

# National Bank of Andrews

## Mobile Deposit Capture

### User Agreement

This Mobile Check Deposit User Agreement (“Agreement”) contains the terms and conditions for the use of National Bank of Andrews Mobile Check Deposit and/or other remote deposit capture services that National Bank of Andrews (“NBA”, “us”, or “we”) may provide to you (“you”, or “user”). Other agreements you have entered into with NBA including the Depository Agreement and Disclosures governing your account, are incorporated by reference and made apart of this agreement.

1. **Service.** The mobile deposit capture services (“Services”) are designed to allow you to make deposits to your checking, saving, or money market accounts from home or other remote locations by capturing checks via your mobile device. 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 electronic format on your device. Your acceptance of the revised terms and conditions along with the continued use of the Services will indicate your consent to be bound by the revised Agreement. Further, NBA 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 will attempt to post alerts on our splash screen to notify you of these interruptions in Service. 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 with our 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. **Hardware and Software.** In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software. 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 of our app.
5. **Requirements for Services.** The Application may only be used by individuals that possess a banking account with the National Bank of Andrews
6. **Eligible Items.** You agree to capture and deposit only “checks” as that term is defined in Federal Reserve Regulation CC (“Reg. CC”). When the image of the check transmitted to NBA is converted to an Image Replacement document for subsequent presentment and collection, it shall thereafter be deemed an “item” within the meaning of Articles 3 and 4 of the Uniform commercial Code.

You agree that you will not capture and deposit any of the following types of checks or other items which shall be considered ineligible items.

- Checks payable to any person other than you.
  - Checks that have been altered in any way, 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 payable to you jointly with one or more other persons, unless deposited into an account in the name of all payees.
  - Check 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 the United States currency
  - Checks dated more than 6 months prior to the date of deposit
  - Checks or items prohibited by NBA current procedures relating to the service or which are otherwise not acceptable under the terms of your NBA 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
  - Checks that are drawn or otherwise issued by the U.S. Treasury Department.
  - Checks that have previously been submitted through the service or through a remote deposit capture service offered at any other financial institution, or that have otherwise been deposited with NBA or any other financial institution, including checks that have been returned unpaid.
7. **Endorsements and Procedures.** You agree to restrictively endorse any items transmitted through the Service as signature of owner, or as otherwise instructed by NBA. You agree to follow any and all other procedures and instructions for use of the Services as NBA may establish from time to time.
8. **Receipt of Items.** We reserve the right to reject any item transmitted through the Services, at our discretion. 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 see the deposit posted 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 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.
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 3:00 p.m. 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 within one business day from the day of deposit.
10. **Disposal of Transmitted Items.** Upon your deposit being posted to your NBA account, you agree to retain the checks for at least 31 calendar days from the date of the image

transmission. After 31 days, you agree to destroy the check that you transmitted as image, mark it "VOID", or otherwise render it incapable of further transmission, deposit, or presentment. During the time the retained check is available, you agree to promptly provide it to NBA upon request.

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. Current daily limit is imposed.
12. **Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be NBA's sole discretion subject to the Depository Agreement and Disclosures governing your account.
13. **Errors.** You agree to notify NBA of any suspected errors regarding items deposited through the Services right away, and in no event later than 60 days after the applicable NBA account statement is sent. Unless you notify NBA 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 NBA 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. NBA bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.
15. **Image Quality.** The image of an item transmitted to NBA using the Services must be legible, as determined in the sole discretion of NBA without limiting the foregoing, the image quality of the items must comply with the requirements established from time to time by NBA, ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearinghouse or association.
16. **User Warranties and Indemnification.** You warrant to NBA that:
  - You will only transmit eligible items.
  - You will not transmit duplicate items.
  - You will not re-deposit or re-present the original item.
  - You will comply with this agreement and all applicable rules, laws, and regulations.
  - You are not aware of any factor which may impair the collectability of the item.
  - You agree to indemnify and hold harmless NBA from any loss for breach of this warranty provision
17. **Cooperation with Investigation.** You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer claims, including by providing, upon request and without further cost, any original or copier of items deposited through the Service in your possession and your records relating to such items and transmissions.
18. **Termination.** We may terminate this Agreement at any time and for any reason. This Agreement shall remain in full force and effect unless and until it is terminated by us. Without limiting the foregoing, this Agreement may be terminated if you breach any term of this Agreement, if you use the Service for any unauthorized or illegal purposes or you use the Services in a manner inconsistent with the terms of your Bank Account Disclosure.

19. **Enforceability.** We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.
20. **Ownership & License.** You agree that NBA 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 NBA business interest, or (iii) to NBA 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.
21. **DISCLAIMER WARRANTIES.** YOU AGREE YOUR USE OF THE SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND PROVIDED ON A "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES. WHETHER EXPRESSED 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 SERVICE (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.
22. **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 OF OTHERWISE), EVEN IF NBA HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.