



First Nebraska Credit Union (FNCU)

## MOBILE SERVICES TERMS OF USE

Thank you for your interest in our Mobile Services.

Mobile Services include access to text banking (eAlerts) and mobile banking. You may register for each mobile service individually through the online banking site at [firstnebraska.org](http://firstnebraska.org), but not through a mobile device. eAlerts allow you to establish alerts to receive your available account balance and review recent account history using only the text message functionality on your mobile phone or other mobile device. Use of eAlerts requires that you have a mobile device that is text-enabled. You do not need Internet access on your mobile device to use eAlerts. To use the mobile services, please read the Terms of Use below and, if they are acceptable, click **"I Agree"** at the bottom of this webpage. If you do not click **"I Agree"** to the Terms of Use, you will not be able to use the mobile services.

In case of questions about the mobile services or the Terms of Use, please contact member service at 1-800-882-0244.

These Mobile Services Terms of Use (these **"Terms of Use"**) govern the Mobile Services (the **"MB Service"**) provided by FNCU (**"Credit Union"**). BY CLICKING "I AGREE" AT THE BOTTOM OF THIS WEBPAGE, YOU AGREE TO BE BOUND BY THESE TERMS OF USE, AND YOU ALSO AUTHORIZE THE CREDIT UNION TO CONTACT YOU FOR FRAUD PREVENTION, TELEMARKETING, AND OTHER PURPOSES RELATED TO THE MB SERVICE.

Each of your accounts at the Credit Union is also governed by Credit Union's Account Deposit Agreement and Disclosure Statement (**"Deposit Agreement and Disclosure"**), which you executed when you opened your account(s).

**1. THE SERVICE.** The MB Service refers generally to any Credit Union service for which you have enrolled that allows you to access and view accounts at the Credit Union from your mobile phone or other hand-held device (collectively, your **"Mobile Device"**). The Credit Union will designate the accounts eligible for the MB Service and may withdraw such designation at any time.

**(a) Hours & Availability.** The Credit Union hereby notifies you of the following: (i) The MB Service is generally available 7 days per week, 24 hours per day, but at certain times some or all elements of the MB Service may be unavailable due to system maintenance or malfunctions. The Credit Union will make reasonable efforts to notify you in advance of MB Service unavailability. (ii) Barring malfunctions or maintenance, a transfer initiated through the MB Service before 6:00 PM (Central Time) on a business day is posted to your account the same day, and all transfers completed after 6:00 PM or on non-business days will be posted on the next business day. (iii) Credit Union's business days are Monday through Friday. Saturday and Sunday are non-business days, as are all federal holidays.

**(b) Additional Services.** From time to time, the Credit Union may develop additional mobile banking services. Such services will become part of the MB Service if the Credit Union so designates them and you enroll in them, provided you have compatible hardware and software. By using these additional mobile banking services, you agree to be bound by any additional terms and conditions, which the Credit Union will communicate to you.

**(c) eAlerts – types of notifications.** Through your online banking page you can choose various alerts to be sent via text message to your mobile device, including:

- Daily Balance
- Account Balance
- Funds Deposited
- Funds Withdrawn
- Check Cleared
- One-Time Personal Reminder
- Recurring Personal Reminder

## 2. MOBILE BANKING ELECTRONIC FUND TRANSFERS.

(a) While accessing your account(s) through mobile banking by providing your personal identification number, your account number, and answering security questions, you may make the following types of transfers between accounts held by the Credit Union:

- Transfer funds from checking to share savings
- Transfer funds from share savings to checking
- Transfer funds from share savings to share savings
- Transfer funds from line of credit to checking or share savings
- Transfer funds from share savings or checking to loan payments
- Make payments from savings or checking to line of credit
- Get information such as:
  - o Balance information about checking, share savings, term share certificate, line of credit, IRAs, and loans
  - o Limited transaction history about checking, share savings, term share certificate, line of credit or IRAs and loans

Please refer to Terms and Conditions of Your Account regarding limitations on frequency of transfers.

### (b) Fees.

- The Credit Union does not charge any additional fees to utilize the MB Service. However, standard messaging and or Internet charges apply, pursuant to your mobile plan or other agreement with your telecommunications carrier.

### (c) Documentation.

- Periodic statements. Any transaction processed through your mobile device will be reflected on your statement.

(d) **Payments.** If you requested a payment through your mobile device from your account to any of your loans with the Credit Union and wish to stop the payment, you may:

- Call or write us at the telephone number or address listed in this disclosure. If you call, we may also require you to put your request in writing and get it to us within 14 days after your call.
- The payment may take up to 3 business days to credit back to your deposit account.
- **Liability for failure to reverse stop your payment.** If you request that we stop your payment processed through your mobile device, and we do not do so, we will be liable for your losses or damages in the event that you provided us the proper information in time to stop the transaction.

(e) **Financial Institution's Liability.** If we do not complete a transfer to or from your account on time or in the correct amount according to your request from your mobile device, we will be

liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- If, through no fault of ours, you do not have enough money in your account to make the transfer.
- If you have an overdraft line and transfer would go over the credit limit.
- If the system was not working properly and you knew about the breakdown when you started the transfer.
- If circumstances beyond our control (such as fire or flood) prevent the transfer, despite reasonable precautions that we have taken.
- There may be other exceptions stated in our agreement with you.

**(f) Confidentiality.** We will disclose information to third parties about your account or the transfers you make:

- Where it is necessary for completing transfers; or
- In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant; or
- In order to comply with government agency or court orders; or
- If you give us written permission

**(g) Unauthorized Transfers.**

- **Consumer Liability.** Tell us AT ONCE if you believe your mobile device and/or code has been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your mobile device and/or code. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within 2 business days after you learn of the lost or theft of your mobile device and/or code, you can lose no more than \$50 if someone used your MB Service without your permission.

If you do NOT tell us within 2 business days after you learn of the loss or theft of your mobile device and/or code, and we can prove we could have stopped someone from using your mobile device access without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, including those made through MB Services, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us on time.

If a good reason (such as long trip or hospital stay) kept you from telling us, we will extend the time periods.

- Contact us in the event of unauthorized transfers. If you believe your mobile device has been lost or stolen, call or write us at the telephone number or address listed in this

disclosure. You should also call the number or write to the address listed in this disclosure if you believe a transfer has been made using the information from your mobile device without your permission.

#### (h) Error Resolution Notice

• **In Case of Errors or Questions about your Electronic Transfers.** Call or write us at the phone and address listed as-soon-as you can, if you think your statement is wrong or if you need more information about a transfer listed on the statement. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

- Tell us your name and account number.
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days

We will determine whether an error occurred within 10 business days (20 business days if the transfer involved a new account) after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days (90 days if the transfer involved a new account) to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days (20 business days if the transfer involved a new account) for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account. Your account is considered a new account for the first 30 days after the first deposit is made, unless each of you already has an established account with us before this is opened.

We will tell you the results within three business days after completing our investigation. If we decide that there was an error, we will send you a written explanation.

You may ask for copies of the documents that we used in our investigation.

First Nebraska Credit Union  
10655 Bedford Avenue  
Omaha, NE 68134  
Phone: (402) 492-9100  
Business Days: Monday through Friday  
Excluding Federal Holidays

### 3. SECURITY.

(a) **Your Key Precautions.** You agree: (i) to comply with all security procedures the Credit Union provides in connection with MB Service; (ii) to take reasonable steps to safeguard the confidentiality and security of any and all passwords and access codes (collectively, “Codes”) related to the MB Service, along with any other proprietary information the Credit Union provides in connection with the MB Service; (iii) to limit access to your Mobile Device to persons who have a need for such access and who you reasonably believe present no threat to your accounts; (iv) to notify the Credit Union immediately if you have any reason to believe

the security or confidentiality of your account(s) has been or may be breached; and (v) not to use any personally-identifiable information (e.g., name, account number, social security number) when providing shortcuts to or creating nicknames for your accounts.

**(b) Access.** You may change your Codes from time to time. The Credit Union may also require you to change your Codes at any time. The Credit Union may deny access to the MB Service without prior notice if it is unable to confirm to its satisfaction any person's authority to access the MB Service or if the Credit Union believes such action is necessary for security reasons.

**(c) Other Additional Terms.** Additional provisions regarding security appear in the Deposit Agreement and Disclosure.

#### **4. YOUR ADDITIONAL REPRESENTATIONS AND COMMITMENTS.**

**(a) Accurate Registration.** You represent and warrant that you have and will provide true, accurate, current, and complete information, including without limitation about yourself, as requested in the MB Service's registration process, and you represent and warrant that you have not and will not misrepresent your identity.

**(b) No Illegal Use.** You agree not to use the MB Service to conduct any business or activity or to solicit the performance of any activity that is prohibited by law or by any contractual provision that binds you. You agree to comply with all applicable laws, rules, and regulations in connection with the MB Service. You represent and warrant that you are an authorized Credit Union member and are able lawfully to enter into contracts.

**(c) Notification of Equipment Theft or Destruction.** You agree to notify the Credit Union promptly in the event that you lose, change, or destroy the Mobile Device whose phone number is registered with the Service.

**(d) Receipt of Text Messages or Calls.** You agree to receive text messages or phone calls from the Credit Union on your Mobile Device. To stop receiving text messages, you must log in to your online banking page and cancel all alerts individually.

**5. PROPRIETARY RIGHTS.** These Terms of Use do not grant you a license to any software used to provide the MB Service or associated with the MB Service or to any other software, by implication, by estoppel, or otherwise. The logos, service marks, and trademarks (collectively, "**Trademarks**") used by the Credit Union, including those displayed through the Service, whether or not registered, belong to the Credit Union and its licensor's and suppliers. Neither these Terms of Use nor any element of the MB Service grants a license to any Trademark, by implication, by estoppel, or otherwise.

**6. NOTICES.** Notices related to these Terms of Use will be considered delivered:

**(a)** If sent to you at your address of record with the Credit Union, or sent to you via the MB Service device;

**(b)** If sent by you to the Credit Union at 10655 Bedford Avenue, Omaha, NE 68134.

**7. TERMINATION.** Either you or the Credit Union may terminate these Terms of Use, and your access to the MB Service, at any time, by written, electronic or telephonic notice.

#### **8. LIMITATION OF LIABILITY & DISCLAIMERS.**

**(a) Disclaimer.** THE MB SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE." Without limiting the generality of the foregoing: (i) neither the Credit Union nor its service providers makes any representation or warranty that you will have continuous or uninterrupted access to the MB

Service or any of its content or functions, or that any function of the MB Service will be error-free; (ii) the Credit Union will not be liable to you for any damages whatsoever arising out of or related to a failure of any communications network, communications equipment, or software, or in connection with any event beyond the Credit Union's control; (iii) the Credit Union will not be liable to you for any damages whatsoever arising out of or related to the accuracy or completeness of information supplied through MB Service regarding your account(s), the lack of available funds in your account(s), the application of any government or funds transfer system rule, guideline, policy or regulation, or the Credit Union's inability to confirm to its satisfaction the authority of any person to act on your behalf. The Credit Union AND ITS SERVICE PROVIDERS MAKE NO REPRESENTATION OR WARRANTY RELATED TO THE MB SERVICE, INCLUDING, WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS AND TITLE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OR NON-PERFORMANCE OF THE MB SERVICE (INCLUDING ANY ASSOCIATED SOFTWARE OR OTHER MATERIALS) WILL BE FOR THE CREDIT UNION TO USE COMMERCIALY REASONABLE EFFORTS TO PERFORM AN ADJUSTMENT OR REPAIR OF THE MB SERVICE. THE DISCLAIMERS, EXCLUSIONS OF WARRANTY, LIMITATIONS OF LIABILITY, AND OTHER PROVISIONS OF THIS SECTION 8 APPLY TO LIKEWISE TO ANY WEBSITE OR ADVERTISEMENT CONNECTED TO THE MB SERVICE. Some jurisdictions do not allow the exclusion of certain warranties, so the above exclusions may not apply to you.

**(b) Risks of Mobile Devices.** YOU UNDERSTAND THAT THERE ARE RISKS ASSOCIATED WITH USING A MOBILE DEVICE, AND THAT IN THE EVENT OF HACKING, OTHER ELECTRONIC SECURITY FAILURE, THEFT, OR LOSS, YOUR CONFIDENTIAL INFORMATION COULD BE COMPROMISED.

**(c) Limited Liability.** IN NO EVENT WILL THE Credit Union OR ANY OF ITS OFFICERS, DIRECTORS, AFFILIATES, AGENTS, LICENSOR'S, OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE MB SERVICE OR ANY USE OR MISUSE THEREOF (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, FILES, PROFIT, OR GOOD WILL OR THE COSTS OF PROCUREMENT OF SUBSTITUTE OF GOODS OR SERVICES). THE AGGREGATE LIABILITY OF THE CREDIT UNION AND OUR THIRD PARTY SERVICE PROVIDERS UNDER THESE TERMS OF USE WILL NOT EXCEED \$1,000.00. THE LIABILITIES LIMITED BY THIS SECTION 8 INCLUDE, WITHOUT LIMITATION, LIABILITY FOR NEGLIGENCE. Because some jurisdictions do not allow the exclusion or limitation of liability for consequential damages, the above limitations may not apply to you.

**9. INDEMNIFICATION.** You agree to indemnify, defend, and hold the Credit Union and its affiliates, officers, directors, employees, consultants, agents, service providers, and licensor's harmless from any and all third party claims, liability, damages, and/or costs (including, without limitation, reasonable attorneys' fees) arising out of or related to: (a) information, data, files, or other material you submit to the MB Service, including, without limitation, claims of infringement of privacy or intellectual property rights or misuse or misappropriation of data; (b) allegations of your breach of these Terms of Use or of fraud or manipulation committed by you; (c) a dispute with you over the purchase or sale of goods or services or over the terms and conditions of any agreement; (d) your alleged violation of any law or of the rights of a third party; (e) the use of your account by any third party; (f) losses resulting from the loss or misuse of your Mobile Device; or (g) your misuse of the MB Service. The Credit Union reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification, in which case you will cooperate at your expense with the Credit Union in asserting the defense. You will not settle any action or claims on the Credit Union's behalf without its prior written consent.

## 10. MISCELLANEOUS.

- (a) **Construction and Jurisdiction.** These Terms of Use are to be construed in accordance with and governed by the internal laws of the State of Nebraska, without giving effect to any choice of law rule that would cause the application of the laws of any other jurisdiction other than the internal laws of the State of Nebraska to the rights and duties of the parties. The parties hereby consent to the personal and exclusive jurisdiction and venue of the federal and state courts of Douglas County, Nebraska. If any provision of these Terms of Use is held invalid, illegal, or unenforceable, including, without limitation, as a result of unconscionability or inconsistency with public policy, such provision will be construed so as to come as close as possible to its intended meaning, and the validity, legality, or enforceability of the remaining provisions of these Terms of Use will in no way be impaired.
- (b) **No Waiver.** No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under these Terms of Use will operate to limit, impair, preclude, cancel, waive, or otherwise affect such right or remedy.
- (c) **Export and International Rules.** You will not use the Service in any way that violates applicable laws or regulations, including, without limitation, U.S. Export Administration Regulations. You represent and warrant that you are not on the United States Treasury Department's list of Specially Designated National and Blocked Persons and are not otherwise a person or entity subject to a legal rule that would prohibit Credit Union from providing the MB Service.
- (d) **Assignment.** You may not assign these Terms of Use or any of your rights or obligations here under without the Credit Union's express written consent. Except to the extent forbidden in the previous sentence, these Terms of Use will be binding upon and inure to the benefit of the respective successors and assigns of the parties.
- (e) **Other Agreements and Rules.** In addition to these Terms of Use you agree to be bound by and will comply with the requirements of the Terms and Conditions Agreement and Disclosure, the Credit Union's rules and regulations, the Credit Union's privacy policy, the rules and regulations of any funds transfer system to which the Credit Union belongs, and applicable state and federal laws and regulations. Also, if you are a Home Banking user, you agree to be bound by the Credit Union's Online Banking Agreement. In the event of a conflict between these Terms of Use and the Terms and Conditions Agreement and Disclosure, the Terms and Conditions Agreement and Disclosure will govern.
- (f) **Survival.** The provisions of Sections 5, 6, 8, 9, and 10 of these Terms of Use will survive expiration or termination of these Terms of Use for any reason.
- (g) **Change of Terms.** The Credit Union reserves the right to make changes to the charges, fees or features associated with the MB Service by providing notice as required by law. (Changes to fees applicable to specific accounts are governed by the Deposit Agreement and Disclosure.) In addition, the Credit Union reserves the right to revise these Terms of Use and will provide notice as required by law. Use of your MB Service constitutes acceptance of any changed Terms of Use. Nothing in these Terms of Use will prevent the Credit Union from changing the security features or policies of the MB Service at any time, without notice.