

**TERMS AND CONDITIONS FOR
APPLE PAY SERVICES**

These Terms and Conditions between you and First Midwest Bank (“we”, “us”, “FMB”) apply when you enroll in Apple Pay services (“Apple Pay”) and add a Card as defined below. The term “you” and “your” refers to the owner(s) of an FMB Strategic Business Checking Account, Solutions Business Checking Account and Simply Business Checking Account, or any business purpose deposit account we may designate from time to time (each an “Account”) and any individual designated by the owner(s) as authorized to use the Card and Apple Pay to access an Account (each an “Authorized User,” collectively, “Authorized Users”).

1. *Eligibility.* To use Apple Pay, you must have a mobile device designated by Apple Inc. (“Apple”) as compatible for Apple Pay (“Mobile Device”), be 18 years old or older and have an Account in good standing with a debit card (“Card”). The Business Account Agreement and Disclosure (“BAA”) apply when you use your Card to access Apple Pay. In the event of a direct conflict between the terms of these Terms and Conditions and the BAA the terms of these Terms and Conditions will govern.
2. *Use of Apple Pay.* Apple Pay allows you to make purchases using your Card with your Mobile Device from online merchants and at point of sale terminals from merchants that are enrolled in Apple Pay. You will not be able to use Apple Pay at all merchants that accept your Card. Merchants may require presentation of a government-issued identification to authenticate your identity before you may complete transactions.
3. *Your Account and Card Terms Apply.* When you add a Card to access Apple Pay, the terms of the BAA that govern your Card and Account, including limitations on the use of your Card and Account do not change. Apple Pay provides another way for you to make purchases with your Card.
4. *Fees and Charges.* Although we do not currently charge a fee for Apple Pay, the standard fees and charges that apply to your use of your Account and Card will apply. For example you will be responsible for overdraft fees if you use your Card to make purchases that exceed your available balance. See the BAA for details. You may also be charged fees by your wireless provider such as data use or text messaging charges.
5. *Access to Apple Pay.* To add a Card or Mobile Device to Apple Pay follow the instructions on www.FirstMidwest.com/ApplePay. We will indicate the Cards that are eligible and Apple will indicate the Mobile Devices that are compatible.
6. *Third Party Terms.* In addition to these Terms and Conditions, Apple, your wireless provider, and merchants and websites that accept Apple Pay may have additional terms that apply to your use of your Card and Mobile Device for Apple Pay. We have no control over and are not responsible for these terms. We are also not responsible for providing Apple Pay to you or for any actions of Apple, your wireless provider or a merchant when you use Apple Pay to make a purchase.

7. *Electronic Communication.* You consent to receive communications and disclosures from us in connection with your Card and Apple Pay including these Terms and Conditions electronically rather than in paper form. You agree that we can contact you by e-mail at any e-mail address you provide to us in connection with your Account. You agree to update your contact information with us when it changes.
8. *Security Credentials.* **To help limit your loss call us immediately at 1-800-322-3623 if you believe your Mobile Device, passwords or other means used to access your Mobile Device and Card or Apple Pay (“Security Credentials”) has been lost or stolen or someone has used or may use your Security Credentials.**

We are authorized to act on transactions and other instructions received using your Security Credentials, and you agree that the use of your Security Credentials will have the same effect as your signature authorizing the transaction(s). If you disclose your Security Credentials to any person or entity, including any data aggregation service provider, direct us to assign Security Credentials to any entity or person, or permit any other person or entity to use Apple Pay, you are responsible for any activity and transactions performed on your Account with your Card or Mobile Device by such person or entity and for any use of your personal information and Account information by such person or entity. The loss, theft or unauthorized use of your Security Credentials could cause you to lose some or all of the money in your Account, plus any amount available under any line of credit. It could also permit unauthorized persons to have access to your personal information and Account information, and to use the information for fraudulent purposes including identity theft.

You agree to institute and maintain and enforce procedures and policies to ensure that Apple Pay is only used by Authorized Users for authorized activities and transaction on your behalf. These procedures must include, among other measures, internal controls, procedures to ensure that access to Cards and Security Credentials that access Apple Pay are only permitted for Authorized Users. You must also ensure that Authorized Users using a Card and Security Credentials only as authorized and only for activities for which the Authorized User has authority. We are not responsible if any Authorized User exceeds the limits of any Authorized User’s authority.

You are responsible for maintaining the security of your Security Credentials and for any transactions performed or information received using such Security Credentials, to the fullest extent allowed by law.

We will ask for your Security Credentials to confirm your identity only if you call us. We will never contact you via e-mail, secure messaging or telephone requesting your Security Credentials. **If you are ever contacted by anyone asking for your Security Credentials, you should refuse and immediately contact us.** You may be the target of attempted identity theft.

9. *Governing Law.* These Terms and Conditions are governed by and construed in accordance with federal law and the laws of the state of Illinois, without regard to its conflicts of laws provisions. Subject to the arbitration agreement in the BAA, you consent

to the jurisdiction of the courts of Cook County Illinois and the United States of America for the Northern District of Illinois, and you agree that any legal action or proceeding with respect to these Terms and Conditions shall be commenced in such courts.

10. *Amendment and Termination.* To remove a Card from Apple Pay, select the info button on the Card within your Passbook & Apple Pay App and select “Remove Card”, or access the same through “Settings” on your Mobile Device. You can contact us at 1-800-322-3623 to terminate use of your Card. We can terminate these Terms and Conditions or your access to Apple Pay for any reason at any time. We can also change these Terms and Conditions, or add or delete any items in these Terms and Conditions including changing eligible Cards, at any time. We will provide notice if required by law. You cannot change these terms, but you can terminate these Terms and Conditions at any time by removing all Mobile Devices and Cards from Apple Pay.
11. *Privacy and Security.* You agree that we may share your information with Apple, payment networks, and others in order to enable you to receive Apple Pay. You understand that these parties may collect information related to your use of Apple Pay. We do not control the privacy and security of your information that may be held by the Apple and that is governed by the privacy policy given to you by Apple. You understand Apple Pay uses electronic transmissions that may not be encrypted. Our Privacy and Security Policy is located at www.firstmidwest.com/privacy.
12. *Communication.* We can provide notices to you concerning these Terms and Conditions and your use of a Card using Apple Pay by posting the material on our website, through electronic notice given to any electronic mailbox we maintain for you or to any other e-mail address or telephone number you provide to us including your mobile phone numbers, or by contacting you at the current address we have on file for you.
13. *Indemnity.* You acknowledge and agree that you are responsible for your use of Apple Pay with your Mobile Device and agree to indemnify and hold us and our officers, directors, employees and agents harmless from and against any loss, damage, liability, cost or expense of any kind, including reasonable attorneys’ service charges that we may incur in connection with (i) a third-party claim related to your use of Apple Pay with your Mobile Device, (ii) the use of Apple Pay by anyone using your Security Credentials or the Security Credentials we assign to someone else at your direction, (iii) your violation of these Terms and Conditions, (iv) your violation of applicable state or federal law, any Federal Reserve Board or clearinghouse association rule or the rights of any third party, or (v) your provision to us of a telephone or mobile phone number, e-mail address or other delivery location that is not your own. Your obligations under this section shall survive termination of these Terms and Conditions.
14. *Risk of Loss.* In the event of a system failure or interruption, your data may be lost or destroyed. You assume the responsibility to verify the accuracy and completeness of any transaction affected by the system failure or interruption through means other than Apple Pay. We will not be liable for failure to provide access or for interruptions in access to

Apple Pay due to a system failure or due to other acts or circumstances beyond our control, and you hereby expressly assume such risks.

We will use commercially reasonable efforts to secure Apple Pay to prevent access by unauthorized persons and to prevent the introduction of any malicious code, such as a computer virus. However, no security system is failsafe, and despite our and Apple's efforts the security of Apple Pay could be compromised or malicious code could be introduced by third parties. You acknowledge that there are certain security, corruption, transmission error and access availability risks associated with using open networks such as the Internet and you hereby expressly assume such risks.

We are not responsible for any delay, error, problem, damages or other loss you may suffer due to malfunction or misapplication of your Mobile Device, including your Internet service provider, wireless provider or third parties to access Apple Pay, and you hereby expressly assume such risks.

15. *Records.* Our records kept in the regular course of business shall be presumed to accurately reflect the contents of your instructions to us and, in the absence of manifest error, will be binding and conclusive. Information available through Apple Pay is generally updated regularly but is subject to adjustment and correction and therefore should not be relied upon by you for taking, or forbearing to take, any action. Account information provided to you as part of Apple Pay is not the official record of your Account or its activity. We will use commercially reasonable care in submitting information through Apple Pay, but assume no responsibility for the accuracy or timeliness of the information and other financial data supplied regarding your Account or transactions.
16. *Limitation of the Bank's Liability; No Warranties.* WE, INCLUDING OUR AFFILIATES AND AGENTS, SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE OR INJURY OR FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING FROM OR RELATED TO THE EQUIPMENT AND/OR THE INSTALLATION OR MAINTENANCE THEREOF TO ACCESS APPLE PAY; FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES; INCOMPATIBILITY OF HARDWARE OR SOFTWARE, FAILURE OR UNAVAILABILITY OF INTERNET ACCESS; PROBLEMS WITH INTERNET SERVICE PROVIDERS AND WIRELESS CARRIERS; PROBLEMS OR DELAYS WITH INTERMEDIATE COMPUTER OR COMMUNICATIONS NETWORKS OR FACILITIES PROBLEMS WITH DATA TRANSMISSION FACILITIES; OR ANY OTHER PROBLEMS YOU EXPERIENCE DUE TO CAUSES BEYOND OUR CONTROL. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY APPLICABLE AGREEMENT, YOU UNDERSTAND AND AGREE THAT YOUR USE OF APPLE PAY IS AT YOUR SOLE RISK AND THAT APPLE PAY AND ALL INFORMATION, SERVICES, PRODUCTS AND OTHER CONTENT (INCLUDING THIRD-PARTY INFORMATION, PRODUCTS AND CONTENT) INCLUDED IN OR ACCESSIBLE FROM APPLE'S WEBSITE IS PROVIDED ON AN "AS IS" BASIS AND IS SUBJECT TO CHANGE AT ANY TIME. YOU ACKNOWLEDGE THAT WE

MAKE NO WARRANTY THAT APPLE PAY WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE. TO THE FULLEST EXTENT PERMITTED BY LAW, WE, INCLUDING OUR AFFILIATES AND AGENTS, DISCLAIM ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS) AS TO APPLE PAY AND ALL INFORMATION, SERVICES AND OTHER CONTENT (INCLUDING THIRD-PARTY INFORMATION, PRODUCTS AND CONTENT) INCLUDED IN OR ACCESSIBLE FROM APPLE'S WEBSITE.

17. *Contact Us.* If you have any questions about Apple Pay, contact Apple directly. If you have any questions about your Card or Account, contact us at 1-800-322-3623.