



Small Business Remote Deposit Online Agreement

Updated 04/22/2022

By enrolling in or using this Service, you agree to be bound by the terms and conditions contained in this Agreement.

Please read this Agreement carefully and keep it for future reference. In addition to this Agreement, your Account is also governed by the Small Business Remote Deposit Online User Guide (the "User Guide"), our Deposit Agreement and Disclosures, including the section entitled "Electronic Banking Services," our Online Banking Service Agreement and our Business Schedule of Fees (collectively, "Account Agreements"). In the event of a conflict between this Agreement and the other Account Agreements, this Agreement will govern with respect to deposits made through the Service.

Definitions

"You" and "your" refer to you as the person or business entity enrolled in the Service. The words "you" and "your" also include any user you authorize to use the Service on your behalf. "Account" means your deposit account with us to which you are authorized to make a deposit using the Service. "Capture Device" means any device approved by us that provides for the capture of images from original Items and for transmission through the clearing process. "Image" means the electronic image of the front and back of an Item, in addition to other required information, as specified by us, in the format we specify. An "Item" is a check, U.S. postal money order, cashier's check, official check, U.S. Treasury check, or, at our option, a government issued document promising a payment to you at a future date ("Registered Warrant"), or any other paper payment instrument that is drawn on a financial institution located within the United States and payable in U.S. currency that is payable to you. Items are deemed to be "items" under the Uniform Commercial Code and "checks" under The Expedited Funds Availability Act and Regulation CC with the exception of Registered Warrants which may not be governed by the Uniform Commercial Code and Regulation CC prior to the payment date. For clarification purposes, the definitions of "business days", "Financial Center", and "Bank of America, Bank, we, us and our" in the Deposit Agreement and Disclosures apply to this Agreement.

1. Description of the Service

The Service is designed to allow you to make electronic deposits to your Account by transmitting Images and MICR (Magnetic Ink Character Recognition) data of paper Items using a Bank-approved Capture Device. You may transmit Images to us only from a Capture Device that is located within the United States.

2. Qualification

In order to enroll in the Service, you must be designated as an authorized signer or owner of an Account that is eligible for this Service, and be approved by us.

3. Conditions to Provision of the Service

As conditions to our provision of the Service, you shall (a) maintain the Account in good standing; (b) subscribe to the Service, and (c) comply with such restrictions on the Service as we may communicate to you from time to time.

4. Hardware and Software Requirements

You agree to transmit an Image to us using only a Capture Device that we have expressly approved for your use to transmit Images. We may change the list of approved Capture Devices from time to time.

We may, but are not required to, reject Images that you transmit to us with an unapproved Capture Device or by other means to which we have not given our consent.

If we provide a Capture Device to you, you agree that you will not use it for purposes other than transmitting Images pursuant to this Agreement. You agree that, upon demand or upon any termination of this Agreement, you will return to us in working condition any such Capture Device and peripheral devices that we have provided to you.

You are responsible for the security of the Capture Device, and for allowing its use only by individuals authorized by you. You agree to implement and maintain specific internal security controls to protect the Capture Device and any nonpublic information about you related to your banking relationship with us. We may require that you implement and maintain additional specific controls, and we may notify you of those controls and amend them from time to time.

You are responsible for all costs of using the Service and operating the Capture Device, including, but not limited to, ink, stamps, and telephone and internet service charges.

You are responsible for maintaining the systems capacity and connectivity required for use of the Service. We shall notify you of those requirements, and we may amend them from time to time.

5. Image Quality

You are responsible for the quality of any Image that you transmit. If an Image that we receive from you or for deposit to your Account does not satisfy our image quality standards as we may establish them from time to time, we may reject the Image without prior notice to you.

Each Image must include the front and back of the Item, and the following information must be clearly readable: amount, payee name, drawer signature, date, check number,

account number, routing and transit number, MICR line, and any endorsement or other information written on the check.

6. Processing Items

You authorize us to process any Item that you send us by processing an Image of the Item or reconverting an Image to an Image Replacement Document. You authorize us and any other bank to which an Item is sent to handle the Item.

7. Limits

We may establish limits on the dollar amount or number of Items or deposits. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit and will not be liable for doing so even if such action causes outstanding checks or other debits to your account to be dishonored and returned. 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.

8. Deposit of Other Items; Deposits When Service Not Available

You agree that you will not use the Service to deposit anything not meeting the definition of Item. If you use the Service to transmit anything that is not an Item, or that for any reason we are not able to recognize as an Item, we may reject it without prior notice to you. You agree to make those deposits through other channels that we offer, such as at a Financial Center, ATM, or night depository. You further agree to use such other channels when the Service may not be available.

9. Returned Items

You are solely responsible for any Item for which you have been given provisional credit, and any such Item that is returned or rejected may be charged to your Account. You acknowledge that all credits received for deposits made through the Service are provisional, subject to verification and final settlement. Any Item that we return to you may be returned in the form of an Image.

10. Handling of Transmitted Items

You agree not to allow an Item to be deposited or presented for payment more than once, to the extent that it could result in the payment of the Item more than once. You will not allow the transmission of an Image of an Item that has already been presented to us or to any bank by any other means. You will not allow transmission of an Image of an Item that has already been transmitted through the Service. If an Image of an Item has been transmitted to us or to any other bank, you will not allow the Item to be subsequently presented by any other means. If any Item is presented or deposited more than once, whether by Image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.

For any Image which you have transmitted, you shall be responsible for preventing the transmission of another Image of the Item or presentment of the Item by any other means. You agree to retain the original of a transmitted Item for at least 14 days from the date of transmission, and thereafter to either destroy any Item of which you have transmitted an Image, or to otherwise render it incapable of transmission or presentment.

You shall be responsible for protecting the security and privacy of any nonpublic personal information, such as name, address or account number, contained on or derived from any Item that you receive for transmission. You shall not allow the disclosure of any such

information to any person except as required to perform the services contemplated by this Agreement.

11. Access to Facilities

You agree to allow us or our agents access to your facilities, information technology infrastructure, Capture Device, and transmission records for the purpose of auditing your compliance with the terms of this Agreement, resolving customer claims, and as otherwise may be required by appropriate legal or regulatory authority.

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 at your expense, any originals or copies of Items in your possession and your records relating to Items and transmissions.

12. Payment Processing

a. Item Processing

At our sole discretion, we may process the Items you send to us electronically through other banks, or we may create Image Replacement Documents that will be processed through traditional check processing methods. If you send us Items that are incomplete, that fail to satisfy our image quality requirements, or otherwise do not allow us to meet the requirements of Check 21 or any image exchange agreement that would cover our further electronic transmission of Items that you send us, or we are otherwise unable to process

Items that you send us, we may charge the Items back to your account or return the Items to you. You agree to be bound by any clearinghouse agreements, operating circulars, and image exchange agreements to which we are a party.

b. Endorsement of Items to be Transmitted

After transmitting any Item, you shall include the following restrictive physical endorsement "for Deposit at Bank of America only," or as otherwise instructed by us.

c. Transmission of Items

The Items you transmit to us are not considered received by us until you receive an acknowledgement of receipt from us. However, the acknowledgement of receipt that we send you does not mean that the transmission was complete or error free.

d. Funds availability

If an Image you transmit through the Service is received and accepted before 8:00 p.m. local time at the location which you designated to us as the location from which you transmit Images, on a business day that we are open, we consider that day to be the day of your deposit. Otherwise, we will consider that the deposit was made on the next business day we are open. Funds from Items deposited through the Service will be made available to you pursuant to our Funds Availability Policy. See the section entitled "When Funds are Available for Withdrawal and Deposit Holds" in the Deposit Agreement and Disclosures brochure that applies to your Account.

13. Fees

You are responsible for paying the fees for use of the Service listed on Schedule A, as the

Bank may change them from time to time. The Bank may change the fees for use of the Service at any time pursuant to the section titled "Amendment" below. You authorize the Bank to deduct any such fees from any account in your name.

14. Representations and Warranties

In addition to all of the warranties set forth in Section 4-207 of the Uniform Commercial Code, as adopted in the State of North Carolina, you make the following representations and warranties to us:

- a. You agree that the Service will be used only by you or other individuals you authorize to use the Service on your behalf, and that you will be responsible for ensuring that each individual you authorize to use the Service complies with the terms of this Agreement. You further agree that you will be liable for the acts and omissions of any individual authorized by you to use the Service.
- b. You agree that you and any user you authorize will use the Service only for lawful purposes and in compliance with all applicable rules, laws and regulations, and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.
- c. You agree that you and any user you authorize will use the Service to transmit and deposit only original paper Items that are payable to you in U.S. currency and that are drawn on or payable at or through depository institutions located within the United States.
- d. You agree that you and any user you authorize will transmit Images to us only from a Capture Device that is located within the United States.
- e. You agree that you and any user you authorize will transmit to us only Items that are acceptable for deposit through the Service, including, but not limited to, Items that are legible and contain machine-readable MICR data.
- f. You agree that you are solely responsible for the original of a transmitted Item, and will store, retrieve and destroy such originals in accordance with our instructions in this Agreement.
- g. You agree that you and any user you authorize will review and verify for accuracy the information contained in the Item before you transmit it to us.
- h. You agree that you and any user you authorize are persons authorized to enforce each Item transmitted through the Service or are authorized to obtain payment of each Item on behalf of a person entitled to enforce an Item.
- i. You agree that you and any user you authorize will transmit to us only Items that bear all required and authorized endorsements. After transmitting any Item, you agree that you and any user you authorize will include the restrictive physical endorsement "for Deposit at Bank of America only," or as otherwise instructed by us.
- j. You agree that you and any user you authorize will not use the Service to transmit or deposit any Item (i) which you know or should know to be fraudulent, altered, unauthorized, or missing a necessary endorsement; (ii) that is a substitute check or Image Replacement Document; (iii) that is draw on your own account; (iv) that is created by you purportedly on behalf of the maker, such as a remotely created check; (v) that has previously been returned as unpaid or uncollected (except as otherwise agreed by us); or (vi) that is greater than 180 days old.

- k. You agree that you and any user you authorize will follow any and all other procedures and instructions for use of the Service as we may establish from time to time.

15. Indemnification and Limitation of Liability

In addition to the indemnifications and limitations on liability contained in the Deposit Agreement and Disclosures, you agree to defend, indemnify and hold us, our officers, affiliates, employees and agents harmless from and against any and all claims, demands, liabilities, damages, losses, costs and expenses (including attorney's fees and expenses of litigation) arising directly or indirectly from your failure to comply with the terms of this Agreement or from your breach of any representation or warranty contained herein.

YOU AGREE THAT WE SHALL NOT BE LIABLE FOR ANY DAMAGES OTHER THAN THOSE CAUSED SOLELY AND DIRECTLY BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND ITS LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF YOUR ACTUAL DAMAGES OR THE TOTAL IN FEES YOU PAID FOR THE USE OF THE SERVICE DURING THE SIX MONTH PERIOD PRIOR TO THE SUPPOSED ACT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

YOU AGREE THAT WE SHALL NOT BE LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSS OF PROFITS OR REVENUE, LOSS OF DATA, INTERRUPTED ACCESS, OR INTERRUPTION OF BUSINESS IN ANY WAY ARISING OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OR THEORY OF RECOVERY, OR ITS TERMINATION, AND IRRESPECTIVE OF WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

16. Intellectual Property

This Agreement does not transfer to you any ownership or proprietary rights in the Service, the Capture Device or any associated software or any part thereof. We or our agents retain all intellectual property rights, title and interest in and to the Service, Capture Device and any associated software.

Neither you nor any user you authorize may (a) sell, lease, distribute, license or sublicense the Service; (b) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Service, Products or any part of them in any way for any reason; (c) provide, disclose, divulge or make available to or permit use of the Service or Products by any third party; (d) copy or reproduce all or any part of the Service or Products; or (e) interfere, or attempt to interfere, with the Service or Products in any way.

17. Termination

We may terminate or suspend the Service, or your use of the Service, at any time for any reason. You may terminate your use of the Service at any time by giving notice to us. Your notice will not be effective until we receive your notice of termination as provided in the User Guide, as it may be amended from time to time, and we have had a reasonable time within which to act upon it. Notwithstanding termination, any Image transmitted through the Service shall be subject to this Agreement.

You agree, upon termination, to return to us any Capture Device that we have provided to you. If you do not return the Capture Device within 30 days, you shall be responsible for the cost of the Capture Device and we may debit that amount from your Account.

18. Amendment

We may change this Agreement at any time. We may add new terms and conditions and we may delete or amend existing terms and conditions. We generally send you advance notice of the change. If a change is favorable to you, however, we may make the change at any time without advance notice. If you do not agree with the change you may discontinue using the Service. However, if you continue to use the Service, that will be deemed your acceptance of and agreement to the change.

19. Governing Law

This Agreement, and your rights and our obligations under this Agreement, are governed by and interpreted according to federal law and the law of the state in which the Financial Center that maintains your account is located. We generally maintain your account at the Financial Center where we opened your account. However, we may transfer your account to another Financial Center in the same state or in a different state. If state and federal law are inconsistent, or if the state law is preempted by the federal law, federal law governs.

Schedule A

Fees

Monthly Service Fee \$15

Early Termination Fee \$250

- Applies if you or we cancel or terminate the Service (including, for example, for 12 consecutive months of inactivity) within 24 months of enrollment after 30-day trial period.

Late Return Fee \$250

- Applies if we don't receive the return of the capture device within 30 days of termination