deposit, and (ii) preventing unauthorized access to or use of the information, files or data that you store, transmit or use in or with Mobile Deposit. You agree not to supply your Access Information to anyone and to immediately notify F&M if you become aware of any loss, theft or unauthorized use of any access information, including your Mobile Devices. F&M reserves the right to deny you access to Mobile Deposit if it believes that any loss, theft or unauthorized use of access information has occurred.
19. **Limitations.** When using Mobile Deposit, you may experience technical or other difficulties that are outside the control of F&M. F&M is not responsible for damages that you may incur as a result of these difficulties or unavailability of Mobile Deposit.
20. **Changes to Mobile Deposit.** F&M reserves the right to terminate, modify, add and remove features from Mobile Deposit at any time in its sole discretion. You may reject changes by discontinuing use of Mobile Deposit. Your continued use of Mobile Deposit will constitute your acceptance of and agreement to such changes. Maintenance to Mobile Deposit may be performed from time-to-time resulting in interrupted Mobile Deposit, delays or errors in Mobile Deposit and F&M shall have no liability for any such interruptions, delays or errors.
21. **Termination.** F&M may turn off Mobile Deposit to you if F&M suspects fraud, if you misuse Mobile Deposit, have excessive overdrafts or returned items, or for other reasons at F&M's sole discretion.
22. **Cooperation with Investigations.** You agree to cooperate with F&M in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request, any originals or copies of items deposited through Mobile Deposit in your possession and your records relating to such items and transmission.
23. **Right to Audit.** F&M may periodically audit and verify your compliance with this Addendum. You agree to cooperate and provide information or documents, at your expense, as may be reasonably requested by F&M in the course of the audit.
24. **Ownership and License.** You agree that F&M and its Third Party Service Providers, including Fiserv Solutions, Inc., retain all ownership and proprietary rights in Mobile Deposit, associated content, technology, and website(s). You agree not to copy, disassemble, decompile, or otherwise reverse engineer any part of Mobile Deposit, including the App. You may use Mobile Deposit only for your own benefit. You may not copy, reproduce,

distribute, or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide Mobile Deposit. In the event that you attempt to use, copy, license, sublicense, sell, or otherwise convey or to disclose the App or any other part of Mobile Deposit, in any manner contrary to the terms of this Addendum, F&M shall have, in addition to any other remedies available to it, the right to injunctive relief enjoining such actions.

25. **Notices and Communications.** Except as otherwise provided in this agreement, all notices required to be sent to you will be effective when F&M mails or delivers them to the last known address that F&M has for you in its records or when F&M makes such notices available to you through electronic means. All notices and communications sent by you to F&M will be effective when F&M has received them and has had reasonable time to act on them. You agree to notify F&M promptly of any change in your mailing address, email address, or telephone number.
26. **Attorney Fees.** If F&M becomes involved in legal action to defend or enforce this agreement, you agree to pay F&M's reasonable attorney fees and court costs, to the extent not prohibited by law.
27. **Governing Law.** This Agreement, and your rights and F&M's obligations under this Agreement, are governed by and interpreted according to United States federal law and the laws of the State of Ohio. If state and federal law are inconsistent, or if the state law is preempted by the federal law, federal law governs. Should any terms of this Agreement not be legally enforceable, the terms of this Addendum will be considered changed to the extent necessary to comply with applicable law.
28. **Disclaimer of Warranties.** YOU AGREE YOUR USE OF MOBILE DEPOSIT AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. F&M DISCLAIMS ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE MOBILE DEPOSITS, WHETHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NONFRINGEMENT. F&M MAKES NO WARRANTY THAT MOBILE DEPOSITS WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, THAT THE RESULTS THAT ARE OBTAINED FROM MOBILE DEPOSIT WILL BE ACCURATE OR RELIABLE, AND/OR ANY ERRORS IN MOBILE DEPOSITS OR TECHNOLOGY WILL BE CORRECTED.
29. **Liability.** F&M IS ONLY RESPONSIBLE FOR PERFORMING MOBILE DEPOSIT AS EXPRESSLY STATED IN THIS ADDENDUM. THERE IS NO GUARANTEE THAT ACCESS TO MOBILE DEPOSIT WILL BE AVAILABLE AT ALL TIMES AND F&M SHALL NOT BE LIABLE IF YOU ARE UNABLE TO ACCESS MOBILE DEPOSIT. MOBILE DEPOSIT IS PROVIDED "AS IS" AND, EXCEPT AS PROHIBITED BY LAW, F&M AND OUR THIRD PARTY SERVICE PROVIDERS DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES CONCERNING MOBILE DEPOSIT, APP, EQUIPMENT OR SOFTWARE, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NONINFRINGEMENT OF ANY PARTIES' PROPRIETARY RIGHTS. IN NO CASE SHALL F&M OR ANY OF OUR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY LOSS OF DATA, PROFIT, GOODWILL, OR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE SUFFERED BY YOU ARISING OUT OF OR RELATED TO THIS ADDENDUM, THE APP, THE SOFTWARE, THE EQUIPMENT OR MOBILE DEPOSIT WHETHER OR NOT SUCH CLAIM FOR DAMAGES IS BASED ON TORT OR CONTRACT OR WHETHER F&M HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES. IN STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INDIRECT SPECIAL OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, F&M AND OUR THIRD PARTY SERVICE PROVIDERS' LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY APPLICABLE LAW.