



Mobile Deposit Terms and Conditions

November 2018

MOBILE CHECK DEPOSIT SERVICE USER AGREEMENT



This Mobile Check Deposit Service User Agreement (this "Agreement") sets forth the terms and conditions governing your use of BankUnited's Mobile Check Deposit Service (the "Mobile Deposit Service"). This Agreement supplements our applicable disclosure statements and agreements, including, without limitation, our Depositor's Agreement, Online Banking Terms and Conditions, Schedule of Fees and Funds Availability Disclosure ("Other Agreements"), all of which are incorporated herein by reference. In the event of any conflict between this Agreement and the Other Agreements, the terms of this Agreement shall control with respect to the Mobile Deposit Service. Any capitalized term not defined herein shall have the meaning ascribed to it in the Other Agreements.

PLEASE READ THIS AGREEMENT CAREFULLY. BY CLICKING TO INDICATE YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH HEREIN, YOU ACKNOWLEDGE THAT YOU RECEIVED, READ, UNDERSTAND AND AGREE TO THIS AGREEMENT.

DESCRIPTION OF SERVICE

The Mobile Deposit Service is designed to enable you to make single item deposits to your checking, savings or money market accounts from your home or other remote locations by creating an electronic image of a paper check and using the BankUnited's Mobile Banking application ("Mobile Banking App") to scan and transmit the image and associated deposit information to us or our designated processor.

QUALIFICATION

In order to enroll in and use the Mobile Deposit Service you must meet the eligibility criteria as determined by us in our sole discretion. Eligibility criteria includes, but is not limited to, being a customer of BankUnited for at least 90 days with an active checking, savings or money market account open and in good standing.

SERVICE REQUIREMENTS

Use of the Mobile Deposit Service requires that you have (i) an internet enabled mobile telephone, computer, tablet or other device with a camera,

(ii) enrolled in our Online Banking Service, and (iii) downloaded the latest version of our Mobile Banking App. All required hardware and software will be at your expense. The Bank is not responsible for any third party software that you may need to use the Mobile Deposit Service. 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.

ELIGIBLE ITEMS FOR THE SERVICE

You agree to scan and transmit only "checks" as that term is defined in the Federal Reserve Regulation CC ("Reg. CC") and only those checks that are permissible under this Agreement or such other items as we, in our sole discretion, elect to include in the Mobile Deposit Service. You agree that the image of the check transmitted to us shall be deemed an "item" within the meaning of Articles 3 and 4 of the applicable Uniform Commercial Code. You agree that you will not scan and deposit any of the following types of checks or other items which shall be considered ineligible items:

- checks payable to any person or entity other than the person or entity that owns the account that the check is being deposited into
- checks containing an alteration 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
- checks payable jointly unless deposited into an account in the name of all payees
- checks previously converted to a substitute check as defined in Reg. CC
- checks drawn on a financial institution located outside the United States
- checks that are remotely created checks, as defined in Reg. CC
- checks not payable in United States currency
- checks dated more than 6 months prior to the date of deposit
- checks that have previously been submitted through the Mobile Deposit Service or through

a remote deposit capture service offered at any other financial institution

- traveler's checks, money orders or savings bonds
- checks payable on sight or payable through drafts, as defined in Reg. CC
- checks prohibited by the Bank's current procedures relating to the Mobile Deposit Service or which are otherwise not acceptable under the terms of the Other Agreements.

IMAGE QUALITY

All images you transmit to us using the Mobile Deposit Service must be legible. Without limiting the foregoing, the image quality of the items must comply with the standards established from time to time by the Bank, the American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve Board or any other regulatory agency, clearinghouse or association. You agree that the Bank shall not be liable for any damages resulting from an item's poor image quality including, without limitation, those related to rejection of, or the delayed or improper crediting of, such a check, or from any inaccurate information you supply regarding the check.

ENDORSEMENTS AND PROCESSING

You agree to restrictively endorse any item transmitted through the Mobile Deposit Service as "For mobile deposit at BankUnited, account # _____" or as otherwise instructed by the Bank. Without the proper endorsement, the deposited check may be rejected. After an item has been scanned and submitted for deposit, you shall not otherwise transfer or negotiate the original item, substitute check or any other image thereof. You agree to promptly supply any information in your possession that we request regarding an item deposited or attempted to be deposited through the Mobile Deposit Service including the original item. You agree to follow any and all other procedures and instructions for use of the Mobile Deposit Service as the Bank may establish from time to time.

RECEIPT OF ITEMS

We reserve the right to reject any item transmitted through the Mobile Deposit Service, at our discretion, without liability to you even if such action causes outstanding checks or other debits to your account to be dishonored and returned. We are not responsible for items that 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 the Bank that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete, or will be considered a deposit and credited to your account. If there is a discrepancy between the entered and confirmed amount and the amount on the scanned image, we will credit the account based on the scanned image. If the image transmitted to us does not comply with our requirements for content and/or format, we may, in our sole discretion: (i) further transmit the image and data in the form received from you; (ii) repair or attempt to repair the image or data and then further transmit; (iii) process the item as photocopies in lieu of originals; or (iv) return the image and data to you unprocessed and chargeback your account.

RETENTION OF ORIGINAL ITEMS

Once an item has been credited to your account, you must mark the original item on the front as "Deposited and the Date". You agree to retain the original item for at least sixty (60) days from the date of the image transmission. During this sixty (60) day period you must store the original paper item securely using precautions at least as secure as those you would use to protect a blank check. During this sixty (60) day period, you agree to promptly provide the original item to the Bank upon request. After sixty (60) days, you agree to destroy the original item, mark it "VOID", or otherwise render it incapable of further transmission, deposit or presentment.

CHARGEBACKS

We reserve the right to chargeback your account, or any other deposit account you maintain with us, at any time, for any item that is: (i) rejected by us for any reason including, without limitation, an item that we believe is not an eligible item, or has been previously submitted or deposited with us or with another financial institution, or (ii) returned to us. We can also charge fees connected to the chargeback as described in your Other Agreements with us. You agree that we are not liable for any loss, costs or fees you may incur as a result of our chargeback of an item.

DEPOSIT LIMITS

We may establish limits on the dollar amount and/or number of items or deposits that you can transmit using the Mobile Deposit Service from time to time.

We can modify these limits and add other limits at any time at our sole discretion. Your limits will be displayed within the Mobile Deposit Service prior to each deposit. If you attempt to initiate a transmission in excess of these limits, we may reject your deposit without liability hereunder. 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 or required to allow such a deposit at other times.

FUNDS AVAILABILITY

The funds availability requirements of Reg. CC do not apply when you transmit electronic images of items to us. In general, if an image of an item you transmit through the Mobile Deposit Service is received and accepted before 5:00 p.m. ET on a business day that we are open, we will consider that day to be the day of deposit. If an image is received and accepted after 5:00 p.m. ET on a business day that we are open or on a non-business day, we will consider the deposit to be made on the next business day we are open. Funds from deposits made using the Mobile Deposit Service will generally be made available in accordance with the time frames set forth in our Funds Availability Policy. We, however, may apply additional delays on the availability of funds based on any other factors as determined by us in our sole discretion. We will generally notify you if we delay your ability to withdraw or transfer funds and will attempt to tell you when such funds will be available.

PRESENTMENT

The manner in which the items are cleared, presented for payment and collected shall be in our sole discretion subject to the terms of the Depositor's Agreement governing your account with us.

FEES

Currently there is no charge for the Mobile Deposit Service. We may, upon at least thirty (30) days prior notice to you, to the extent permitted by applicable law, charge a fee for use of the Mobile Deposit Service. If you continue to use the Mobile Deposit Service after the fee becomes effective you agree to pay the service fee that has been disclosed to you, as amended from time to time. You authorize the Bank to deduct such fees from any account you maintain with us.

YOUR RESPONSIBILITIES AND PROMISES TO US

You represent and warrant to the Bank that:

- You will only transmit eligible items through the Mobile Deposit Service.
- Any image we receive accurately and legibly represents all of the information on the front and back of the original item as originally drawn.
- The item has not been previously submitted or deposited with us or with another financial institution.
- You will not re-deposit or re-present the original item unless we advise you otherwise.
- All information you provide to us in connection with the transmission of an item through the Mobile Deposit Service is accurate, true and complete.
- You will comply with this Agreement and all laws, rules and regulations applicable to your use of the Mobile Deposit Service and not use the Mobile Deposit Service for any purpose prohibited by law.
- You will employ commercially reasonable security measures and firewalls sufficient to protect transmissions and storage to ensure no unauthorized access or duplicate presentment.
- You are not aware of any factor which may impair the collectability of the item.

ERRORS

You agree to immediately notify us of any suspected errors regarding items deposited through the Mobile Deposit Service, and in no event later than sixty (60) days after the deposit is first posted in the transaction history or appears on your applicable BankUnited account statement. Unless you notify us within such sixty (60) days, such statement regarding all deposits made through the Mobile Deposit Service shall be deemed correct, and you are prohibited from bringing a claim against the Bank for such alleged error.

ERRORS IN TRANSMISSION

By using the Mobile Deposit Service you accept the risk that an item may be intercepted or misdirected during transmission. The Bank bears no liability to you or to any other person for any such intercepted or misdirected items or information disclosed through such errors.

SERVICE CHANGES AND DISCONTINUANCE

We may modify, add or remove features from, discontinue, or suspend the Mobile Deposit Service at any time in our sole discretion, with or without notice, and without liability to you. Your use of the Mobile Deposit Service is subject to and conditioned upon your complete compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, you may not use the Mobile Deposit Service (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to the Bank's business interest, or (iii) to the Bank's actual or potential economic disadvantage in any aspect. We reserve the right, subject to applicable law and regulation, to terminate your right to use the Mobile Deposit Service at any time and for any reason including, without limitation, if we, in our sole discretion, believe that you have engaged in conduct or activities that violate any of the terms of this Agreement or, if you provide us with false or misleading information or if you interfere with other users or in the administration of the Mobile Deposit Service.

SERVICE CANCELLATION

You may cancel the Mobile Deposit Service at any time by notifying us in writing and discontinuing your use of the Mobile Deposit Service. Any pending transactions may be completed or canceled by us, in our discretion, upon your cancellation of the Mobile Deposit Service. Cancellation of your BankUnited Online Banking service or closure of your deposit account that you use in connection with the Mobile Deposit Service will result in the cancellation of the Mobile Deposit Service. No cancellation of the Mobile Deposit Service will affect your liability or obligations under this Agreement accruing prior to the date of cancellation or any provisions of this Agreement which, by their nature or by express provision, are intended to survive termination.

SERVICE DISRUPTION

Maintenance to the Mobile Deposit Service may be performed from time-to-time resulting in interrupted service, delays or errors. The Bank shall have no liability for any such interruptions, delays or errors. We will attempt to provide prior notice of scheduled maintenance, but we cannot guarantee that such notice will be provided.

INDEMNIFICATION

You acknowledge and agree that you are personally responsible for your conduct while using the Mobile Deposit Service and agree to indemnify, defend and hold harmless the Bank and its officers, directors, employees, shareholders, parents, subsidiaries, affiliates, agents and third party service providers from and against any losses, damages, liabilities, costs or expenses of any kind including, without limitation, reasonable attorney's fees, court costs and related litigation costs and expenses that we may incur in connection with any third party claim or otherwise, arising out of or concerning your use of the Mobile Deposit Service or the use of the Mobile Deposit Service by anyone using your password or credentials, or your violation of this Agreement. Your indemnification obligations shall survive termination of this Agreement.

DISCLAIMER OF WARRANTIES

THE MOBILE DEPOSIT SERVICE AND ALL INFORMATION AND CONTENT ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE MOBILE DEPOSIT SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE MOBILE DEPOSIT SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE MOBILE DEPOSIT SERVICE OR TECHNOLOGY WILL BE CORRECTED. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

LIMITATION OF LIABILITY

YOU AGREE THAT NEITHER WE NOR ANY OF OUR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR THIRD PARTY SERVICE PROVIDERS WILL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, ARISING FROM OR RELATED TO YOUR USE OF, INABILITY TO USE, OR TERMINATION OF USE OF THE MOBILE DEPOSIT SERVICE. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

LIMITATIONS OF SERVICE

You agree that we shall not be responsible for any delay or other difficulties you may experience when using the Mobile Deposit Service arising out of the acts or omissions of any third parties, including, but not limited to, various communication services, courier services, the Federal Reserve System, any other bank or any third party, fire, mechanical, computer or electrical failures or other unforeseen contingencies, strikes or any similar or dissimilar cause beyond our reasonable control.

GEOGRAPHIC CONSTRAINTS

You agree that you will not use the Mobile Deposit Service in locations that are prohibited under United States laws and regulations including, without limitation, laws and regulations issued and administered by the United States Treasury Office of Foreign Assets Control.

SECURITY

You are responsible for protecting your mobile device against unauthorized use as well as any losses and damages from unauthorized access. You agree to take reasonable security precautions to protect your mobile device from unauthorized use including, without limitation: (i) setting strong passwords, keeping them secret and changing them regularly; (ii) limiting access to your mobile device and passwords to those who have a legitimate need for them; (iii) regularly monitoring your account statements; and (iv) telling us immediately when your mobile device is lost or stolen or when you believe there has been any unauthorized activity involving the Mobile Deposit Service. We are not responsible or obligated for any of these security precautions and will also not have any obligations or liability of any kind for them or your failure to take them.

SERVICE PROVIDERS

You acknowledge and agree that from time to time, and at any time, with or without notice to you, we may make the Mobile Deposit Service available through or using one or more third party service providers. You agree that we have the right to delegate to such service providers all of the rights and performance obligations that we have under this Agreement and that such service providers will be third party beneficiaries of this Agreement and will be entitled to all the rights and protections that this Agreement provides to us.

ELECTRONIC CONSENT AND ACCEPTANCE OF TERMS AND CONDITIONS

Your use of the Mobile Deposit Service constitutes your agreement with the terms of this Agreement. This Agreement is subject to change from time to time. By enrolling in and using the Mobile Deposit Service, you consent to receive and accept the terms and conditions of this Agreement and any amendments to it electronically. Unless otherwise required by applicable law, we may amend this Agreement and any applicable fees and charges for the Mobile Deposit Service at any time by posting the revised version on the site. You will be prompted to accept or reject any material change to this Agreement the next time you use the Mobile Deposit Service after we have made the change. The revised version will be effective at the time it is posted unless a delayed effective date is required by law and is expressly stated in the revision. Any use of the Mobile Deposit Service after the posting of a revised version of this Agreement becomes effective will constitute your agreement to such changes. You understand and agree that notwithstanding the foregoing, we reserve the right to provide any such notice of change to you in printed form.

INTELLECTUAL PROPERTY

All marks and logos related to the Mobile Deposit Service are either our trademarks or registered trademarks of our licensors. In addition, all page headers, custom graphics, button icons, and scripts are our service marks, trademarks, and/or trade dress or those of our licensors. You may not copy, imitate or use any of the above marks without our prior written consent, which we may withhold in our sole discretion, and you may not use them in a manner that is disparaging to us or the Mobile Deposit Service or display them in any manner that implies our sponsorship or endorsement. All right, title and interest in and to the Mobile Deposit Service, the technology related to the Mobile Banking App, the website and any and all technology and any content created or derived from any of the foregoing, is our exclusive property or that of our licensors. You may not copy, reproduce, distribute or create derivative works, reverse engineer or reverse compile the technology for the Mobile Deposit Service or any other services or technology used in connection with the Mobile Deposit Service. Moreover, any suggestions, ideas, notes, drawings, concepts or other information you may send to us through the Mobile Banking App or website regarding the Mobile Deposit Service shall be considered an uncompensated contribution of intellectual property to us and our licensors, shall also

be deemed our and our licensors' exclusive intellectual property and shall not be subject to any obligation of confidentiality on our part. By submitting any such materials to us, you automatically grant (or warrant that the owner of such materials has expressly granted) to us and our licensors a perpetual, royalty-free, irrevocable, non-exclusive right and license to us, reproduce, modify, adapt, publish, translate, publicly perform and display, create derivative works from and distribute such materials or incorporate such materials into any form, medium or technology now known or later developed, and you warrant that all so-called "moral rights" in those materials have been waived, and you warrant that you have the right to make these warranties and transfers of rights.

those provisions will be valid and enforceable to the fullest extent permitted by law.

CAPTION HEADINGS

The caption headings are for convenience of reference purposes only and are not to be construed as a summary of each provision of this Agreement. Unless it would be inconsistent to do so, words and phrases used in this document should be construed so that the singular includes the plural and the plural includes the singular.

APPLICABLE LAW AND JURISDICTION

Unless our Other Agreements with you state otherwise, this Agreement shall be governed by and construed in accordance with the laws of the state governing your deposit account with us, without regard to its conflicts of laws provisions, whether or not you live in that state or use the Mobile Deposit Service in that state.

JURY TRIAL WAIVER

YOU HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR USE OF THE MOBILE DEPOSIT SERVICE.

NO WAIVER

We shall not be deemed to have waived any rights or remedies hereunder unless such waiver is in writing and signed by one of our authorized representatives. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

SEVERABILITY

If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will not be affected thereby and each of



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