

## Mobile edeposit Agreement

This Agreement contains the terms and conditions for the use of Country Club Bank, a division of First National Bank of Omaha ("FNBO") Mobile edeposit, and/or other remote deposit capture services that FNBO or its affiliates ("FNBO", "us," or "we") may provide to you ("you," or "User"). Other agreements you have entered into with FNBO, including the Depository Agreement and Disclosures governing your FNBO account, are incorporated by reference and made a part of this Agreement.

1. **Services.** The remote deposit capture services ("Services") allows you to make deposits of the electronic image of a check or substitute check (each "item") to your eligible Accounts by delivering the images and items from the capture device (camera) located on your Mobile Device to FNBO or FNBO's designated processor. FNBO reserves the right to charge for use of the Services. In addition, other fees such as for returned items and overdrafts may apply for deposits made through the Services. Please reference our fee schedule.
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 as required by applicable law. Your continued use of the Services will indicate your acceptance of the revised Agreement. Further, FNBO 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 are not responsible for any technical or other difficulties you experience when attempting to use the Services or any resulting damages that you may incur. If the Services are unavailable for any reason and you want your deposit processed on today's business date, you must make your deposits by another method, such as an in-person deposit at a FNBO branch or a deposit by mail. Some of the Services have qualification requirements which apply each time you sign on to Mobile edeposit 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. You agree that your deposits using Mobile edeposit will not exceed the following deposit limits and may be changed from time to time.

### **Business Mobile edeposit**

**Payment Limit** – per item/per day \$25,000

**Weekly Limit** (5 business days) – \$200,000/week

**Fees** – .50 per Item deposited

### **Consumer Mobile edeposit**

**Payment Limit** – per item/per day \$5,000

**Weekly Limit** (5 business days) – \$25,000/week

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 FNBO shall be deemed an "item" within the meaning of Article 4 of the Uniform Commercial Code as adopted in Missouri.
5. **Ineligible items.** You agree that you will not use the Services to scan and deposit any checks or other items as shown below:
  - a. Checks or items payable to any entity other than your business name.

- b. Checks or items containing obvious alterations to any of the fields on the front of the check or item.
  - c. Checks or items which you know or suspect are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn.
  - d. Checks or items previously converted to a substitute check, as defined in Reg CC.
  - e. Checks or items drawn on a financial institution located outside the United States.
  - f. Checks or items not payable in United States currency.
  - g. Checks or items dated more than 6 months prior to the date of deposit.
  - h. Checks that have been used as a source document for a remote deposit or similar deposit with another financial institution or FNBO.
  - i. Checks or items prohibited by FNBO's current procedures relating to the Services or which are otherwise not acceptable under the terms of your FNBO account.
6. **Image Quality.** The image of an item transmitted to FNBO using the Services must be legible and must include both the front and the back of the item. The image quality of the items must comply with the requirements established from time to time by the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association.
7. **Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Services as the endorsement of the named payee (s) and include "For Country Club Bank, a division of FNBO edeposit Only" followed by the account number, a valid endorsement, unless otherwise instructed by FNBO. You agree to follow any and all other procedures and instructions for the use of the Services as FNBO may establish from time to time. Failure to properly endorse items may cause the deposit to reject.
8. **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 or errors that occur during transmission. An image of an item shall be deemed received by FNBO only when you receive a confirmation from FNBO that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or complete or that we have completed our review of the image and we may still reject it for any reason in our sole discretion.
9. **Availability of Funds.** You agree that items transmitted using the Services are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. In general, if an image of an item you transmit through the Service is received and accepted before 4pm Central Time 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 deposited using the Services will generally be made available the following business day from the day of the deposit. FNBO reserves the right to delay the availability of funds for 5 business days based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors at FNBO, in its sole discretion, deems relevant.
10. **Disposal of Transmitted Items.** Upon your receipt of a confirmation from FNBO that we have received the image of an item and that your deposit has been approved, you agree to prominently mark the item as "Electronically Presented" or "VOID" and to properly and securely dispose of the item to ensure that it is not represented for payment. And, you agree

never to cash, negotiate, deposit or present the item or an image of it with us or any other financial institution, person or entity.

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.
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 FNBO from time to time. See [www.countryclubbank.com](http://www.countryclubbank.com) for current hardware and software specifications. FNBO 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 FNBO of any suspected errors regarding items deposited through the Services right away, and in no event later than 60 days after the applicable FNBO account statement is sent. Unless you notify FNBO 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 FNBO for such alleged error.
14. **Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in FNBO's sole discretion subject to the Depository Agreement and Disclosures governing your account.
15. **Ownership & License.** You agree that FNBO 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 (i) in any anti- competitive manner, (ii) for any purpose which would be contrary to FNBO's business interest, or (iii) to FNBO's actual or potential economic disadvantage in any aspect. You may use the Services only for 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.
16. **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.
17. **LIMITATION OF LIABILITY.** YOU AGREE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW 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 FNBO HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

**18. User warranties and indemnification.** You warrant to FNBO that:

- a. You will only transmit images of eligible items to us through the Services.
  - b. Each image you transmit to us through the Services will meet our image quality standards as they are in effect at the time and will include a complete and accurate representation of the front and back of the item.
  - c. You will not transmit duplicate images of items to us through the Services.
  - d. The original check used to create each image transmitted to us through the Services has not been previously deposited, duplicated or used to create another image or electronic fund transfer.
  - e. You will not cash, negotiate, deposit or present the item or an image of an item transmitted to us through the Services to or with us or any other financial institution, person or entity.
  - f. No subsequent transferee of the item or an image of an item transmitted to us through the Services (or any substitute check created from that image), including but not limited to FNBO, a collecting or returning bank, the drawer, the drawee, the payee or any endorser, will sustain a loss as the result of the fact that the image of the item (or a substitute check created from that image) was presented for payment or returned instead of the original paper check.
  - g. All information you provide to FNBO is accurate and true.
  - h. You will comply with this Agreement and all applicable rules, laws and regulations.
  - i. You make all of the warranties to us regarding each image of an item you transmit to us through the Services that you would have made to us if you had deposited the original item with us.
- You agree to indemnify and hold harmless FNBO from any loss for breach of this warranty provision.

**19. Other terms.** You may not assign this Agreement. This Agreement shall be governed by the laws of the State of Missouri and of the United States. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid.