

Bank of Guam Mobile Check Deposit User Agreement

This Mobile Check Deposit User Agreement ("Agreement") contains the terms and conditions for the use of Bank of Guam's Mobile Check Deposit. Other agreements you have entered into with the Bank of Guam ("Bank", "we", "us", or "our"), including, but not limited to the respective product disclosure, Electronic Funds Transfers Agreement and Disclosures, Deposit Account Agreement and Disclosure, and Online Banking Terms and Conditions, as applicable to your Bank of Guam account(s), are incorporated by reference and made a part of this Agreement. The terms "you" and "your" refer to the account holder. This Agreement applies to consumer accounts only.

- 1. Services.** The mobile remote deposit capture services ("Services") are designed to allow you to make deposits to your checking or savings accounts from remote locations using a smart phone, tablet or other approved mobile device by taking a picture of an eligible check and delivering the image and associated deposit information to the Bank or the Bank's designated processor.
- 2. Acceptance of these Terms.** Your use of the Services constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. You will be prompted to accept or reject any material change to this Agreement the next time you use the Services after the Bank has made the change. Your acceptance of the revised terms and conditions along with the continued use of the Services will indicate your consent to be bound by the revised Agreement. Further, the 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 or send you a secure message to notify you of these interruptions in Services. 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 the Bank from time to time. Images must meet the standards for substitute checks established by ANSI (American National Standards Institute). Currently, we will only accept images submitted by a smart phone, tablet or other approved mobile device through our mobile application. If, at a later date, other software and transmission methods are allowed, the Bank will not be 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. Security Requirements.** To prevent unauthorized usage of the Services, you agree to ensure the security of the mobile device you own and use to access the Services. By securing these devices, we specifically mean installing operating system patches, antivirus software, firewall and spyware detection as applicable and keeping this security software current, as well as securing the physical device from theft or unauthorized use.
- 6. Fees.** Currently, there are no fees for the Services. However, the Bank may change the fees for use of the Services at any time pursuant to the section titled "Acceptance of these Terms" above.

- 7. Eligible Items.** You agree to scan and deposit only negotiable demand drafts drawn on or payable through or at an office of a bank as allowed by the Bank.

When the image of the check transmitted to the Bank is converted to an Image Replacement Document 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:

- Cashier's Checks
- Checks or items containing obvious alterations to any of the fields on the front of a 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 or item is drawn
- Checks dated more than 6 months prior to the date of deposit
- Checks drawn on a foreign financial institution with a routing number not recognized by the Federal Reserve Bank of the United States
- Checks drawn or otherwise issued by you or any other person on any of your accounts or on any account on which you are an authorized signer or joint account holder
- Checks not payable in United States currency
- Checks previously converted to a substitute check, as defined by Regulation CC
- Checks prohibited by the Bank's Online Banking agreement relating to the Services or which are not acceptable for deposit under the terms of the Bank's deposit account agreement
- Checks that are irregular (e.g., check amount number differs from the written amount)
- Checks with no Magnetic Ink Character Recognition (MICR) line
- 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 payable jointly, unless deposited into an account in the name of all payees.
- Checks with any endorsement on the back other than that specified in this Agreement.
- Checks that have previously been submitted through the Services or through a remote deposit capture service offered at any other financial institution
- Checks or items that are drawn or otherwise issued by the US Treasury Department
- Traveler's Checks
- U.S. Postal Money Orders
- U.S. Savings Bonds

- 8. Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Services as "FOR MOBILE DEPOSIT ONLY, BANK OF GUAM" or as otherwise instructed by the Bank. You agree to follow any and all other procedures and instructions for use of the Services as the Bank may establish from time to time.

- 9. 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 the 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 charge back to your account at any time, any item that we subsequently determine was not an eligible item or make adjustments to deposit amounts incorrectly inputted by you at the time of submission. You agree

that the Bank is not liable for any loss, costs, or fees you may incur as a result of our chargeback of an ineligible item.

10. Availability of Funds. It is the intent of the Bank to comply with all requirements of Regulation CC - "Expedited Funds Availability Act" as applicable. Please refer to the Bank's Funds Availability Policy.

Cut-Off Times

Bank of Guam – Islands – 4:00 PM (ChST)

Bank of Guam – San Francisco – 3:00 PM (Pacific)

Deposits that are made before the cutoff times established above will be considered received that business day. Deposits submitted after the established cut-off times will be considered received on the next business day.

11. Disposal of Transmitted Items. Upon your receipt of a confirmation from the Bank that we have received an image that you have transmitted, you agree to retain the check for at least 30 calendar days from the date of the image transmission. After 30 days, you agree to destroy the check that you transmitted as an image, mark it "VOID", or otherwise render it incapable of further transmission, deposit, or presentment. During the time the retained check is available, you agree to promptly provide it to the Bank upon request.

12. Deposit Limits. We 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.

Our current limits are as follows:

| | Per Business Day (4pm-4pm ChST) – Islands (3pm-3pm Pacific) – San Francisco | Per Month (Last consecutive 30 calendar days) |
|--------------------------|--|---|
| Amount Limit | \$3,000 | \$6,000 |
| Transaction Limit | 3 | 6 |

13. Presentment. The manner in which the items are cleared, presented for payment, and collected shall be in the Bank's sole discretion subject to the Deposit Account Agreement and Disclosures or other agreement governing your account.

14. Errors. You agree to notify the Bank of any suspected errors regarding items deposited through the Services right away, and in no event later than 30 days after the applicable Bank account statement is sent. Unless you notify the Bank within 30 days, such statement regarding all deposits made through the Services shall be deemed correct, and you are prohibited from bringing a claim against the Bank for such alleged error.

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

16. Image Quality. The image of an item transmitted to the Bank using the Services must be legible, as solely determined by the Bank. Without limiting the foregoing, the image quality of the item must comply with the

requirements established from time to time by the Bank, ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearinghouse or association.

17. User Warranties and Indemnification. You warrant 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 the 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 the Bank from any loss for breach of this warranty provision.

Any breach of the above warranties may result in cancellation of the Services for your specific profile in the Bank mobile application, closure of your accounts, or termination of the client relationship.

18. Cooperation with Investigators. 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 and without further cost, any originals or copies of items deposited through the Services in your possession and your records relating to such items and transmissions.

19. Termination. We may terminate this Agreement at any time and for any reason. 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 respective product disclosure, Electronic Funds Transfers Agreement and Disclosures, Deposit Account Agreement and Disclosure, and Online Banking Terms and Conditions, as applicable to your Bank account(s), or any other agreement with us.

20. 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.

21. Ownership & License. You agree that the 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 in any anti-competitive manner or to Bank's actual or potential economic disadvantage in any aspect. You may use the Services only for non-business, personal use 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.

- 22. DISCLAIMER OF BANK WARRANTIES.** YOU AGREE YOUR USE OF THE SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT 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 NON-INFRINGEMENT. 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 SERVICES WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.
- 23. LIMITATION OF LIABILITY.** YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SEPCIAL, 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 THESE SERVICES, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF THE BANK OF GUAM HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.
- 24. Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the Territory of Guam, without reference to its conflict of laws, provisions, and applicable federal law.