

## Mobile Banking Enrollment Terms and Conditions

### **FVCbank Services Addendum to Online Banking Agreement**

This is Addendum ("Addendum") to Customer's ("you" or "your") Online Banking Agreement ("Agreement"), sets forth additional terms and conditions for your use of the mobile banking services ("Mobile Banking") offered through FVCbank ("our" or "we" or "us"). Except where modified by this Addendum, the Agreement remains in full force and effect. Terms defined in the Agreement that are not defined in the Addendum have the same meaning here. This Addendum, the Agreement, and all your deposit agreements constitute the entire understanding between us and you relating to Mobile Banking, supersede any other agreements relating to Mobile Banking, and may only be amended as provided in the Agreement. If there is a conflict between the Agreement and this Addendum, the terms in this Addendum control.

#### **A. ACCEPTANCE OF ADDENDUM**

1. **Accepting this Addendum.** By signing our modification form for this Addendum and/or By clicking "I Agree" when you register for Mobile Banking or by using Mobile Banking, you agree to be bound by the terms and conditions of this Addendum and you agree that we may send you, by Short Message Service (SMS)/text, e-mail, and other methods, communications relating to Mobile Banking, including, without limitation, welcome messages, information and requests for information relating to use of Mobile Banking.

2. **Description of Services.** Mobile Banking is a business/personal financial account management service that allows you to view balances and recent account activity and to conduct certain Transactions, including Transfers, using compatible and supported mobile phones and/or other compatible and supported wireless devices (collectively, "Mobile Devices"). FVCbank Mobile Banking includes SMS/Text Banking, Wireless Application Protocol Banking and Mobile Deposit Capture ("Mobile Deposit"). Mobile Deposit allows you to make deposits to your checking, savings, or money market savings accounts from home or other remote locations by scanning checks ("Check(s)") and delivering the images and associated deposit information ("Image(s)") to FVCbank or FVCbank's designated processor.

3. **Hardware and Software.** To use Mobile Banking, you must obtain and maintain, at your expense, compatible hardware and software as specified by FVCbank or its processor from time to time. FVCbank is not responsible for any third party software you may need to use Mobile Banking. You are responsible for preventing unauthorized access to or use of information, files or data stored, transmitted or used with Mobile Banking or on your Mobile Device. You will notify us immediately of any loss, theft or unauthorized use of your Mobile Device.

4. **Relationship to Other Agreements.** When you use Mobile Banking, you remain subject to all of your existing agreements with us and our affiliates. Except as otherwise provided in this Addendum, Mobile Banking is subject to all of the terms in your deposit agreement(s) with us as it may change from time to time. You also continue to be subject to the Terms and Conditions of your existing agreements with any unaffiliated service providers, including, but not limited to, your mobile service carrier or provider. This Addendum does not amend or supersede any of those unaffiliated service provider agreements. Those agreements may provide for fees, limitations and restrictions that might impact your use of Mobile Banking (for example, your mobile service carrier or provider may impose data usage or text message charges for your use of or interaction with Mobile Banking, including while receiving or sending Mobile Banking text messages, or other use of your Mobile Device when using the software or other products and

services provided by Mobile Banking), and you are solely responsible for all such fees, limitations and restrictions. You agree and understand that only your mobile service carrier or provider is responsible for its products and services, and that your mobile service carrier is not the provider of Mobile Banking. You agree to resolve any problems with your mobile service carrier or provider directly with them without involving us. If you have any problems with Mobile Banking, you agree to contact FVCbank directly.

5. Help and Cancellation. For questions, please contact customer service at [online@fvcbank.com](mailto:online@fvcbank.com) or call 703-436-3800.

## B. YOUR OBLIGATIONS

1. Use of Mobile Banking. You accept responsibility for making sure that you understand how to use Mobile Banking before you actually do so, and then that you always use Mobile Banking in accordance as stated in this Addendum or our Agreement. You also accept responsibility for making sure that you know how to use your Mobile Device and the Mobile Banking software properly. We will not be liable to you for any losses caused by your failure to properly use Mobile Banking or your Mobile Device. You agree to use Mobile Banking carefully, to keep your password confidential and secure and not share it with others, to check your statements and transactions regularly, to report any errors to us promptly and to cancel your participation in Mobile Banking immediately if you observe any material errors in Mobile Banking. You must provide source indication in any messages you send (e.g., mobile telephone number "From" field in text message, etc.)

2. Location Based Information. If you use any location-based feature of Mobile Banking, you agree that your geographic location and other personal information may be accessed and disclosed through Mobile Banking. If you wish to revoke access to such information you must cease using location-based features of Mobile Banking.

3. Charges. You agree to pay for Mobile Banking in accordance with our Schedule of Fees as amended from time to time.

4. No Commercial Use or Re-Sale. You agree that Mobile Banking is for your use only (for personal and business account holders). You agree not to resell or make commercial use of Mobile Banking.

5. Compliance with Law. You will comply with all laws, rules and regulations that apply to banking transactions, including the rules of the National Automated Clearing House for ACH transactions.

## C. MOBILE DEPOSIT

1. Eligible Checks. You agree to scan and deposit only "checks" as that term is defined in Federal Reserve Regulation CC ("Reg. CC"). You may not scan and deposit any of the following types of Checks or items ("Ineligible Item(s)"):

- Money Orders, Travelers Checks and Savings Bonds
- Checks payable to any person or entity other than you.
- Checks containing an alteration on the front of the Check 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 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 payable on sight or payable through drafts, as defined in Reg. CC.
- Checks that have previously been submitted through Mobile Deposit or through a remote deposit capture service offered at any other financial institution.

2. Deposit Limits. We will establish limits on the dollar amount and/or number of Images (collectively "Limits") you may transmit and may modify the Limits from time to time. If you attempt to make a deposit in excess of the limits, we may reject your deposit. If we permit you to make a deposit in excess of the limits, such deposit will still be subject to the terms of this Addendum, and we will not be obligated to allow such future exceptions. Our current limits for Mobile Deposit per Business Day are: aggregate Mobile Deposit limit of \$5,000.00 per transaction. Our current limits for Mobile Deposit per 5 consecutive Business Days: aggregate deposit limit of \$10,000.00.

3. Endorsements and Procedures. You agree to restrictively endorse Checks to be transmitted through Mobile Deposit as "For Deposit Only at FVCbank plus the Account Name and/or payee's signature. No other endorsement shall appear on the Check.

4. Image Quality. Images must be legible, as determined in the sole discretion of FVCbank. Without limiting the foregoing, the image quality must comply with the requirements established from time to time by FVCbank, ANSI, the Board of Governors of the Federal Reserve Board, and any other regulatory agency, clearinghouse or association.

5. Receipt of Images. We may reject any Image, at our discretion, without liability to you. We are not responsible for Images we do not receive or for Images that are dropped during transmission. An Image shall be deemed received when you receive a confirmation from FVCbank 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 may charge back to your Account at any time any Image that we subsequently determine was an Ineligible Item and you agree that we are not liable for any loss, costs, or fees you may incur as a result of our chargeback.

6. Availability of Funds. If we receive and accept an Image before 5:00p.m. Eastern Time on a Business Day, we consider the Image to be deposited in your Account that Business Day. Otherwise, we consider the deposit to be made on our next Business Day. Funds deposited using Mobile Deposit generally will be made available on the next Business Day after the day of deposit. At our discretion, availability of funds may be extended up to 3 Business Days after the day of deposit.

7. Disposal of Transmitted Items. You agree to retain the Check for 30 calendar days after the date FVCbank confirms receipt of the Image (and for any longer period of time during which any dispute concerning the Check may exist) and then to destroy the Check, it should be shredded. While the Check is available, you agree to provide the original to FVCbank promptly upon request. You understand that you will be responsible if any person receives presentment or return

of, or otherwise is charged for, the Check or a paper or electronic representation of the Check such that the person will be asked to make a payment based on a Check that it already has paid. You will notify us immediately by telephone with written confirmation if you learn of any loss or theft of any Check.

8. Errors in Transmission. You accept the risk that an Image may be intercepted or misdirected during transmission.

9. Your Representations, Warranties and Covenants Concerning Images. With respect to each Image, you represent, warrant and agree that:

-- The Image accurately represents all of the information on the front and back of the Check as of the time the Image is submitted to us and all of this information is legible on the Image;

-- The person on whose account the associated Check is drawn authorized the issuance of the Check in the amount stated on the Check and to the payee stated on the Check;

-- No person will receive presentment or return of, or otherwise be charged for, the associated Check or a paper or electronic representation of the Check such that the person will be asked to make a payment based on a check that it already has paid; and

-- With respect to each Image, you make to us all representations and warranties that we make or are deemed to make to any party pursuant to law, regulation or clearinghouse rule, including, without limitation, all warranties as defined in the Check Clearing for the 21st Century Act made by the Reverting and Truncating Bank.

10. Indemnity. You agree to indemnify and hold harmless FVCbank and our Service Providers from all claims, demands, losses, liabilities or expenses (including attorney's fees and expenses) resulting from or arising out of (a) this Addendum or your use of Mobile Banking, (b) any breach of any of your representations, warranties or agreements in this Addendum, or (c) your improper operation, mechanical failure or failure to properly service, protect or maintain any Mobile Devices.

11. Cooperation with Investigations. You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of claims, including by providing upon request and at your expense originals or copies of Checks deposited through Mobile Deposit and your records relating to such Checks and transmissions.

#### D. LIMITATIONS AND WARRANTY DISCLAIMER

1. We reserve the right to refuse to make any Transaction you request through Mobile Banking.

2. Neither we nor our Service Providers can always foresee or anticipate technical or other difficulties related to Mobile Banking. These difficulties may result in loss of data, personalization settings or other Mobile Banking interruptions.

3. Neither we nor any of our Service Providers assumes responsibility for the operation, security, functionality or availability of any Mobile Device or mobile network which you utilize to access Mobile Banking. You agree and understand that Mobile Banking may not be accessible or may have limited utility over some mobile networks, such as while roaming.

4. Transfer and payment information available via the Mobile Banking software may differ from the information that is available directly through the Services. Information available directly through the Services may not be available via the Mobile Banking software and may be described using different terminology. The method of entering instructions via the Mobile

Banking software also may differ from the method of entering instructions through the Services. We are not responsible for such differences, whether or not attributable to your use of the Mobile Banking software. Additionally, you agree that neither we nor our Service Providers will be liable for any errors or delays in the content, or for any actions taken in reliance thereon.

5. We and our Service Providers disclaim all warranties relating to Mobile Banking or otherwise in connection with this Addendum, whether oral or written, express, implied or statutory, including, without limitation, the implied warranties of merchantability, fitness for particular purpose and non-infringement. Neither we nor our Service Providers will be liable to you or any third party for any indirect, incidental, exemplary, special, punitive or consequential damages of any kind, or for any loss of profits, business, or data, whether based in statute, contract, tort or otherwise, even if we or our Service Providers, as applicable, have been advised of, or had reason to know of, the possibility of such damages. Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. Except to the extent prohibited by applicable banking regulations, under no circumstances will the total liability of us or our Service Providers to you in connection with Mobile Banking exceed \$5,000.

#### END USER TERMS

This service is provided to you by FVCbank and powered by a Third Party ("Licensor") mobile technology solution. Section A of these End User Terms is a legal agreement between you and FVCbank. Section B of these End User Terms is a legal agreement between you and the Licensor.

#### SECTION A

##### FVCBANK TERMS AND CONDITIONS

Thank you for using FVCbank Mobile Banking. In case of questions please contact customer service at [Online@fvcbank.com](mailto:Online@fvcbank.com) or call 703-436-3800.

1. The services are separate and apart from any other charges that may be assessed by your wireless carrier for text messages sent to or received from FVCbank. You are responsible for any fees or other charges that your wireless carrier may charge for any related data or message services, including without limitation for short message service.
2. The services are provided by FVCbank and not by any other third party. You and FVCbank are solely responsible for the content transmitted through the text messages sent to and from FVCbank. You must provide source indication in any messages you send (e.g., mobile telephone number, "From" field in text message, etc.)

#### SECTION B

##### END USER LICENSE AGREEMENT TERMS FOR THE DOWNLOADABLE APP

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

1. Ownership. You acknowledge and agree that a third party provider or licensor to your financial services provider ("Licensor") is the owner of all right, title and interest in and to the downloaded software to be used for access to Mobile Banking services from your financial services provider and the computer programs contained therein in machine readable object code form as well as any accompanying user documentation along with all subsequent copies, updates

or versions thereof which are made available to you (if any), regardless of the media or form in which they may exist (collectively the "Software").

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

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

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

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

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

7. Miscellaneous. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. This Agreement will be governed by and construed in

accordance with the laws of the state of Florida excluding that body of laws pertaining to conflict of laws. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, such provision will be enforced to the maximum extent possible and the other provisions will remain effective and enforceable. All disputes relating to this Agreement are subject to the exclusive jurisdiction of the courts of Florida and the parties expressly consent to jurisdiction and venue thereof and therein. The parties confirm that this Agreement and all related documentation is and will be in the English language. The application of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly waived and excluded.

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