

FNB NEW MEXICO

POCKET DEPOSIT-MOBILE DEPOSIT SERVICE AGREEMENT

This Pocket Deposit-Mobile Deposit Service Agreement ("Agreement") provides the general terms and conditions that apply to Customer's (referred to herein as "you", "your", or "Customer") use of FNB New Mexico (referred to herein as "Bank") Pocket Deposit-Mobile Deposit Services ("Pocket Deposit"). You agree that Pocket Deposit shall be governed by these terms and conditions and other relevant terms of the agreement governing the deposit account into which checks are deposited and that the Bank may change or discontinue the terms and conditions for Pocket Deposit at any time.

Pocket Deposit is designed to allow you to make deposits of checks ("original checks") to your Bank accounts from home or other remote locations by making images of the original checks and delivering the digital images and associated deposit information ("images") to the Bank or our processor with your mobile device.

Once you agree to this Pocket Deposit-Mobile Deposit Service Agreement, the service will be available through the mobile app.

Limits. Pocket Deposits are limited in amount to \$2,500 per day and no more than nine deposit items per day. These limits are subject to change by the Bank. Higher limits may be available subject to the Bank's approval.

Accounts. Deposits can be made to any of your accounts associated with online banking.

Fees. The Bank does not presently charge for Pocket Deposit but reserves the right to charge fees in the future following notice to you by email that fees will be charged. You are responsible for any fees associated with your mobile device charged by your wireless carrier or other third parties.

Eligible Items. You agree to make images of and deposit only checks (i.e., drafts drawn on a credit union, savings and loan or bank and payable on demand).

Non-Eligible Items.

You agree that you will not use Pocket Deposit to deposit:

- " Checks payable to any person or entity other than you (i.e., payable to another party and then endorsed to you);
- " Checks payable to you and another party who is not a joint owner on the account;
- " Checks that contain evidence of alteration, or that 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 that have been previously deposited;
- " Checks that are stale-dated (a check presented more than 6 months after its date) or post-dated;
- Checks drawn on banks located outside of the United States;
- " Checks payable in a medium other than U.S. currency;
- " Non-cash items (as defined under Section 1029.2(u) of Regulation CC). Non-cash items include, but are not limited to, checks accompanied by special instructions, checks which consist of more than a single thickness of paper, and checks which have not been preprinted with MICR (magnetic ink character recognition) routing and account number data;
- " Sight drafts (A draft which is payable on presentation to the paying bank- in other words, on sight or demand);
- " Promissory notes and similar obligations, such as savings bonds;
- " Money Orders;
- " Treasury Checks;
- " Traveler's Cheques;
- " Over the Counter Items;
- " Items that do not have a complete MICR code; and
- " Any other class of checks or drafts as identified by the Bank to you from time to time.

If you deposit a non-eligible item you will be responsible for all costs incurred by the Bank in dealing with such non-eligible item.

Requirements. Each image must provide all information on the front and back of the original check at the time presented to you by the drawer, including, but not limited to, information about the drawer and the paying bank that is preprinted on the original check, MICR information, signature(s), any required identification written on the front of the original check and any endorsements applied to the back of the original check. The image quality must meet the standards established by the American National Standards Institute, the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association.

A check payable to two payees must be endorsed by both payees. If the check is payable to you or the joint owner, either of you can endorse it. If the check is made

payable to you and the joint owner, both of you must endorse the check.

In addition to the required signatures, endorsements must include your account number and state "For Mobile Deposit only to FNB New Mexico" and be made on the back of the check within 1½ inches from the top edge, although the Bank may in its discretion accept endorsements outside this space. Any loss the Bank incurs from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

To help ensure that an electronically deposited check is not processed multiple times either as an electronic item and/or a physical check, you agree to mark the face of the check with the phrase, "Deposited Electronically" and the date. Marking a check in this way will allow you to identify that the item has been scanned/photographed and deposited if it becomes intermingled with other undeposited checks. You are required to mark all checks manually, with a stamp, or use some other means of marking the physical checks to indicate they have been electronically deposited. Items should be marked after you receive confirmation that the deposit was received and accepted for processing by the Bank.

Receipt of Deposit. All images processed for deposit through Pocket Deposit will be treated as "deposits" under your current deposit account agreement with us and will be subject to all terms of the deposit account agreement. When the Bank receives an image, the Bank will confirm receipt by a pop-up message of receipt on your mobile device. The Bank shall not be deemed to have received the image for deposit until the Bank has sent and you have received a pop-up message of receipt on your mobile device. Confirmation does not mean that the image contains no errors. The Bank is not responsible for any image that the Bank does not receive.

Following receipt, the Bank may process the image by preparing a "substitute check" or clearing the item as an image.

The Bank reserves the right, at the Bank's sole and absolute discretion, to reject any image for remote deposit into your account. You should check the status of your items with online banking.

Original Checks. After you receive confirmation that the Bank has received an image, you must securely store the original check for 14 days after transmission to the Bank and make the original check accessible to the Bank at our request. Upon the Bank's request from time to time, you will deliver to us within 3 business days, at your expense, the requested original check in your possession. If not provided in a timely manner, such amount will be reversed from your account. Within 30 days of deposit, you must destroy the original check **by first marking it "VOID" and**

then destroying it by cross-cut shredding or another commercially acceptable means of destruction. After destruction of an original check, the image will be the sole evidence of the original check.

You agree that you will never re-present the original check. You understand that you are responsible if anyone is asked to make a payment based on an original check that has already been paid.

Returned Deposits. Any credit to your account for checks deposited using Pocket Deposit is provisional. If original checks deposited through Pocket Deposit are dishonored, rejected, returned unpaid by the drawee bank, or are rejected or returned by a clearing agent or collecting bank, for any reason, including, but not limited to, issues relating to the quality of the image, you agree that an original check will not be returned to you and that we may charge back the amount of the original check and provide you with an image of the original check, a paper reproduction of the original check, or a substitute check. You will reimburse the Bank for all loss, cost, damage or expense caused by, or relating to, the processing of the returned item. You shall not attempt to deposit or otherwise negotiate an original check if it has been charged back to you without the Bank's approval.

The Bank may debit any of your accounts to obtain payment for any item that has been rejected or returned, for any adjustment related to such item or for any warranty claim related to such item, whether or not the rejection, return, adjustment or warranty claim was made timely.

Your Warranties. You make the following warranties and representations with respect to each image:

" Each image is a true and accurate rendition of the front and back of the original check, without alteration, and the drawer of the check has no defense against payment of the check;

" The amount, payee(s), signature(s), and endorsement(s) on the image and on the original check are legible, genuine, and accurate;

" You will not deposit or otherwise endorse to a third party the original check and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the original check or a paper or electronic representation of the original check such that the person will be asked to make payment based on an item that has already been paid;

" There are no other duplicate images of the original check;

" The original check was authorized by the drawer in the amount stated on the original check and to the payee(s) stated on the original check;

" You are authorized to enforce and obtain payment of the original check; and

" You have possession of the original check and no party will submit the original check for payment.

With respect to each image, you make to the all representations and warranties that the Bank makes or is deemed to make to any party pursuant to law, regulation or clearinghouse rule. You warrant that files and images transmitted to the Bank will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.

Compliance with Law. You will use Pocket Deposit for lawful purposes and in compliance with all applicable laws, rules and regulations. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations.

Pocket Deposit Unavailability. Pocket Deposit may be unavailable temporarily due to system maintenance or technical difficulties, including those of the Internet service provider, cellular service provider, and Internet software. In the event that Pocket Deposit is unavailable, you may deposit original checks at the Bank offices or by mailing the original check to: FNB New Mexico, P.O. Box 548, Clayton, New Mexico 88415.

Funds Availability. For purposes of funds availability, Pocket Deposits are made in Clayton, New Mexico. Pocket Deposits confirmed as received before 5:00 P.M. local time on a business day will be credited to your account the same day. Deposits confirmed received after 5:00 P.M. local time and deposits confirmed received on holidays or days that are not the Bank's business days will be credited to your account on the following business day. Funds will be available as described in our Regulation CC Funds Availability Disclosure.

Business Days. For purposes of transactions, the Bank's business days are Monday through Friday, excluding holidays recognized by the Bank. The Bank's business day begins at 9:00 a.m. Mountain Time and ends at 5:00 pm Mountain Time.

Pocket Deposit Security. You will complete each deposit promptly. If you are unable to complete your deposit promptly, you will ensure that your mobile device remains securely in your possession until the deposit has been completed. It is your responsibility to establish and maintain procedures to safeguard against unauthorized deposits. You will notify the Bank immediately by telephone at 1-575-374-2261 followed by your written confirmation if you learn of any loss or theft of original checks or if you believe you may have deposited a check item more than once or if you believe you have deposited a non-eligible item. You will ensure the safety and integrity of original checks from the time of receipt until the

time of destruction. If required in our reasonable judgment, the Bank may audit and monitor you, and you agree to cooperate with us to permit such auditing and monitoring, to confirm that you have satisfied your obligations under this Agreement.

Your Responsibility. You are solely responsible for the quality, completeness, accuracy, validity and integrity of the image. You are solely responsible if you, intentionally or unintentionally, submit fraudulent, incorrect or illegible images to the Bank or if Pocket Deposit is used, by authorized or unauthorized persons acting on your account, to submit fraudulent, unauthorized, inaccurate, incorrect or otherwise improper or unusable images to the Bank.

In addition you agree that you will not modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or service, copy or reproduce all or any part of the technology or service, or interfere, or attempt to interfere, with the technology or service. The Bank and its technology contractors, retain all rights, title and interests in and to the services, software and development made available to you for Pocket Deposit.

Accountholder's Indemnification Obligation. You understand and agree that you hereby indemnify the Bank and hold the Bank harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees and expenses arising from your use of Pocket Deposit and/or breach of this Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

You understand and agree that you hereby indemnify the Bank and the Bank's technology contractors, and hold harmless the Bank, the Bank's contractors, its affiliates, officers, employees and agents, as well as the Bank's contractors and their affiliates, officers, employees, and agents, from and against any third party claims, suits, proceedings, actions or demands, including to claims of another financial institution, business entity or governmental authority, and all losses, liabilities, damages, fines, penalties, costs and expenses, including court costs and reasonable attorney fees and expenses, arising from such claims, to the extent such claim is related to your use of Pocket Deposit, unless such claim directly results from an action or omission made by the Bank or its contractors in bad faith and with intent to harm. You understand and agree that this paragraph shall survive the termination of this Agreement.

Disclaimer of Warranties. YOU AGREE THAT YOUR USE OF ANY REMOTE BANKING SERVICE INCLUDING BUT NOT LIMITED TO POCKET 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. THE BANK DISCLAIMS ALL WARRANTIES OF ANY KIND AS TO THE USE OF ANY REMOTE BANKING SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. THE BANK MAKES NO WARRANTY THAT ANY REMOTE BANKING SERVICE WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. THE BANK MAKES NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED WILL BE ACCURATE OR RELIABLE OR THAT ANY ERRORS IN ANY REMOTE BANKING SERVICE OR TECHNOLOGY WILL BE CORRECTED.

LIMITATION OF LIABILITY. YOU AGREE THAT THE BANK 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 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 ANY REMOTE BANKING SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF THE BANK HAS BEEN INFORMED OF THE POSSIBILITY THEREOF, EXCEPT AS OTHERWISE REQUIRED BY LAW.

Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico, without reference to provisions relating to conflict of laws. Venue for any dispute arising hereunder relating hereto is the District Court of Union County, New Mexico, which shall have jurisdiction overall such disputes regardless of residency of any of the parties or the amount in controversy.