

# Mobile Remote Deposit Services Agreement



Mobile Deposit is designed to allow you to make deposits of checks (“original checks”) to your accounts from home or other remote locations by scanning the original checks and delivering the digital images and associated deposit information (“images”) to us or our processor with your Mobile Device. After you login to Mobile Banking, you may apply for Mobile Deposit.

## Definitions

The following definitions apply to this Agreement:

- “Mobile Deposit” refers to the ability to take a picture of a check and deposit that check to your checking account using your mobile device and our Mobile Banking Application.
- “Image” refers to the picture of the check you are attempting to deposit.
- “Substitute check” is a special paper copy of the front and back of an original check. Substitute checks are specially formatted so they can be processed as if they were original checks. The front of a substitute check states: “This is a legal copy of your check. You can use it the same way you would use the original check.” Please see the “Substitute Checks and Your Rights” section of your Account Agreement for details.
- “Items” refers to the types of checks that are eligible to be deposited using our Mobile Deposit service.
- “Business Days” are Monday through Friday, excluding Saturdays, Sundays and federal holidays.
- “Bank” refers to Mechanics Bank

**1. Other Agreements and Conflicts.** This Agreement supplements and supersedes where inconsistent with your existing [Account Agreement](#) or our [Schedule of Fees and Charges](#). In addition to this Agreement you may have a separate agreement for each eligible account or on-line financial services associated with it. Those agreements will continue to apply to each of those accounts or services. If the other agreement has terms that are not included in this Agreement, then the other agreement will control, unless this Agreement states otherwise.

**2. Limits.** At our sole discretion, we may establish customer eligibility requirements and limit the dollar amount you may deposit per day and during a rolling 30-day period. If you attempt to make a deposit in excess of the established limit, your deposit may be rejected. Eligibility requirements and deposit limits are subject to change at the Bank’s sole discretion, without notice. Bank shall have no liability for refusing to accept a mobile deposit as a result of deposit limits or changed deposit limits.

### 3. Your Representations and Warranties.

You represent and warrant to us that:

- You will scan and deposit only domestic paper checks (*i.e.*, checks or drafts drawn on a United States bank, credit union, or savings and loan and payable on demand in U.S. dollars) and made payable to you and endorsed by you.
- You will not use the Mobile Deposit service to deposit, including but not limited to any of the following:
  - Checks payable to any person or entity other than you (*i.e.*, payable to another party and then endorsed to you).
  - Checks payable to you and another party who is not a joint owner on the account.
  - Checks that contain evidence of alteration, whether or not authorized by the maker of the check, or that 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 is drawn.
  - Checks that are postdated or more than 6 months old.
  - Checks drawn on a foreign bank or payable in a foreign currency.
  - Checks payable to “Cash”.
  - Substitute checks (*i.e.*, paper checks created from an electronic image).
  - Money Orders.
  - Traveler’s checks.
  - U.S. Savings Bonds.
  - Checks that have previously been returned unpaid for any reason.

You make the following warranties and representations with respect to each image:

- Each image is a true and accurate rendition of the front and back of the original check, without any alteration, and the drawer of the check has no defense against payment of the check.
- The amount, payee(s), signature(s), and endorsement(s) on the image and on the original check are legible, genuine, and accurate.
- You will not deposit or otherwise endorse to a third party the original check and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the original check or a paper or electronic representation of the original check such that the person will be asked to make payment based on an item that has already been paid.
- There are no other duplicate images of the original check.
- The original check was authorized by the drawer in the amount stated on the original check and to the payee(s) stated on the original check.
- You are authorized to enforce and obtain payment of the original check. You have possession of the original check and no party will submit the original check for payment.

With respect to each image, you make to us all representations and warranties that we make or are deemed to make to any party pursuant to law, regulation or clearinghouse rule. You agree that files and images transmitted to us will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.

- 4. Requirements.** Each image must provide all information on the front and back of the original check at the time presented to you by the drawer, including, but not limited to, information about the drawer and the paying bank that is preprinted on the original check, MICR information, signature(s), any required identification written on the front of the original check and any endorsements applied to the back of the original check. The image quality must meet the standards established by the American National Standards Institute, the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association, as those standards may be changed from time to time.

Endorsements must be made on the back of the check within 1½ inches from the top edge, although we may accept endorsements outside this space. Your endorsement must include your signature and the words "FOR MOBILE DEPOSIT AT MECHANICS BANK ONLY." Any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

- 5. Receipt of Deposit.** All images processed for deposit through Mobile Deposit will be treated as "deposits" under your current Account Agreement with us and will be subject to all terms of the Account Agreement. When we receive an image, we will confirm receipt via email to you. We shall not be deemed to have received the image for deposit until we have confirmed receipt to you.

Confirmation does not mean that we will accept it for deposit or that the image contains no errors. We are not responsible for any image that we do not receive.

We reserve the right, at our sole and absolute discretion, to reject any image for remote deposit into your account. We will notify you of rejected images.

- 6. Original checks.** After you receive confirmation that we have received an image, you must securely store the original check and keep it for 14 days after it posts, in case it is needed for verification. You agree to promptly, after such period expires, destroy the original check by first marking it "VOID" and then destroying it by cross-cut shredding or another commercially acceptable means of destruction. *After destruction of an original check, the image will be the sole evidence of the original check.*

You agree that you will never re-present the original check or allow it to be re-deposited.

- 7. Returned Deposits.** Any credit to your account for checks deposited using Mobile Deposit is provisional. If original checks deposited through Mobile Deposit are dishonored, rejected or otherwise returned unpaid by the drawee bank, or are rejected or returned by a clearing agent or collecting bank, for any reason, including, but not limited to, issues relating to the quality of the image, you agree that an original check will not be returned to you, but that we may charge back the amount of the original check and provide you with an image of the original check, a paper reproduction of the original check or a substitute check. You will

reimburse us for all losses, costs, damages and expenses caused by or relating to the processing of the returned item. Without our prior approval, you shall not attempt to deposit or otherwise negotiate an original check if it has been charged back to you.

We may debit any of your accounts to obtain payment for any item that has been rejected or returned, for any adjustment related to such item or for any warranty claim related to such item, whether or not the rejection, return, adjustment or warranty claim was made timely.

- 8. Compliance with Law.** You will use Mobile Deposit for lawful purposes and in compliance with all applicable laws, rules and regulations. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations. You shall comply with all laws, rules, and regulations applicable to you, and to the Programs and Services, including, without limitation, Regulation CC, the Uniform Commercial Code and any rules established by an image exchange network through which Image Exchange Items are processed pursuant to this Agreement.
- 9. Mobile Deposit Unavailability.** Mobile Deposit may be unavailable temporarily due to system maintenance or technical difficulties, including those of the Internet service provider, cellular service provider or Internet software. In the event that Mobile Deposit is unavailable and the image has not been sent, you may deposit original checks at one of our offices or through our ATMs or by mailing the original check along with deposit instructions to: Mechanics Bank, P.O. Box 2200, Corona, CA 92878.
- 10. Funds Availability.** For purposes of funds availability, Mobile Deposits are made in California. Money from deposits may not be available for immediate withdrawal. Our general policy for Mobile Deposits confirmed as received before 6:30 PM Pacific Time on a business day is to credit your account no later than the second business day after the day we receive your deposit. Deposits confirmed received after 6:30 PM and deposits confirmed received on holidays or days that are not our business days will be credited to your account on the third business day. Funds will be available as described in our funds availability disclosure. This disclosure is covered in the section titled "Your Ability to Withdraw Funds" in your Account Agreement. If a hold is placed on any deposited funds, a notice will be sent to you.
- 11. Mobile Deposit Security.** You will complete each deposit promptly. If you are unable to complete your deposit promptly, you will ensure that your mobile device remains securely in your possession until the deposit has been completed. It is your responsibility to establish and maintain procedures to safeguard against unauthorized deposits. You will notify us immediately by telephone to 800.797.6324 with written confirmation if you learn of any loss or theft of original checks. You will ensure the safety and integrity of original checks from the time of receipt until the time of destruction. We may audit and monitor your account to ensure your compliance with this Agreement. You agree to cooperate with us and to provide us with any information or documents we may request, at your sole expense, to confirm that you have satisfied your obligations under this Agreement.
- 12. Your Responsibility.** You are solely responsible for the quality, completeness, accuracy, validity and integrity of the image. You are solely responsible if you, intentionally or unintentionally, submit fraudulent, incorrect or illegible images to us or if Mobile Deposit is used, by authorized or unauthorized persons, to submit fraudulent, unauthorized, inaccurate, incorrect or otherwise improper or unusable images to us.

In addition, you agree that you will not modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Service, copy or reproduce all or any part of the technology or Service; or interfere, or attempt to interfere, with the technology or Service. We and our technology partners retain all rights, title and interests in and to the Services, Software and Development made available to you.

This Section 13 shall survive the termination of the Mobile Deposit Service.

- 13. Disclaimer.** BANK'S REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES, AND YOUR RIGHTS AND REMEDIES, SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. BANK AND ITS LICENSORS HEREBY DISCLAIM, AND YOU HEREBY WAIVE AND RELEASE BANK, ITS LICENSORS AND THEIR RESPECTIVE AFFILIATES AND EACH OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM ALL OTHER REPRESENTATIONS, WARRANTIES OF ANY NATURE, OBLIGATIONS AND LIABILITIES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY AND ALL DOCUMENTS, SERVICES, INFORMATION,

ASSISTANCE, SOFTWARE PROGRAMS, OR OTHER MATTERS PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION (i) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A SPECIFIC USE, PURPOSE OR APPLICATION, OR OTHER IMPLIED CONTRACTUAL WARRANTY; (ii) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; (iii) ANY WARRANTIES OF TIMELINESS OR NON-INFRINGEMENT; AND (iv) ANY OTHER WARRANTY WITH RESPECT TO QUALITY, ACCURACY OR FREEDOM FROM ERROR. NOTWITHSTANDING THE GENERALITY OF THE FOREGOING, NEITHER BANK NOR ITS LICENSORS WARRANT THAT OPERATION OF THE PROGRAM WILL BE ERROR-FREE OR THAT ITS OPERATION WILL BE UNINTERRUPTED. WE MAKE NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED WILL BE ACCURATE OR RELIABLE OR THAT ANY ERRORS IN ANY REMOTE BANKING SERVICE OR TECHNOLOGY WILL BE CORRECTED.

#### **Bank's Liability.**

a. Bank will not be liable to you for any of the following: (i) any damages, costs or other consequences caused by or related to Bank's actions that are based on information or instructions that you provide to Bank; (ii) any unauthorized actions initiated or caused by you or your employees or agents; (iii) the failure of third persons or vendors to perform satisfactorily, other than persons to whom Bank has delegated the performance of specific obligations provided in this Agreement; (iv) any refusal of a Payor Bank to pay an Image Exchange Item or Substitute Check for any reason (other than the breach of contract, gross negligence or willful misconduct of Bank), including without limitation, that the Image Exchange Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) Your or any other party's lack of access to the Internet or inability to transmit or receive data; or (vi) failures or errors on the part of Internet service providers, telecommunications providers or any other party's own internal systems.

b. Bank's liability for errors or omissions with respect to the data transmitted or printed by Bank in connection with this Agreement will be limited to correcting the errors or omissions. Correction will be limited to reprocessing, reprinting and/or representing the Image Exchange Items or Substitute Checks to the Payor Bank.

c. Notwithstanding anything to the contrary in this Agreement or your Account Agreement, Bank's aggregate liability for claims related to this Agreement, whether for breach, negligence, infringement, in tort or otherwise, arising during any 12 month period shall be limited to an amount equal to actual damages related to the deposited items paid by Customer to Bank under this Agreement for such 12 month period.

d. Except as otherwise specifically provided in this Agreement, in no event will either party be liable to the other for any consequential, indirect, incidental, special, exemplary or punitive damages, including without limitation any loss of use or loss of business, revenue, profits, opportunity or good will, under any theory of tort, contract, indemnity, warranty, strict liability or negligence, even if such party has been advised or should have known of the possibility of such damages action or claim (whether contract, tort, strict liability or otherwise), even if we have been informed of the possibility thereof, except as otherwise required by law.

14. **Termination.** Bank may terminate this Agreement at any time in its sole discretion, without notice.

#### 15. **Miscellaneous.**

a. **Assignment.** Neither party may assign its rights or obligations under this Agreement without the written consent of the other party; provided, however, Bank may assign or transfer this Agreement, by operation of law or otherwise, to any person that becomes the successor entity of Bank, in connection with a change of control (which shall include a direct or indirect transfer of all or substantially all of Bank's stock or assets to a third party, a merger, reorganization or other such transaction, or any such transaction by a parent corporation of Bank) and you hereby consent to such assignment or transfer in advance. The legal successor(s) resulting from such aforementioned assignment or transfer will succeed to and be bound by this Agreement. Bank may subcontract any

of the work, services, or other performance required of Bank under this contract without your consent.

b. **Consent to Breach Not Waived.** Neither party will, by the lapse of time, and without giving written notice, be deemed to have waived any of its rights under this Agreement. No waiver of a breach of this Agreement will constitute a waiver of any prior or subsequent breach of this Agreement.

c. **Force Majeure.** Neither party will be liable to the other for any delay or interruption in performance as to any obligation in this Agreement resulting from governmental emergency orders, judicial or governmental action, emergency regulations, sabotage, riots, terrorist action, vandalism, labor strikes or disputes, acts of God, fires, electrical failure, major computer hardware or software failures, equipment delivery delays, acts of third parties, or delays or interruptions in performance beyond its reasonable control.

d. **Entire Agreement: Amendment.** Bank may amend this Agreement at any time and from time to time as determined in its sole discretion and without prior notice to you. This Agreement will not be more strongly construed against either party, regardless of who is more responsible for its preparation.

e. **Severability.** If any part of this Agreement is found to be illegal or unenforceable, then that part will be curtailed only to the extent necessary to make it, and the remainder of the Agreement, legal and enforceable.

f. **Applicable Law.** This Agreement will be governed by federal law, and to the extent not preempted, by internal laws of the State of California without regard to its conflicts of law provisions.

h. **Relationship of Parties.** Nothing in this Agreement creates a joint venture, partnership, principal agent or mutual agency relationship between the parties. No party has any right or power under this Agreement to create any obligation, expressed or implied, on behalf of the other party.

i. **Headings.** The titles or captions used in this Agreement are for convenience only and will not be used to construe or interpret any provision hereof.