

## **Welcome to First National Bank's Internet Banking**

This Internet Banking Agreement and Disclosure (the "Agreement") discusses how you can use First National Bank's Internet Banking (the "Service") to obtain information about your accounts, to transfer funds between your accounts, and to request certain other bank services. It also contains the terms and conditions governing the Service.

If you previously registered for First National Bank's Internet Banking, this version of the Agreement replaces the agreement that you had with us. If you continue to use the Service, you are bound by these terms. Under this updated Agreement, corporate customers can use the Service to transfer funds between their First National Bank accounts. (Commercial customers can use the Service to transfer funds between accounts if they have the appropriate agreement on file. See Registration – Business Accounts, below). **IF YOU ARE A CORPORATE CUSTOMER AND DO NOT WISH TO HAVE THE ABILITY TO TRANSFER FUNDS BETWEEN ACCOUNTS USING FIRST NATIONAL BANK'S INTERNET BANKING, PLEASE CALL US AT 1-888-803-2672, AND WE WILL REMOVE THAT FUNCTION FROM YOUR SERVICE.**

If you use First National Bank's Internet Banking, you thereby indicate your consent to these terms. You may print a copy of this Agreement for your records now, or you can refer to this document in the "Other" section later at your convenience.

### **SECURITY & PROTECTING YOUR ACCOUNT**

First National Bank is strongly committed to protecting the security and confidentiality of our customer account information. First National Bank uses state-of-the-art technology in the ongoing development of its Internet Banking service to ensure this security. We use several different methods to protect your account information:

- You can only access First National Bank's Internet Banking with certain browsers that have a high security standard.
- You must have a valid User ID and Password to logon.
- If no action is taken for 10 minutes, you will be automatically logged off First National Bank's Internet Banking.

### **YOUR RESPONSIBILITY:**

You agree . . . .

- Not to give out your identifying information such as your PC password to any other person. The Bank may rely on your User ID to identify you when providing banking services to you.
- Never to leave your account information displayed in an area accessible by others.
- Never to leave your PC unattended while using First National Bank's Internet Banking.
- To always exit the system by clicking on LOG OFF or EXIT after using First National Bank's Internet Banking.
- To notify First National Bank at 1-888-803-2672 immediately if you suspect that your User ID or Password has become known to any unauthorized person.

### **FIRST NATIONAL BANK'S INTERNET BANKING E-MAIL COMMUNICATIONS:**

Electronic messages sent and received via the “Contact Us” option in First National Bank’s Internet Banking (i.e., once your User ID and Password have been accepted by First National Bank and your browser shows that a secure connection as been established) are secure. Communications sent over the public Internet are not necessarily secure. Therefore, we will not send, and we strongly suggest that you do not send, any confidential account information unless using the electronic communication options provided in our Customer Service section. You agree that we may take a reasonable time to act on any e-mail. Correspondence that requires expeditious handling - -for example, if you need to report an unauthorized transaction from one of your accounts, or if you need to immediately stop payment on a check you have issued, should be made by calling the Bank. (The toll-free number for the Customer Service Center is listed on the Information page.) You agree that First National Bank may send you electronic messages about other products or services we offer.

## **REGISTRATION:**

### **Business Accounts**

First National Bank business account customers must first contact the Bank and enroll in First National Bank’s Internet Banking Services. If your business has previously received a User ID, your representative may enter it to register for First National Bank’s Internet Banking.

Accounts you want to link to a User ID, and what activity level each account linked to your User ID will have: There are some limits on the accounts that can be linked to your User ID. The person you appoint as your User ID Administrator will decide which of your accounts to link to each User ID and what activity level is appropriate for each account linked to the User ID.

Activity Levels for Accounts Linked to your User ID: There are different activity levels that can be assigned to a User ID. All available accounts will have at least the Account Summary level. Only checking, money market deposit accounts, credit card and loan accounts may also have the second activity level. At the present time, the activity levels are:

- 1) Account Inquiry: This activity level will allow you to obtain current account balance and transaction information. This activity level does not include transferring funds.
- 2) Transferring Funds: This activity level allows you to obtain account information, to transfer funds between accounts linked to the User ID, and to obtain certain other banking services. Each checking, money market, credit card and loan account linked to your User ID will have this activity level unless you choose otherwise.

## **FUNDS TRANSFER SERVICE**

If you are a consumer, and you have a User ID and Password from us, you will be able to transfer funds between your First National Bank accounts. If you do not want to have the ability to funds transfer between accounts using First National Bank’s Internet Banking, or if you want to restrict the accounts from which you can transfer funds using your User ID and Password, call us at (888) 803-2672 and we will make the necessary adjustments to this service for you.

Commercial customers must have a User ID linked to the account with at least a Funds Transfer activity level to be able to transfer funds between accounts. The terms that apply to the Funds Transfer Service are set forth more fully below.

## **ONLINE BANKING FUNDS TRANSFER PROVISIONS**

As a First National Bank's Internet Banking customer, you can make immediate transfers between your First National Bank deposit accounts over the Internet. All such transfers are subject to the terms of these Online Banking Funds Transfer Provisions (the "Transfer Provisions").

By using the Funds Transfer Service (the "Service"), you agree to these Transfer Provisions.

1. General Information
  - a. Meaning of Terms. As used in the Transfer Provisions, the following words have the meanings given below. "You" and "your(s)" refer to each person (including any business) who applies to use the Service, and each person who uses the Service with the permission of an applicant. "Business" means any corporation, partnership, limited liability company, sole proprietorship or any other type of entity maintaining a deposit account for commercial purposes. "We," "us," "our(s)," "First National Bank," or "Bank" refer to the First National Bank depository institution (such as First National Bank Colorado) that holds an account that is accessed by the Service. "Business Day" means Monday through Friday, except banking holidays.
  - b. Which Sections of These Provision Apply to Consumer and Business Customers. Exclusion. When using the Service in connection with accounts established primarily for personal, family, or household purposes ("consumer" or "personal" accounts), Sections 1, and 2, (but not Section 3) of these Transfer Provisions apply to you. When using the Service in connection with accounts established primarily for business purposes, Sections 1, 2, and 3 of these Transfer Provisions apply to you.
  - c. Authorization to Charge Accounts. You are responsible for all transfers you or your authorized representatives make using the Service. You authorize us to debit your designated account(s) for any transactions accomplished through the use of the Service (including the transfer of funds from another deposit account or overdraft line of credit that provides overdraft protection, if you have one of those services in effect). You agree that we may comply with transfer instructions entered by any one person using an authorized User ID and Password, notwithstanding any provision that may be contained in other account documentation purporting to require more than one signature to withdraw funds from the account.

If you permit another person to use First National Bank's Internet Banking or give them your User ID or Password, you are responsible for transfers, payments or advances that person makes from the deposit and credit accounts linked to your Service registration even if that person exceeds your authorization.
  - d. Schedule of Fees For the Funds Transfer Service. Fees applicable to the funds Transfer service are disclosed under Charges and Fees below.
2. Internet Banking Funds Transfer Service Particulars.

- a. Types of Transfers & Posting. You can transfer funds between your Checking and Savings accounts using First National Bank's Internet Banking. All such transfers are effective when you complete the transaction online.
- b. Limits On Transactions. There is a maximum dollar limit on any transfer equal to the available balance in your account plus the available balance or credit balance in any other account attached to provide overdraft protection.
- c. Availability. Funds must be available in the account from which you wish to transfer funds on the date you enter the transaction.
- d. Restrictions on Transfers from Savings and Money Market Accounts. Under Federal Reserve Board Regulation D, you may make an unlimited number of deposits or transfers into a savings or money market account; however, you may make no more than six transfers or withdrawals out of such an account per monthly statement cycle (not counting transactions made at ATMs or at banking centers). Transfers made by telephone, personal computer or funds automatically transferred from a savings or money market accounts to another deposit account for overdraft protection are counted toward the six total permitted monthly transfers or withdrawals.
- e. Insufficient Funds to Complete Transfer. If your account does not have sufficient funds to complete a transfer as of the date the transfer is scheduled to be made, the transfer may not be completed, but if we do complete the transfer as an accommodation to you, you are responsible for any overdraft created.
- f. Correcting or Canceling Your Transfer. You cannot cancel your transfer after it has been entered in First National Bank's Internet Banking and the information transmitted to us. You can correct information about a transfer before you send us the information, and you can use First National Bank's Internet Banking to reverse a transaction after it has been entered.
- g. Documentation and Verification of Transfers. The date and amount of transfers made through First National Bank's Internet Banking will be shown on the Transaction History screen of First National Bank and will also be shown on your printed statements for the accounts from which and to which the transfer is made.
- h. Address and Telephone Number For Notification of Unauthorized Use. If you believe your User ID or Password has become known by an unauthorized person, or that someone has transferred money without your permission, call First National Bank immediately at: (888) 803-2672 or write to: First National Bank, PO Box 270, Las Animas, CO 81054. If you suggest that an unauthorized transfer may have occurred, we may require you to sign an affidavit.  
Also contact us with any other questions or problems that you may have regarding the Service, including:
  - \* You have a problem with a transfer you authorized, or your statement reflects a transfer you think is an error.
  - \* You need to obtain documentation concerning a transfer previously issued from your account. (There may be a fee for these requests, as disclosed in the Schedule of Fees at the end of this Agreement).
- i. Disclosure of Account Information. We may disclose information to third parties about your account or the payments or transfers you make:

- \* When necessary for verifying or completing payments or transfers, or to resolve a problem related to a payment or transfer;
- \* To verify the existence and status of your account for a third party such as a credit bureau or merchant;
- \* At the Bank's discretion, to any of our subsidiaries or affiliates;
- \* If you give us your written (including electronic message) permission; or
- \* As otherwise permitted or required in the Bank's Deposit Agreement and Disclosures or other applicable agreements, or by law or government regulations.

3. Additional Provisions Applicable Only to Business Accounts. When you transfer funds using First National Bank's Internet Banking in connection with business accounts, the information in this Section 3 applies to you.

- a. Enrollment Form and Certification of Authority. Before using the Service, you must execute and deliver to us a User Identifier Enrollment Form, which includes a Certification of Authority. This enrollment form is incorporated by reference as part of this Agreement. Only a person whose User ID has a "Transfer Funds" activity level may sign up for the First National Bank's Internet Banking Funds Transfer Service.
- b. Protecting Your User ID and Password. You agree that we may send confidential mailings, including User ID and Password confirmations, to the current address shown in our records for your primary checking accounts, whether or not that address includes a designation for delivery to the attention of any particular individual; and you further agree that First National Bank will not be responsible or liable to you in any way in the event that such properly addressed information is intercepted by an unauthorized person, either in transit or at your place of business.

You agree to:

- (1) Keep your User ID and Password secure and strictly confidential, providing them only to authorized signers on your account (s) or other trusted employees, agents, etc. who you want to act as your representative to access your account (s);
- (2) Instruct each person to whom you give your User ID and Password that he or she is not to disclose them to any unauthorized person; and
- (3) Immediately notify us and select a new User ID and Password if you believe your confidential codes may have become known to an unauthorized person.

The Bank shall have no liability to you for any unauthorized payment or transfer made using your User ID and Password that occurs before you have notified us of possible unauthorized use and we have had a reasonable opportunity to act on that notice. We reserve the right to suspend or cancel your User ID and Password, even without receiving such notice from you, if we suspect they are being used in an unauthorized or fraudulent manner.

- c. Your obligation to Examine Records and Report Discrepancies. The Bank provides no separate written confirmation of individual payments or transfers. Confirmation is provided through online information available from the Service and through your periodic printed account statements. You agree to examine your statement promptly and to notify us immediately of any discrepancy between the statement and your other account records. You also agree to notify us immediately of any discrepancy you may find in reviewing online information. In

- no event shall the Bank be liable for interest compensation as described below, unless we are notified of a discrepancy within 30 days from the date of your first statement reflecting the discrepancy.
- d. Acknowledgement of Commercially Reasonable Security Procedures. By using the Service, you acknowledge and agree that this Agreement sets forth security procedures for electronic banking transactions which are commercially reasonable. You agree to be bound by any instructions, whether authorized or unauthorized, which we implement in compliance with these procedures, unless you have given us prior notice of possible unauthorized use as described above (and we have had a reasonable opportunity to act on such notice).
- e. Limitation of Bank's Liability. If we fail or delay in making a payment or transfer pursuant to your instructions, or if we make a payment or transfer in an erroneous amount which is less than the amount per your instructions, unless otherwise required by law our liability shall be limited to interest on the amount which we failed to timely pay or transfer, calculated from the date on which the payment or transfer was to be made until the date it was actually made or you canceled the instructions. We may pay such interest either to you or the intended recipient of the payment or transfer, but in no event shall we be liable to both parties, and our payment to either party shall fully discharge any obligation to the other. If we make a payment or transfer in an erroneous amount which exceeds the amount per your instructions, or if we permit an unauthorized payment or transfer after we have had a reasonable time to act on a notice from you of possible unauthorized use as described above, unless otherwise required by law our liability shall be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the payment or transfer to the date of the refund, but in no event to exceed 60 days' interest. If we become liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average federal funds rate at the Federal Reserve Bank in the district where the Bank is headquartered for each day interest is due, computed on the basis of a 360-day year.

Unless otherwise required by law, in no event will the Bank be liable to you for special, indirect or consequential damages including, without limitation, lost profits or attorneys' fees, even if we are advised in advance of the possibility of such damages.

#### **MISCELLANEOUS PROVISIONS RELATED AGREEMENTS**

Your First National Bank accounts accessed by First National Bank's Internet Banking continue to be governed by the following First National Bank agreements and documents, as they are amended from time to time:

- (1) Deposit Agreement and Disclosure
- (2) The Applicable Personal or Business Schedule of Fees
- (3) Applicable Miscellaneous Fees for personal or business accounts, and for Money Market Accounts, your Money Market Account Customer Agreement. If you have overdraft protection or credit card accounts that are accessed by the Service, they continue to be governed by the applicable agreements you have with First National

Bank. If any inconsistency exists between such other documentation and this Agreement, then this Agreement shall control to the extent of the inconsistency.

### **OUR ABILITY TO TERMINATE SERVICES**

You are responsible for complying with all the terms of this Agreement and with the terms of the agreements governing the accounts to or from which transfers are made using the Service. We can terminate your electronic banking privileges under this Agreement without notice to you if you do not pay any fee, when due, or if you do not comply with any agreement governing your accounts, or if any such account is not maintained in good standing.

We can also terminate the Service if we believe that an actual or potential unauthorized use of your User ID, Password or account may be occurring.

First National Bank reserves the right to terminate your access to the First National Bank's Internet Banking Service or any portion of it in its sole discretion, without notice and without limitation, except as may be required by law.

### **AMENDMENT**

We can amend this Agreement upon notice to you, which you agree may be sent by e-mail. Any notice will be effective not later than ten (10) days after we send the notice (unless a law or regulation requires a longer notice period), whether or not you have retrieved the notice by that time.

### **NEW SERVICES**

We may, from time to time, introduce new services that are part of First National Bank's Internet Banking. We will update this Agreement to notify you of these new services. By using First National Bank's Internet Banking after those new services become available, you agree to be bound by the terms contained in the revised agreement.

### **VIRUS PROTECTION**

You agree that First National Bank is not responsible for any electronic virus that you may encounter using First National Bank's Internet Banking. We encourage you to routinely scan your PC and diskettes using any reliable virus protection product to detect and remove any viruses found. Undetected or unrepaired, a virus may corrupt and destroy your programs, files and even your hardware.

### **OUR LIABILITY**

Except as specifically provided in this Agreement or where the law requires a different standard, you agree that First National Bank, nor any of its subsidiaries or affiliates nor any third party service providers engaged by First National Bank to perform any of the services connected with First National Bank's Internet Banking shall be responsible for any damages, loss, property damage or bodily injury, incurred as a result of your using or attempting to use the First National Bank's Internet Banking Service, whether caused by the equipment, software, Internet browser providers such as Netscape (Netscape Navigator browser) or Microsoft (Microsoft Internet Explorer browser), Internet access providers or online service providers or an

agent or subcontractor of any of the foregoing. Nor shall First National Bank or any third party service providers engaged by First National Bank be responsible for any direct, indirect, special or consequential, economic, or other damages arising in any way out of the installation, use or maintenance of the equipment, software, First National Bank's Internet Banking or Internet browser or access software, or from the unavailability of First National Bank's Internet Banking or for any errors in information provided through that service.

### **CHARGES AND FEES**

Customer Service requests for which you may be charged by First National Bank include: ordering copies of checks, copies of statements or other requests made through the 'Send a Request' option. These service requests are subject to First National Bank's normal service charges that were disclosed at account opening and in any subsequent editions of or amendments to your Schedule of Fees brochure. Please refer to the latest version of your Schedule of Fees and Disclosure document and any applicable amendments.

Transfers of funds using First National Bank's Internet Banking are free except as follows: If you have a Money Market Account, the number of transactions that you are allowed during a monthly statement cycle is limited. Transfers through First National Bank's Internet Banking are counted, and if you exceed the total number of authorized transactions for those accounts, your account will be charged as stated below.

In Savings accounts, the number of transfers that you are allowed during a monthly statement cycle are limited. Transfers through First National Bank's Internet Banking are included, and if you exceed the total number of authorized transactions for these accounts, your account may be charged an excessive activity fee. The fees are as follows:

Schedule of Fees:

Excessive activity fees for accounts with transaction limitations:

Regular Savings after nine per quarterly statement cycle, each transaction \$1.00\*

\*includes withdrawals and transfers at ATMs, teller lines, by telephone, or any other electronic means.

### **ENTIRE AGREEMENT**

This Agreement, as it may be amended from time to time, and if you are a business customer, your User ID, Agreement and Disclosure and the User Identifier Enrollment Form, contain the entire understanding between you and First National Bank concerning the First National Bank Internet Banking service, and supersedes any verbal conversation, other communications, and previous agreements, if any.

### **YOUR AGREEMENT TO THESE TERMS AND CONDITIONS**

Your registration for First National Bank's Internet Banking confirms (1) your agreement to be bound by all the terms and conditions of this agreement; and (2) your acknowledgement that you received and understand the terms of this Agreement.

## FIRST NATIONAL BANK MOBILE BANKING AGREEMENT AND DISCLOSURE

The Mobile Banking Agreement and Disclosure states the terms and conditions that you agree to by using our Mobile Banking service. This agreement supplements The First National Bank Deposit Account Agreement and Disclosures, Internet Banking Agreement, Bill Pay Agreement and any other agreement between you and The First National Bank.

The terms "you" and "your" refer to any person subscribing to the Mobile Banking service. The terms "We", "us", "our", and "bank" refer to The First National Bank. The term Mobile Banking refers to our service that allows you to access your First National Bank accounts and perform transactions via your mobile device with web browsing/internet capabilities.

The First National Bank Mobile Banking service is offered as a convenience and supplemental service to our Internet Banking services. It is not intended to replace access to Internet Banking from your personal computer or other methods you use for managing your accounts and services with us. First National Bank allows you to access your First National Bank account information, use bill pay, transfer funds between your accounts and conduct other banking transactions. To utilize First National Bank Mobile Banking service, you must be enrolled in Internet Banking and then activate your mobile device inside Internet Banking.

**Please read this entire Agreement prior to using First National Bank Mobile Banking Service. By using Mobile Banking, you acknowledge your receipt and understanding of this disclosure and agree to all terms and conditions of this agreement.**

### **Equipment and Technical Requirements**

It is your responsibility to acquire the software or equipment necessary to use this banking service. To access First National Bank's Internet Banking and to perform transactions, you must have internet access with a web browser that supports 128-bit encryption. You acknowledge that access to this banking service and the availability of services hereunder is at all time conditional upon the availability of the computer services, software and system used to communicate your instructions and the Bank's responses.

FIRST NATIONAL BANK WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE INCURRED OR SUFFERED BY YOU AS A RESULT, DIRECTLY OR INDIRECTLY, OF ANY FAILURE, INTERRUPTION, SUSPENSION OR TERMINATION OF SUCH SERVICES OR SYSTEM FOR WHATEVER REASON,

INCLUDING BUT NOT LIMITED TO THE ACTS OR OMISSIONS OF THE SERVICE OWNER OR ANY THIRD PARTY.

### **Account Eligibility and Enrollment**

Mobile Banking is available to any persons who have subscribed to The First National Bank's Internet Banking Service and has a web-enabled mobile device whose network allows secure SSL traffic.

### **Available Services**

With Mobile Banking you can instantly:

- \* View Account Balances
- \* View Loan and CD Accounts
- \* Make Loan Payments
- \* View Transaction History
- \* Transfer Funds Between your First National Bank Accounts

### **Security**

You agree to take every precaution to ensure the safety, security and integrity of your account and transactions when using First National Bank Mobile Banking. You agree not to leave your mobile device unattended while logged into Mobile Banking and to log off immediately at the completion of each access by you. The First National Bank highly recommends using password protection on your mobile device. You are responsible for keeping your Internet Banking ID and password private. Anyone to whom you give this information to will have access to your accounts. You are liable for all transactions that you or anyone to whom you reveal your Internet Banking ID and password perform. If your Internet Banking ID and password have been lost, stolen or compromised, immediately notify First National Bank at 719-456-1512 during business hours of 8:00 a.m. - 5:00 p.m. MST Monday - Friday.

### **Limits on Mobile Banking Transactions**

Transactions conducted via First National Bank Mobile Banking are subject to all withdrawal and transfer limitations and excess activity charges described in The First National Bank Deposit Account Agreements and Disclosures.

### **Limitations on Frequency of Transfers**

Transfers from a money market deposit account to another account or to third parties by preauthorized, automatic, First National Bank Mobile Banking, Internet Banking, or telephone transfers are limited to six per month or statement cycle with no more than six by check, debit card, or similar order to third parties. Preauthorized transfers from a savings deposit account, through an automated clearing house (ACH) or otherwise, telephone transfers, mobile banking, and wire transfers are limited to six per month.

**Hours of Accessibility**

In general, First National Bank Mobile Banking is accessible 24-hours per day, seven days a week; however, First National Bank does not guarantee the First National Bank Mobile Banking will be available at all times. Occasionally, due to system maintenance or reasons beyond our control, the First National Bank Mobile Banking service may be unavailable.

Transactions are processed on business days only. Every day is a business day except Saturdays, Sundays, and Federal Holidays. A transfer initiated before 4:00 p.m. MST on a business day is posted to your account the same day. A transfer completed after 4:00 p.m. MST on a business day or on a non-banking day, as specified above, will be posted on the next business day. A bill payment initiated before 2:00 p.m. MST on a business day will be processed on the same day. A bill payment completed after 2:00 p.m. MST on a business day or on a non-banking day, as specified above, will be processed on the next business day.

**Termination of Account Access**

We reserve the right to terminate the First National Bank Mobile Banking service, in whole or in part, at anytime with or without cause and without prior notice. In that event, or in the event that you give us a termination notice, we may (but are not obligated to) immediately discontinue making previously authorized transfers, including recurring transfers and other transfer that were previously authorized but not yet made. We also reserve the right to temporarily suspend the Services in situations deemed appropriate by us, in our sole and absolute discretion, including when we believe a breach of system security has occurred or is being attempted. We may consider repeated incorrect attempts to enter your Internet Banking ID or password as an indication of an attempted security breach. Termination of services does not affect your obligations under this Agreement with respect to occurrences before termination.

**Equipment and Software**

First National Bank does not guarantee that your mobile device/mobile device service plan will be compatible with our First National Bank Mobile Banking service. You are responsible for understanding the operation and maintenance of your mobile device. First National Bank is not responsible for any errors or problems related to your mobile device, mobile service provider, or mobile internet access. Nor are we responsible for any fees assessed by your telephone company, internet service provider, or any other outside party. You agree that only your mobile service provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your provider directly without involving us.

Mobile devices with internet capabilities are susceptible to viruses. Customers are responsible for making sure that the mobile device they are using to access First National Bank Mobile Banking is protected from and free of viruses, worms, Trojan horses, or other similar harmful components (collectively, referred to as "viruses"), which could result in damage to programs, files, and/or your device or could result in information

being intercepted by a third party. First National Bank will not be responsible or liable for any indirect, incidental, special or consequential damages that may result from such harmful components being present on the mobile device, nor will First National Bank be responsible or liable if sensitive information accessed via our First National Bank Mobile Banking service is intercepted by a third party due to any of the above named "viruses" residing or being contracted by the customer's mobile device at any point or from any source.

We are not responsible for errors or delays or your inability to access the service caused by your equipment. We are not responsible for the cost of upgrading your equipment to stay current with the services nor are we responsible, under any circumstances, for any damage to your equipment or the data resident thereon.

### **Electronic Mail (Email)**

You may choose to communicate with First National Bank using electronic mail. However, be advised that email transmissions are not secure. We strongly discourage you from sending confidential account information to First National Bank via email. First National Bank is not responsible for any error or problems of any kind involving your email. At no time will any First National Bank employee ask for confidential information over email.

### **New Services**

First National Bank may, periodically, introduce new Mobile Banking services. By using the new services when they become available, you agree to be bound by the terms and conditions concerning these services.

### **Fees**

First National Bank does not charge a fee for this service; however, all other fees associated with your accounts apply. Standard text messaging rates, data rates and other taxes and additional fees from your mobile device service provider may apply when using First National Bank Mobile Banking. Check with your specific mobile device service provider for more information on fees.

### **Transfers and Error Resolution**

Transfers and Error Resolutions are provided in the Electronic Funds Transfer Agreement and Disclosure for Internet Banking. Please refer to the Agreement and Disclosures for complete information and rules regarding these topics.

### **Conduct**

You agree not to use First National Bank Mobile Banking or the content or information delivered through First National Bank Mobile Banking in any way that would be considered illegal.

### **Indemnification**

Unless caused by our intentional misconduct or gross negligence, you agree to indemnify, defend and hold harmless First National Bank and its officers, directors, employees,

consultants, agents, service providers, and licensors from any and all third party claims, liability, damages, expenses and cost caused or arising from

(1) a third party claim, dispute, action, or allegation of infringement, misuse, or misappropriation based on information, data files, or otherwise in connection with the First National Bank Mobile Banking service;

(2) your violation of any law or rights of a third party; or

(3) your use, or use by a third party of First National Bank Mobile Banking.

### **Contacting First National Bank**

You may contact First National Bank at 719-456-1512 or 888-803-2672 during regular business hours of 8:00 a.m. - 5:00 p.m. MST Monday -Friday. You can also write us at the following address: First National Bank, PO Box 270, Las Animas, CO 81054.

## **Mobile Check Deposit User Agreement**

First National Bank Colorado

535 Bent Ave

Las Animas, CO 81054

888-803-2672

[www.firstnationalbankcolorado.com](http://www.firstnationalbankcolorado.com)

### **MOBILE DEPOSIT USER AGREEMENT**

This Mobile Deposit User Agreement ("Agreement") contains the terms and conditions for the use of First National Bank's Mobile Deposit services that First National Bank ("bank", "us", "our", or "we") may provide to you ("you," or "User"). Other agreements you have entered into with First National Bank, as applicable to your First National Bank account(s), are incorporated by reference and made a part of this Agreement, including the Online Banking Agreement.

**1. Services.** First National Bank's Mobile Deposit services ("Services") are designed to allow you to make deposits to your checking, savings, or money market savings accounts from home or other remote locations by capturing the image of a check and delivering the images and associated deposit information to First National Bank or our designated processor.

**2. Acceptance of these Terms.** Your use of the Services constitutes your acceptance of this Agreement. This Agreement is subject to change at any 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. Your continued use of the Services will indicate your consent to be bound by the revised Agreement. Further, First National Bank reserves the right, in its sole discretion, to change, modify, add, or remove portions from the Services. Your continued use of the Services will indicate your acceptance of any such changes to the Services.

**3. Limitations of Service.** When using the Services, you may experience technical or other difficulties. We will attempt to post alerts on our website to notify you of these interruptions in Service. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. Some of the Services have 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 Services, in whole or in part, immediately and at any time without prior notice to you.

**4. Hardware and Software.** In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by First National Bank. First National Bank is not responsible for any third party software you may need to use the Services. 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 time of download and installation.

**5. Fees.** There is no fee for this service.

**6. Eligible items.** You agree to scan and deposit only "checks" as that term is defined in Federal Reserve Regulation CC ("Reg. CC"). When the image of the check transmitted to First National Bank is converted to an image for subsequent presentment and collection, it shall thereafter be deemed an "item" within the meaning of Articles 3 and 4 of the Uniform Commercial Code. You agree that you will not scan and deposit any of the following types of checks or other items which shall be considered ineligible items:

- Checks payable to any person or entity other than the person or entity that owns the account that the check is being deposited into.
- Checks containing an alteration 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 is drawn.
- Checks payable jointly, unless deposited into an account in the name of all payees.
- Checks previously converted to a substitute check, as defined in Reg. CC.
- Checks drawn on a financial institution located outside the United States.
- Checks that are remotely created checks, as defined in Reg. CC.
- Checks not payable in United States currency.
- Checks dated more than 6 months prior to the date of deposit.
- Checks or items prohibited by the bank's current procedures relating to the services or which are otherwise not acceptable under the terms of your account.
- Checks with any endorsement on the back other than that specified in this agreement.
- Checks that have previously been submitted through the Service or through a remote deposit capture service offered at any other financial institution.
- Checks that have previously been deposited or negotiated in any way via any method at First National Bank or any other financial institution.

**7. Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Services as "For mobile deposit only, FNB account # \_\_\_\_\_" or as otherwise instructed by First National Bank. You agree to follow any and all other procedures and instructions for use of the Services as First National Bank may establish from time to time.

**8. 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 First National Bank that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete or will be considered a deposit and credited to your account. We further reserve the right to reject or charge back to your account at anytime,

any item that we subsequently determine was not an eligible item. You agree that the Bank is not liable for any loss, costs, or fees you may incur as a result of our rejection or chargeback of an ineligible item.

**9. Availability of Funds.** Deposits will post before any other debit items such as ACH's, Checks, and Debit Card transactions. Checks deposited via the Service by 4:00 p.m. MST on any business day will be considered deposited on that business day. Otherwise, we will consider that the deposit was made on the next business day we are open. Funds deposited using the Services will be held and made available 3 days after the day of deposit.

**10. Disposal of Transmitted Items.** Upon your receipt of a confirmation from First National Bank that we have received an image that you have transmitted, you agree to prominently mark the item as "Electronically Presented", "VOID", or otherwise render it incapable of further transmission, deposit, or presentment. You agree never to re-present the item. You agree to retain the check for at least 60 calendar days from the date of the image transmission. After 60 days, you agree to destroy the check that you transmitted. During the time the retained check is available, you agree to properly handle the check and upon request, promptly provide it to First National Bank.

**11. Deposit Limits.** We reserve the right to and may establish limits on the dollar amount and/or number of items or deposits from time to time. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times. For New profiles, the current daily deposit limit is \$2,500.

**12. Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in First National Bank's sole discretion subject to the agreements governing your account.

**13. Errors.** You agree to notify First National Bank of any suspected errors regarding items deposited through the Services immediately, and in no event later than 60 days after the applicable First National Bank account statement is sent. Unless you notify First National Bank within 60 days, such statement regarding all deposits made through the Services shall be deemed correct, and you are prohibited from bringing a claim against First National Bank for such alleged error.

**14. Errors in Transmission.** By using the Services you accept the risk that an item may be intercepted or misdirected during transmission. First National Bank bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.

**15. Image Quality.** The image of an item transmitted to First National Bank using the Services must be legible, as determined in the sole discretion of First National Bank. Without limiting the foregoing, the image quality of the items must comply with the requirements established from time to time by First National Bank, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearinghouse or association.

**16. User Warranties and Indemnification.** You warrant to First National Bank that:

- You will only transmit eligible items.
- You will not transmit duplicate items.
- You will not re-deposit or re-present the original item.

- All information you provide to First National Bank is accurate and true.
- You will comply with this Agreement and all applicable rules, laws, and regulations.
- You are not aware of any factor which may impair the collectability of the item.
- You agree to indemnify and hold harmless First National Bank from any loss for breach of this warranty provision.

**17. Cooperation with Investigations.** You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request<sup>16</sup> and without further cost, any originals or copies of items deposited through the Service in your possession and your records relating to such items and transmissions.

**18. Termination.** We may terminate this Agreement at any time, for any reason, and without notice. This Agreement shall remain in full force and effect unless and until it is terminated by us. Without limiting the foregoing, this Agreement may be terminated if you breach any term of this Agreement, if you use the Services for any unauthorized or illegal purposes or you use the Services in a manner inconsistent with the terms of your account agreement or any other agreement with us.

**19. Enforceability.** We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

**20. Ownership & License.** You agree that First National Bank retains all ownership and proprietary rights in the Services, associated content, technology, and website(s). 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 First National Bank's business interest, or (iii) to First National Bank's actual or potential economic disadvantage in any aspect. You may use the Services only 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.

**21. 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 SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.

**22. 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 THIS SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF FIRST NATIONAL BANK HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.