

Mobile Deposit User Agreement

This Mobile Check Deposit User Agreement (“Agreement”) contains the terms and conditions for the use of First Montana Bank (“FMB”) Mobile Deposit and/or other remote deposit capture services that FMB or its affiliates may provide to you. Other agreements you have entered into with FMB, including the Deposit Account Agreement, as applicable to your FMB account(s), are incorporated by reference and made a part of this Agreement.

1. **Services.** The mobile remote deposit capture services (“Services”) are designed to allow you to make deposits to your Checking, savings, or money market savings accounts from your camera-enabled mobile device capable of capturing Check images and information and delivering the items and associated deposit information to FMB or FMBs designated processor. The device must capture an image of the front and back of each Check to be deposited in accordance with the Procedures: must read and capture the magnetic ink character recognition (“MICR”) line on each Check; and must read and capture all such other data and information as is required by this Agreement or Federal Reserve regulations for the processing of these Checks for payment. **There is currently no charge for the service.**
2. **Acceptance of these Terms.** Your use of the Services constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change via e-mail, text message, or on our website by providing a link to the revised Agreement and such change shall be effective thirty (30) days following our provision of such notice. Your continued use of the Service will indicate your acceptance of any such changes to the Services. In the event that an immediate change is needed to ensure the security of the Service, we will post a notice of any such change on our website. You may choose to accept or decline such changes by continuing or discontinuing the Service.
3. **Limitations of Service.** When using the services, you may experience technical or other difficulties. We will not be responsible for any technical or other difficulties or any resulting damages that you may incur. Some of the Service has qualification requirements, and we reserve the right to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue the Services, in whole or in part, or your use of the Service, in whole or in part, immediately and at any time without prior notice to you.
4. **Eligible Items.** You agree to scan and deposit only Checks as that term is defined in Federal Reserve Regulation CC (“Reg CC”). You agree that the image of the Check transmitted to FMB (each such Check a “Check” and, if more than one, “Check”) shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code as adopted in Montana (such scanned Check image transmitted to FMB for credit to your account, a “Remote Item”). You agree that you will **not** use the Service to scan and deposit Checks or items that:
 - a. Are payable to any person or entity other than you;
 - b. Are drawn or otherwise issued by you or any other person or any of your accounts or any account on which you are an authorized signer or joint account holder;
 - c. Contain obvious alternation to any of the fields on the front of the Check or item, or which you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the Check or items are drawn;
 - d. Were previously converted to a substitute Check as defined in Reg CC without FMB’s prior written consent;
 - e. Were previously converted to an image replacement document as defined in Reg CC without FMB’s prior written consent;
 - f. Are drawn on a financial institution located outside the United States;
 - g. Are remotely created Checks, as defined in Reg CC;
 - h. Are not payable in United States currency;
 - i. Are dated more than six (6) months prior to the date of deposit;
 - j. Are prohibited by FMB’s current procedures relating to the Service (the “Procedures”);
 - k. Are in violation of any federal or state law, rule or regulation’
 - l. Otherwise not acceptable under the terms of the FMB account. (Checks described in clauses (a) through (l) each a “Prohibited Check” and, collectively, “Prohibited Checks”).

- 5. Image Quality.** The image of an item transmitted to FMB using the services must be legible and contain images of the front and back of the Check. The image quality of the items must comply with the requirements established from time to time by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association. These requirements include, but are not limited to , ensuring the following information can clearly be read and understood by sight review of the Check image: the amount of the Check (both written and numeric); the payee; the signature of the drawer (maker); the date; the Check number; the information identifying the drawer and the paying financial institution that is preprinted on the Check including the MICR line and all other information placed on the Check prior to the time of an image the Check is captured (such as any required identification written on the front of the Check and any endorsements applied to the back of the Check).
- 6. Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the services as “Your name, Deposit Only” or as otherwise instructed by FMB. You agree to follow any and all other procedures and instructions for use of the services as FMB may establish from time to time.
- 7. Receipt of Items.** We reserve the right to reject any item transmitted through the services, at our discretion, without liability to you. We are not responsible for items we do not receive or for images that are dropped during transmission. An image of an item shall be deemed received when you receive a confirmation from FMB that we have received the image. Receipt of such confirmation does not mean the transmission was error free or complete. Following receipt of such confirmation, FMB will process the image by preparing a “substitute Check” or clearing the item as an image.
- 8. Availability of Funds.** You agree that items transmitted through the Services are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. Funds deposited using the Services will be available after FMB receives final payment for the funds submitted. FMB may, but is not required to, make such funds available sooner based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and other such factors as FMB, in its sole discretion, deems relevant.
- 9. Disposal and retention of item.** Retain the physical Check that was deposited in a secure location until the deposit has posted to your account (allow at least 5 days), then shred the Check.
- 10. Deposit Limits.** Limits on deposits are \$1,000.00 maximum per single item deposit and \$3,000.00 maximum per day. We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Service and to modify such limits from time to time.
- 11. Contingency Plan.** In the event you are unable to capture, balance, process, produce or transmit a file to FMB, or otherwise comply with the terms or the Procedures for any reason, including but not limited to, communications, equipment or software outages, interruptions or failures, you will transport or mail the originals of all Checks to the closest FMB location. The deposit of original Checks at an office of FMB shall be governed by the terms and conditions of the Deposit Account Agreement and not by the terms of this Agreement.
- 12. Errors.** You agree to notify FMB of any suspected errors regarding items deposited through the Services right away, and in no event later than sixty (60) days after the applicable FMB account statement is sent. Unless you notify FMB within sixty (60) days, such statement regarding all deposits made through the Services shall be deemed correct, and you are prohibited from bringing a claim against FMB for such alleged error.
- 13. Presentment.** The manner in which the items are cleared, presented for payment and collected shall be in FMB’s sole discretion subject to the Depository Agreement and Disclosures governing your account.
- 14. Ownership and License.** Your use of the Services is subject to and conditioned upon your complete compliance with this Agreement. Without limiting the effect of the foregoing, any breach of this Agreement immediately terminates your right to use the Services. Without limiting the restriction of the foregoing, you may not use the Services (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to FMB’s business interest, or (iii) to FMB’s actual or potential economic disadvantage in any aspect. You may use the Services only for non-business, personal use in accordance with this Agreement. 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 the Services.

- 15. DISCLAIMER OF WARRANTIES.** YOU AGREE YOUR USE OF THE SERVICES 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. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THAT THE SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICES WILL BE ACCURATE OR RELIABLE AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.
- 16. LIMITATION OF LIABILITY.** YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES RESULTING FROM THE USE OR THE INABILITY TO USE THE SERVICES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF THE SERVICES, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF FMB HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.
- 17. User Warranties and Indemnification.** With respect to each and every Check you use to create an image using the Services and every Remote Item you transmit to FMB, you represent and warrant to FMB that: (a) you assume responsibility for any Check that is transmitted which for any reason is not paid; (b) you are a person entitled to enforce the Check; (c) neither the Check nor the Remote Item is counterfeit; (d) neither the Check nor the Remote Item has been altered; (e) neither the Check nor any image of the Check has been paid; (f) no depository bank, drawee, drawer, or endorser will receive presentment or return of, or otherwise be charged for, an item transmitted as a Remote Item, or any Check or item derived from such Remote Item, such that said person will be asked to make a payment based on an item that it has already paid; (g) the Customer shall properly endorse each Check and deposit said Check to an account at Bank that matches the name of the Customer; (h) the Customer shall deposit only Checks made payable to the Customer; (i) neither the Check nor the Image is subject to a defense or claim in recoupment that can be asserted against the Customer; (j) the Customer has no knowledge of any insolvency proceedings commenced with respect to the Customer or in the case of an unaccepted Check, the drawer; (k) all information provided by the Customer to the Bank is accurate and true; (l) files submitted by the Customer to the Bank do not contain computer viruses or malware; (m) the Remote Item is a digitized image of the front and back of the Check and accurately represents all of the information on the front and back of the Check as of the time Customer converted the Check to a Remote Item; (n) the Remote Item contains all endorsements applied by parties that previously handled the Check in any form for forward collection or return; (o) each of the Checks were duly authorized in the amount stated on the corresponding Remote Item and to the payee stated on such Remote Item; (p) the Bank will not suffer any loss as a result of Customer’s retention or destruction of the paper originals of Remote Items; and (q) the Customer has performed and will perform all of its obligations under this Agreement. The Customer shall be deemed to repeat and reaffirm each of the foregoing representations and warranties at the time any Check and/or Remote Item is delivered to the Bank through the Services. You agree to indemnify and reimburse FMB for, and hold harmless FMB from and against, any and all losses, costs, and expenses (including reasonable attorneys fees) FMB may incur associated with any breach of the warranties, representations, or obligations contained in this Agreement, including but not limited to, the deposit of one or more Prohibited Checks into your account. Furthermore, if, after first having obtained FMB’s written consent to do so, you provide FMB with an electronic representation of a substitute Check for deposit into an account instead of an original Check, you agree to indemnify and reimburse FMB for, and hold FMB harmless from and against, any and all losses, costs and expenses (including reasonable attorneys fees) FMB incurs because of such substitute Check resulting from such electronic representation does not meet applicable substitute Check standards and/or causes duplicate payments.