

## **Bank of Denver**

### **Mobile Deposit User Agreement (“Agreement”):**

This Agreement contains the terms and conditions for the use of BANK OF DENVER Mobile Deposit, and/or other remote deposit capture services that BANK OF DENVER or its affiliates (“BANK OF DENVER”, “us,” or “we”) may provide to you (“you,” or “User”). Other agreements you have entered into with BANK OF DENVER, including the Deposit Agreement and Disclosures governing your BANK OF DENVER account, are incorporated by reference and made a part of this Agreement.

1. **General Terms/Services.** The mobile deposit capture services (“Services”) are designed to allow you to make deposits to your checking, savings, or money market accounts using your approved mobile device or approved flatbed scanner from home or other remote locations by scanning checks and delivering the images and associated deposit information to BANK OF DENVER or BANK OF DENVER’S designated processor. There is currently no charge for the Services.
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. We will notify you of any material change via e-mail or on our website(s) by providing a link to the revised Agreement. Your continued use of the Services will indicate your acceptance of the revised Agreement. Further, BANK OF DENVER 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 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. **Eligible items.** You agree to scan and deposit only checks as that term is defined in Federal Reserve Regulation CC (“Reg. CC”). You agree that the image of the check transmitted to BANK OF DENVER shall be deemed an “item” within the meaning of Articles 3 and 4 of the Uniform Commercial Code. You agree that you will not use the Services to scan and deposit any checks or other items as shown below which shall be considered ineligible items:
  - Checks or items payable to any person or entity other than you.
  - Checks or items containing an alteration to any of the fields on the front of the 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 or items previously converted to a substitute check, as defined in Reg. CC.
  - Checks or items drawn on a financial institution located outside the United States.
  - Checks or items that are remotely created checks, as defined in Reg. CC.
  - Checks or items not payable in United States currency.

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- Checks or items dated more than 6 months prior to the date of deposit.
- Checks or items prohibited by BANK OF DENVER’s current procedures relating to the Services or which are otherwise not acceptable under the terms of your BANK OF DENVER account.
- Checks payable on sight or payable through Drafts, as defined in Reg. CC.
- Checks with any endorsement on the back other than that specified in this agreement.
- Two party (personal) checks, checks, government checks, money orders, traveler’s checks, not on-us official/cashier’s checks, foreign items, HELOC access and credit card advance checks and Comdata checks.

Bank of Denver Mobile Deposit cannot accept the following types of checks. You acknowledge and agree that even if Bank of Denver does not identify a check image as ineligible, the check image may be returned to Bank of Denver because, among other reasons, the check image or any substitute check created from the check image is deemed ineligible by the financial institution upon which it is drawn or any intermediate collecting financial institution. Bank of Denver’s failure to identify a check image you transmit to Bank of Denver as ineligible shall not preclude or limit your obligations

5. **Image Quality.** The image of an item transmitted to BANK OF DENVER using the Services must be legible. The image quality of the items must comply with the requirements established from time to time by ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association.
6. **Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Services as “For deposit only, BANK OF DENVER account # \_\_\_\_\_” or as otherwise instructed by BANK OF DENVER. You agree to follow any and all other procedures and instructions for use of the Services as BANK OF DENVER may establish from time to time.
7. **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 BANK OF DENVER that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or 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. 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.
8. **Availability of Funds.** You agree that items transmitted using the Services are subject to the Funds Availability requirements of Federal Reserve Board Regulation CC and as stated in the Deposit Account Disclosures that you received at account opening. We will make funds from your Mobile Deposit available to you on the second business day after the day of your deposit. However, the first \$200 of your deposit will be available on the first business day.

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9. **Substitute Checks.** Bank represents and warrants that it and/or its service partners have the capability to receive image files and initiate “Substitute Checks/Image Replacement Documents” or “IRD” Bank agrees to remain in Reconverting Bank for all purposes under “Check 21” and makes all warranties there under.
10. **Disposal of Transmitted Items.** Upon your receipt of a confirmation from BANK OF DENVER that we have received the image of an item, you agree to prominently mark the item as “Electronically Presented” or “VOID” and to properly dispose of the item after 10 business days to ensure that it is not represented for payment. And, you agree never to represent the item. You will promptly provide any retained item, or a sufficient copy of the front and back of the item, to BANK OF DENVER as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for BANK OF DENVER’s audit purposes.
11. **Deposit Limits.** We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Services and to modify such limits 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. The current daily dollar limit is \$1,000.00 with a limit of 10 eligible items, the current weekly dollar limit is \$2,000.00 and the monthly dollar limit is \$3,000.00 with a limit of 30 eligible items. Daily and multi-day deposit dollar and count limits may vary and are subject to change at the discretion of BANK OF DENVER.
12. **Hardware and Software.** In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by BANK OF DENVER. BANK OF DENVER is not 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.
13. **Errors.** You agree to notify BANK OF DENVER of any suspected errors regarding items deposited through the Services right away, and in no event later than 60 days after the applicable BANK OF DENVER account statement is sent. Unless you notify BANK OF DENVER within 60 days, such statement regarding all deposits made through the Services shall be deemed correct, and you are prohibited from bringing a claim against BANK OF DENVER for such alleged error.
14. **Errors in Transmission.** By using the Services you accept the risk that an item may be intercepted or misdirected during transmission. BANK OF DENVER bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.
15. **Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in BANK OF DENVER’s sole discretion subject to the Deposit Agreement and Disclosures governing your account.
16. **Ownership & License.** You agree that BANK OF DENVER 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

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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 (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to BANK OF DENVER’s business interest, or (iii) to BANK OF DENVER’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.

17. **Cooperation with Investigations.** You agree to cooperate with BANK OF DENVER 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 Service in your possession and your records relating to such items and transmissions.
18. **DISCLAIMER OF WARRANTIES.** YOU AGREE YOUR USE OF THE SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR 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 NONINFRINGEMENT. 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 SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.
19. **LIMITATION OF LIABILITY.** YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, 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 THIS SERVICES, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF BANK OF DENVER HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.
20. **User warranties and indemnification.** You warrant to BANK OF DENVER that:
  - You will only transmit eligible items.
  - Images will meet the image quality standards.
  - You will not transmit duplicate items.
  - You will not deposit or represent the original item.
  - All information you provide to BANK OF DENVER is accurate and true.
  - You will comply with this Agreement and all applicable rules, laws and regulations.

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You agree to indemnify and hold harmless BANK OF DENVER from any loss for breach of this warranty provision.

21. **Fees.** BANK OF DENVER does not charge a fee for Mobile Deposit. BANK OF DENVER will not be responsible for any fees that your wireless carrier may charge you.
22. **Termination.** We may terminate this Agreement at any time for any reason. This Agreement shall remain in full force and effect until it is terminated by us. Without limiting the foregoing, this Agreement may be terminated if you breach any term in this Agreement, if you use the Services for any unauthorized or illegal purpose or you use the Services in a manner inconsistent with the terms of our Deposit Account Terms and Conditions or another agreement with us.
23. **User Security.** You agree to keep your mobile device secure and to close your Mobile Banking Application when not in use. If you suspect your mobile device has been lost or stolen, you must notify BANK OF DENVER immediately by calling 303-572-3600.
24. **Other terms.** You may not assign this Agreement. This Agreement shall be governed by the laws of the State of Colorado. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth below.

**CUSTOMER:**

**NAME:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**TRANSACTION LIMITATIONS:**

Number of daily checks: 10                      Total daily deposit: \$1,000.00

Number of monthly checks: 30                      Total monthly deposit: \$3,000.00

**BANK ACKNOWLEDGEMENT**

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_