

National Bank of Commerce Mobile Deposit Terms & Conditions

This Addendum ("Addendum") to the National Bank of Commerce Online Banking Agreement and National Bank of Commerce Mobile Banking Agreement between you and National Bank of Commerce sets forth the terms and conditions of National Bank of Commerce's Mobile Deposit Service (the "Service"), which allows you to deposit certain checks into certain deposit accounts that are eligible to receive mobile deposits ("Mobile Deposit Accounts") via an application (the "App") installed on your supported mobile device. The App is considered part of the Service.

Except as modified by this Addendum, all terms and conditions in the National Bank of Commerce Online Banking Agreement remain in full force and effect. If there is a conflict with the National Bank of Commerce Online Banking Agreement (the "Agreement") and this Addendum, this Addendum shall control.

By enrolling in the Service, you agree to be legally bound by this Addendum and the National Bank of Commerce Online Banking Agreement.

1. Definitions. Unless otherwise noted, the words used in this Addendum have the meanings set forth in the National Bank of Commerce Online Banking Agreement, except that the terms "we," "us," "our," "National Bank of Commerce," and "Bank" refer not only to National Bank of Commerce or our affiliates but also to third parties who assist National Bank of Commerce in providing the Service ("Third Party Service Providers").

2. Fee. There is no fee to use this service.

3. Equipment. To use the Service, you must have a supported mobile device (e.g., smartphone, tablet etc.) with a supported camera and a supported operating system, have a data plan for your mobile device, and download the App to your mobile device (collectively, the "Mobile Device"). We do not guarantee that your particular mobile device, mobile device camera, mobile device operating system or mobile carrier will be compatible with the Service.

4. Limitations. When using the Service, you may experience technical or other difficulties. We do not assume responsibility for any such difficulties or any resulting damages that you may incur. For security reasons, the Service has 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 Service, in whole or in part, or your use of the Service, in whole or in part, immediately and at any time without prior notice to you. We reserve the right to limit the number of Mobile Devices through which you may access the Service.

Except as expressly provided in this Addendum, deposits made through the Service are subject to all limitations and terms set forth in the relevant deposit agreement governing your Mobile Deposit Account as it may be modified from time to time, including, but not limited to, those related to deposit acceptance, crediting, collection, endorsement, processing order and errors.

5. Eligible Checks and Items. You agree to scan and transmit only checks as that term is defined in Federal Reserve Regulation CC ("Reg CC").

You agree that the image of the check transmitted to us shall be deemed an "item" within the meaning of Article 4 of the applicable Uniform Commercial Code. You agree that you will not use the Service to scan and deposit any checks or other items as shown below:

- a. Checks or items payable to any person or entity other than you, or to you and another party.
- b. Checks or items containing alteration to any of the fields on the front of the check or item (including the MICR line), 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.
- c. Checks or items previously converted to a substitute check, as defined in Reg CC.
- d. Checks or items drawn on a financial institution located outside the United States.

- e. Checks or items that are remotely created checks, as defined in Reg CC.
- f. Checks or items not payable in United States currency.
- g. Checks or items issued by a US federal agency.
- h. Savings bonds or traveler's checks.

Nothing in this Addendum should be construed as requiring National Bank of Commerce to accept any check or item for deposit, even if National Bank of Commerce has accepted that type of check or item previously. Nor shall National Bank of Commerce be required to identify or reject any checks or items that you may scan and deposit that fail to meet the requirements of this Addendum.

6. Security of Your Mobile Device and Account Information. You are responsible for (i) maintaining the confidentiality and security of your Mobile Devices, access number(s), password(s), security question(s) and answer(s), account number (s), login information, and any other security or access information, used by you to access the Service (collectively, "Access Information"), and (ii) preventing unauthorized access to or use of the information, files or data that you store, transmit or use in or with the Service (collectively, "Account Information"). You agree not to supply your Access Information to anyone. You will be responsible for all electronic communications, including image transmissions, text message, email and other data ("Communications") entered using the Access Information. Any Communications received through the use of the Access Information will be deemed to be sent or authorized by you. You agree to immediately notify us if you become aware of any loss, theft or unauthorized use of any Access Information, including your Mobile Devices. We reserve the right to deny you access to the Service (or any part thereof) if we believe that any loss, theft or unauthorized use of Access Information has occurred.

7. Image Quality. The image of a check or item transmitted to National Bank of Commerce using the Service must be legible. The image quality of the checks and items must comply with the standards established from time to time by the American National Standards Institute, or any higher standard set by us, and with any requirements set by any clearing house we use or agreement we have with respect to processing checks or items. You agree that we shall not be liable for any damages resulting from a check or item's poor image quality, including those related to rejection of or the delayed or improper crediting of such a check or item, or from any inaccurate information you supply regarding the check or item.

8. Endorsements and Procedures. Before transmission, National Bank of Commerce will restrictively endorse any check or item transmitted through the Service as "For deposit only" along with other identifying information such as the bank routing number and date of deposit. You agree to follow any and all other procedures and instructions for use of the Service as we may establish from time to time. You agree to supply any information in your possession that we request regarding a check or item deposited or attempted to be deposited through the Service.

9. Receipt of Checks and Items; Crediting. We reserve the right to reject any check or item transmitted through the Service, at our discretion, without liability to you. We are not responsible for checks or items we do not receive in accordance with this Addendum or for images that are dropped or damaged during transmission. An image of a check or item shall be deemed received when you receive a confirmation from National Bank of Commerce that we have received the image.

As provided in the relevant deposit agreement governing your Mobile Deposit Account and subject to National Bank of Commerce's Availability Disclosure, deposits received and accepted before a particular time of the day (the "Cutoff Time") on a Business Day will generally be made available to you on the business day following the deposit date and deposits received and accepted after the Cutoff Time on a Business Day are credited on the next Business Day. National Bank of Commerce may establish later Cutoff Times for checks and items deposited via the Service, crediting your Mobile Deposit Account for such checks and items even if received and accepted after the applicable Cutoff Time specified in the relevant deposit account agreement governing your Mobile Deposit Account. In the event that National Bank of Commerce establishes later Cutoff Times for checks and items deposited via the Service, we reserve the right to change the Cutoff Times at any time as permitted by law. Regardless of whether National Bank of Commerce establishes later Cutoff Times for checks and items deposited via the Service, you understand and agree that checks and items must be received and accepted by National Bank of Commerce before the applicable Cutoff Time and must not be incomplete, illegible or erroneous to be eligible for same-day crediting. See the Mobile Banking FAQs for details on Cutoff Time for this Service. Provisional credit (memo-credit) will not be granted for deposits

made through the Service. This means you will not be able to draw cash against deposits made through the service until the deposit has been posted to your account. Deposits made through the service are posted during our nightly processing.

You enter the amount of the check as a deposit is made through the Service. If we determine that the check is for a different amount, we may adjust the check amount and notify you of the adjustment. At all times, the check will be deposited for the amount read by us.

10. Availability of Funds. We will make fund available for checks and items received, accepted, and successfully processed through the Service according to our standard funds availability policy for your Mobile Deposit Account.

11. Disposal of Transmitted Checks and Items. After a check or item has posted to your account (see the FAQs for more details), you agree to prominently mark the check or item as "Electronically Presented." You agree never to re-present to us or any other party a check or item that has been deposited through the Service unless we notify you that the check or item will not be accepted for deposit through the Service. You will promptly provide any check or item, or a sufficient copy of the front and back of the check or item, to National Bank of Commerce as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any check or item, or for National Bank of Commerce's audit purposes. You agree to destroy or otherwise properly dispose of checks and items that have been accepted for deposit through the Service and have cleared to ensure that such checks and items are not re-presented for payment and, prior to disposal or destruction, to safeguard such checks and items.

12. Deposit Limits. We reserve the right to impose limits on the amount(s) and/or number of deposits (over a period of time set by us) that you transmit using the Service and to modify such limits from time to time. See the Mobile Banking FAQs for more information about limits on the number and amount of checks or items being made through the Service.

13. Presentment. The manner in which the checks and items are cleared, presented (or re-presented) for payment, and collected shall be in National Bank of Commerce's sole discretion as set forth in the relevant deposit account agreement governing your Mobile Deposit Account.

14. Promises You Make to Us; Indemnity. You warrant to National Bank of Commerce that:

- a. You will only transmit eligible checks and items that you are entitled to enforce, and all checks and items will include all signatures required for their negotiation.
- b. Images will meet National Bank of Commerce's image quality standards in effect from time to time.
- c. You will not transmit an image or images of the same check or item to us more than once and will not deposit or negotiate, or seek to deposit or negotiate, such check or item with any other party.
- d. You will not deposit or re-present the original check or item with National Bank of Commerce or any other party.
- e. All information you provide to National Bank of Commerce is accurate and true, including that all images transmitted to National Bank of Commerce accurately reflect the front and back of the check or item at the time it was imaged.
- f. You will comply with this Addendum and all applicable rules, laws and regulations.
- g. You will use the Services only for your own deposits and will not allow the use of the Service by way of a service bureau business, timesharing, or otherwise disclose or allow use of the Service by or for the benefit of any third party.
- h. By your utilization of this App you acknowledge that the Third Party Service Provider of the App may have access to the nonpublic personal information transmitted by you through the App.

You agree to indemnify and hold harmless National Bank of Commerce from any loss for breach of this warranty provision or the terms of this Addendum.

15. Changes to the Service. We reserve the right to terminate, modify, add and remove features from the Service at any time in our sole discretion. You may reject changes by discontinuing use of the Service. Your continued use of the Service will constitute your acceptance of and agreement to such changes. Maintenance to the Service may be performed from time-to-time resulting in interrupted service, delays or errors in the Service and we shall have no liability for any such interruptions, delays or errors. Attempts to provide prior notice of scheduled maintenance may be made, but we cannot guarantee that such notice will be provided.

16. Cancellation By You; Termination or Refusal By Us. You may cancel the Service at any time by calling 715.394.5531 and allowing us a reasonable opportunity to act upon your request. If you cancel, we will not refund any portion of any fee assessed for any checks and items previously deposited via the Service. We will have no obligation to honor any instruction, in whole or in part, that (i) we reasonably believe is used for any illegal or improper purpose or activity; (ii) we have reason to believe may not be authorized by you; (iii) would violate any law, rule or regulation applicable to us or the Service; (iv) is not in accordance with any other requirement stated in this Addendum or any of our policies, procedures or practices; or (v) for our protection or yours, we have reasonable cause not to honor. We reserve the right to refuse to honor an instruction or suspend or terminate the Service, in whole or in part, at any time, with or without notice to you, with or without cause, including, without limitation, if: (a) we have reason to believe that your account has been compromised or mismanaged in any way, such as by unauthorized or erroneous use of your Access Information; or (b) we believe the Service is not being used for its intended, bona fide and lawful purposes under this Addendum and the National Bank of Commerce Online Banking Agreement; (c) we have reason to believe the Service is being used in an anti-competitive manner or contrary to National Bank of Commerce's business interests; (d) your account is closed, access to your account is restricted for any reason, or if you do not use the Service for a period of time or (e) following initial enrollment you do not use the Service. Termination will not affect your liability or obligations under this Addendum, the National Bank of Commerce Online Banking Agreement or any other agreements you have with us for actions we have taken on your behalf.

17. Ownership and License. You agree that National Bank of Commerce retains all ownership and proprietary rights in the Service, associated content, technology, and website(s). You agree not to copy, disassemble, decompile, or otherwise reverse engineer any part of the Service, including the App. You may use the Service only for your own benefit. 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 Service. In the event that you attempt to use, copy, license, sublicense, sell or otherwise convey or to disclose the App or any other part of the Service, in any manner contrary to the terms of this Addendum, we shall have, in addition to any other remedies available to us, the right to injunctive relief enjoining such actions.

18. Third Party Beneficiary. You agree that our Third Party Service Providers, may rely upon the provisions of this Addendum, including its disclaimer of warranties and any limitations of liability and that such Third Party Service Providers are, for the purpose of this Addendum, third party beneficiaries to this Addendum with the power to enforce this Addendum.

19. Liability. WE ARE ONLY RESPONSIBLE FOR PERFORMING THE SERVICE AS EXPRESSLY STATED IN THIS ADDENDUM. THERE IS NO GUARANTEE THAT ACCESS TO THE SERVICE WILL BE AVAILABLE AT ALL TIMES AND WE SHALL NOT BE LIABLE IF YOU ARE UNABLE TO ACCESS THE SERVICE. THE SERVICE IS PROVIDED "AS IS" AND, EXCEPT AS PROHIBITED BY LAW, WE AND OUR THIRD PARTY SERVICE PROVIDERS DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES CONCERNING THE SERVICE, APP, EQUIPMENT OR SOFTWARE, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF ANY PARTIES' PROPRIETARY RIGHTS. IN NO CASE SHALL NATIONAL BANK OF COMMERCE OR ANY OF OUR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY LOSS OF DATA, PROFIT, GOODWILL, OR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE SUFFERED BY YOU ARISING OUT OF OR RELATED TO THIS ADDENDUM, THE APP, THE SOFTWARE, THE EQUIPMENT OR THE SERVICE WHETHER OR NOT SUCH CLAIM FOR DAMAGES IS BASED ON TORT OR CONTRACT OR WHETHER WE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES, EXCEPT AS MAY BE REQUIRED BY LAW. IN STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INDIRECT SPECIAL OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, NATIONAL BANK OF COMMERCE'S AND OUR THIRD PARTY SERVICE PROVIDERS' LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY APPLICABLE LAW.

20. **Miscellaneous.** This Addendum is hereby incorporated by reference into and subject to the provisions of the National Bank of Commerce Online Banking Agreement and the National Bank of Commerce Mobile Banking Agreement, including, but not limited to its provisions regarding arbitration (if you did not reject the arbitration provision), amendment and indemnification. If any portion of this Addendum is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force.

21. **Geographic Constraints.** You agree that you will not use the Service in locations that are prohibited under U.S. law and regulations, including laws and regulations issued by the Office of Foreign Assets Control.