

# Mobile Banking Terms and Conditions

These CorTrust Bank Mobile Banking Terms and Conditions (the "Agreement") set forth the terms and conditions governing your use of the Bank's Mobile Banking Services (the "Mobile Banking Services"). To use the Mobile Banking Services, and any related software, you must download the CorTrust Bank Mobile Application (the "App") to your Mobile Device. By participating in Mobile Banking, you are agreeing to the terms and conditions presented here in this Agreement. Please read this Agreement carefully and keep it for future reference. In addition to this Agreement, your Account is also governed by our account terms and conditions, including but not limited to the section entitled "Funds Availability Policy" (together, the "Deposit Account Agreement"). If the terms and conditions of this Agreement conflict with those of the Deposit Account Agreement, the terms and conditions of this Agreement supersede the terms and conditions of the Deposit Account Agreement, only with respect to the deposits made through the Mobile Banking Service. Deposits made through other channels continue to be governed by the Deposit Account Agreement.

## 1. DEFINITIONS.

- a. "You" and "your" means: (i) a person who has applied for the Service for personal use, or (ii) a small business entity (or its authorized representative, as applicable) that has applied for the Service for business use by that authorized representative.
- b. "Bank", "we", "us", and "our" mean CorTrust Bank, N.A. and its successors or assigns.
- c. "Account" means your deposit account with us to which you are authorized to access and make a deposit using a Mobile Device.
- d. "Check" shall have the meaning given in Regulation CC of the Board of Governors of the Federal Reserve System.
- e. "Check 21" means the Check Clearing for the 21<sup>st</sup> Century Act.
- f. "End User License Agreement" means the agreement governing the use of the App software you must download to your Mobile Device in order to use the Service.
- g. "Image" means the electronic image of the front and back of a Check, in addition to other required information, as specified by us, in the format we specify.
- h. "Image Replacement Document" or "IRD" means a substitute check, as defined in Check 21.
- i. "Item" shall have the meaning given under the South Dakota Uniform Commercial Code.
- j. "Mobile Device" means any cellular or mobile phone, tablet computer, or personal digital assistant (PDA) satisfying hardware and software requirements as specified by us from time to time that provides for the capture of images from items and for transmission through the clearing process.
- k. "User Guide" means the App download instructions, device instructions and FAQs we provide to you on our Internet site from time to time, in addition to any help content contained within the software application that is downloaded to your Mobile Device.

2. DESCRIPTION OF MOBILE BANKING SERVICES. You may use the App to (i) access your Account information (e.g., to check balances and view transactions); (ii) set up alerts regarding your Account (e.g., low balance alerts); (iii) transfer funds between eligible Bank Accounts; (iv) view Check images; (v) deposit Checks; and (vi) view your Account statements. This list is not exhaustive, and the Bank may offer additional or different Mobile Banking Services in the future, all of which will be subject to this Agreement. All Mobile Banking Services may not be available via your Mobile Device. Customers approved by Bank to use mobile deposit as part of their Mobile Banking Services will also be subject to the terms governing Mobile Deposit Services as set forth in Section 12 below.

3. ENROLLMENT. To use the Mobile Banking Services, you can enroll one of two ways. If you have a smart phone you can download the CorTrust Mobiliti App from either the App Store for iPhones or the Google Play Store for droids. Upon completing the download, you will be required to enter your Internet Banking Userid, password and fill out a test question before gaining access to the mobile banking product. You can also enroll in Mobile Banking by logging into your Internet Banking account at [www.cortrustbank.com](http://www.cortrustbank.com), click on the options tab and scroll down to your mobile banking profile. Click enroll now, and begin the process. During the process you will be required to confirm your banking relationship with us and undergo a Mobile Device verification procedure. **Message & Data rates may apply.**

4. MOBILE BANKING SECURITY PROCEDURES. By using Mobile Banking Services, you agree to comply with the security procedures set forth in this Section. You are solely responsible for maintaining the security of your Mobile Device and for any unauthorized use of your Mobile Device to access the Mobile Banking Services. You agree to lock your Mobile Device with a password or number code whenever it is not in use so that your personal information is not accessible by others. You agree to notify us immediately in the event you become aware of any loss, theft, or unauthorized use of your Mobile Device. SMS or text messages you send or receive in connection with the Mobile Banking Services may not be secure. While we attempt to mitigate the risk of fraud, we do not warrant that a third party will not intercept text messages used in connection with Mobile Banking Services. You agree that you will not send us any sensitive or confidential account information via SMS (or text) message.

5. INSTRUCTIONS; AVAILABILITY. Once you have sent transaction instructions to us via the Mobile Banking Services, you will not be able to reverse or "undo" those instructions. It is your responsibility to correctly enter all transaction information into your Mobile Device, including transaction amounts. Our Mobile Banking Services and any software you may obtain from Mobile Banking ("Software") may not be available from time to time, including, without limitation, scheduled maintenance or interruption in Internet service.

6. QUESTIONS. If you have questions regarding Mobile Banking Services, you can contact us at 605-995-1116, or send a text message with the word "HELP" to this number: 96924.

7. TERMINATION. To cancel Mobile Banking Services, you can opt out of mobile banking by texting the word "STOP" to this number: 96924. By texting "STOP," you agree that the Mobile Banking Services, including Mobile Deposit Services, will no longer be available on your Mobile Device. (Online access to your Accounts will not be affected.) You will receive a one-time text message from us confirming your cancellation of the Mobile Banking Services.

8. PARTICIPATING CARRIERS. Our participating carriers include (but are not limited to) AT&T, SprintPCS, T-Mobile®, U.S. Cellular®, Verizon Wireless, MetroPCS.

9. MOBILE BANKING PRIVACY AND USER INFORMATION. You acknowledge that in connection with your use of the Mobile Banking Services, the Bank and its affiliates and service providers, including Fiserv, Inc. and its affiliates, may receive names, domain names, addresses, passwords, telephone and device numbers, the content of messages, data files and other data and information provided by you or from other sources in connection with the Mobile Banking Services or the Software (collectively "User Information"). The Bank and its affiliates and service providers will maintain reasonable safeguards to protect the information from unauthorized disclosure or use, but reserve the right to use and disclose this information as reasonably necessary to deliver the Mobile Banking Services and as otherwise permitted by law, including compliance with court orders or lawful instructions from a government agency, to protect the personal safety of subscribers or the public, to defend claims, and as otherwise authorized by you. The Bank and its affiliates and service providers also reserve the right to monitor use of the Mobile Banking Services and the Software for purposes of verifying compliance with applicable law and this Agreement, but disclaim any obligation to monitor, filter, or edit any content.

10. RESTRICTIONS ON USE. You agree not to use the Mobile Banking Services or the Software in or for any illegal, fraudulent, unauthorized or improper manner or purpose and agree that such Mobile Banking Services and Software will only be used in compliance with all applicable laws, rules and regulations, including all applicable state, federal, and international Internet, data, telecommunications, telemarketing, "spam," and import/export laws and regulations, including the U.S. Export Administration Regulations. Without limiting the foregoing, you agree that you will not use the Mobile Banking Services or the Software to transmit or disseminate: (i) junk mail, spam, or unsolicited material to persons or entities that have not agreed to receive such material or to whom you do not otherwise have a legal right to send such material; (ii) material that infringes or violates any third party's intellectual property rights, rights of publicity, privacy, or confidentiality, or the rights or legal obligations of any wireless service provider or any of its clients or subscribers; (iii) material or data, that is illegal, or material or data, as determined by the Bank (in its sole discretion), that is harassing, coercive, defamatory, libelous, abusive, threatening, obscene, or otherwise objectionable, materials that are harmful to minors or excessive in quantity, or materials the transmission of which could diminish or harm the reputation of Bank or any third-party service provider involved in the provision of the Mobile Banking Services; (iv) material or data that is alcoholic beverage-related (e.g., beer, wine, or liquor), tobacco-related (e.g., cigarettes, cigars, pipes, chewing tobacco), guns or weapons-related (e.g., firearms, bullets), illegal drugs-related (e.g., marijuana, cocaine), pornographic-related (e.g., adult themes, sexual content), crime-related (e.g., organized crime, notorious characters), violence-related (e.g., violent games), death-related (e.g., funeral homes, mortuaries), hate-related (e.g. racist organizations), gambling-related (e.g., casinos, lotteries), specifically mentions any wireless carrier or copies or parodies the products or services of any wireless carrier; (v) viruses, Trojan horses, worms, time bombs, cancelbots, or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data, or personal information; (vi) any material or information that is false, misleading, or inaccurate; (vii) any material that would expose the Bank, any third-party service provider involved in providing the Mobile Banking Services, or any other third party to liability; or (viii) any signal or impulse that could cause electrical, magnetic, optical, or other technical harm to the equipment or facilities of Bank, Fiserv or any third party. You agree that you will not attempt to: (a) access any software or services for which your use has not been authorized; or (b) use or attempt to use a third party's account; or (c) interfere in any manner with the provision of the Mobile Banking Services or the Software, the security of the Mobile Banking Services or the Software, or other customers of the Mobile Banking Services or the Software; or (d) otherwise abuse the Mobile Banking Services or the Software.

11. USE OF GOOGLE MAPS: In connection with the Mobile Banking Services, you agree to abide by the Google terms and conditions of use found at [http://maps.google.com/help/terms\\_maps.html](http://maps.google.com/help/terms_maps.html) and the Google Legal Notices found at [http://www.maps.google.com/help/legal\\_notices\\_maps.html](http://www.maps.google.com/help/legal_notices_maps.html), or other URLs as may be updated by Google.

12. MOBILE DEPOSIT SERVICES. The following terms apply only to customers who have been approved by the Bank to use the Bank's mobile deposit services ("Mobile Deposit Services"). Mobile Deposit Services are not available to all customers, and we reserve the right to limit or prohibit your access to such services. If there is any conflict between these terms and terms set forth elsewhere in this Agreement or any other agreement between you and the Bank, these terms will control.

- a. Mobile Deposit Service. Pursuant to the terms of this Agreement, you may use the Mobile Deposit Service to deposit Checks to your Account by creating an Image of an original Check using a Mobile Device and transmitting that Image to us for deposit. Each Image must include the front and back of the original Check, and the following information must be clearly readable: amount, payee name, drawer signature, date, check number, account number, routing and transit number, MICR (Magnetic Ink Character Recognition) line, and any endorsement or other information written on the Check. **YOU AGREE THAT ALL CHECKS DEPOSITED VIA THE MOBILE DEPOSIT SERVICE WILL HAVE THE FOLLOWING WORDS BELOW THE SIGNED ENDORSEMENT: "FOR MOBILE DEPOSIT."** You agree to follow any and all other procedures and instructions for use of the Mobile Deposit Service we may establish from time to time. You may transmit Images to us only from a Mobile Device located in the United States.
- b. Hardware and Software Requirements; Security. In order to use the Mobile Deposit Service, you must obtain and maintain, at your expense, an appropriate Mobile Device as specified by Bank. You agree to transmit an Image to us using only a Mobile Device authorized by us to transmit Images. We may change the list of approved Mobile Devices from time to time. We may reject Images that you transmit to us with an unapproved Mobile Device or by other means to which we have not given our consent.

You are solely responsible for the security of your Mobile Device and for any use of the Mobile Device to access the Mobile Deposit Services or transmit Checks to us for deposit. You agree to implement and maintain specific internal security controls to protect your Mobile Device and customer information. We may require that you implement and maintain additional specific security controls, and we may notify you of those controls and amend them from time to time. It is strongly encouraged to mitigate risk that smart phone devices are password protected to access the device. Some applications will require additional log-in credentials for heightened security. You agree to notify us immediately in the event you suspect or become aware of any loss, theft, or unauthorized use of the Mobile Deposit Service through your Mobile Device.

You are responsible for all costs of using the Mobile Deposit Service and operating the Mobile Device, including but not limited to telephone and internet service charges. You are responsible for maintaining the capacity and connectivity of your Mobile Device as

required for use of the Mobile Deposit Service. We are not responsible for any third party software you may need to use the Mobile Deposit Service. You accept any such software as is and 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.

- c. Image Quality. You are responsible for the quality of any Image that you transmit. If we determine that an Image that we receive from you for deposit to your Account is not of sufficient quality to satisfy our image quality standards, as we may establish them from time to time, we may reject the Image prior to submission or upon further review by the Bank. You may experience delayed notification of rejection if the Image is rejected during review by the Bank.
- d. Eligible Items. You agree to scan and deposit only original Checks using the Mobile Deposit Service. If you send an Item to us that was not captured from an original Check, you agree to indemnify, defend and hold us harmless against any financial loss, costs (including but not limited to attorneys' fees, costs of litigation and consequential losses, if any), claim, harm or damage that we suffer as a result. In our discretion, we may terminate your access to the Mobile Deposit Service immediately if you send an Item that was not captured from an original Check.
- e. Prohibited Items. You agree and warrant that you will not use the Mobile Deposit Service to scan and deposit any of the following types of Checks or other Items, which shall be considered prohibited Items:
  - i. Checks that are not payable to you and endorsed by you.
  - ii. Checks where the payer and payee are the same person.
  - iii. Checks payable jointly, unless deposited into an account in the name of all payees.
  - iv. Checks drawn on your Account.
  - v. Checks made payable to "cash."
  - vi. Checks containing any alteration, 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 is drawn.
  - vii. Checks that are incomplete or contain incomplete information.
  - viii. Checks previously converted to a substitute check, as defined in Regulation CC, or any IRDs that are derived from or that purport to be substitute checks.
  - ix. Checks that are remotely created checks, as defined in Regulation CC.
  - x. Checks drawn on or payable by or at a financial institution located outside the United States.
  - xi. Checks not payable in United States currency.
  - xii. Checks dated more than six (6) months prior to the date of deposit.
  - xiii. Checks or Items, the deposit of which is prohibited by our current procedures relating to the Mobile Deposit Service, is otherwise not acceptable under the terms of your Deposit Account Agreement, or is in violation of any applicable law, rule, or regulation.
  - xiv. Checks with any endorsement on the back other than that specified in this Agreement.
  - xv. Checks that have previously been submitted through the Mobile Deposit Service or through a mobile deposit or remote deposit capture service offered at any other financial institution.
  - xvi. Checks stamped "non-negotiable," "void," or any other word or phrase indicating that the Item is not valid.
  - xvii. Traveler's checks.

If you use the Mobile Deposit Service to transmit any prohibited Item, or if for any reason we are not able to recognize whether an Image is eligible for deposit, we may reject it without prior notice to you. We reserve the right to charge back to your Account at any time, any Item that we subsequently determine was a prohibited Item or is otherwise subject to chargeback as described in the Deposit Account Agreement. You agree that the Bank is not liable for any loss, costs, or fees you may incur as a result of our chargeback of a prohibited Item. You agree that prohibited Items must be deposited through other channels that we offer, such as at a branch, ATM, or bank by mail.

- f. Processing Images. You authorize us to process any Image that you send us or convert an Image to an Image Replacement Document. Once an Image transmitted to us is converted to an IRD, it will thereafter be deemed an Item. You authorize us and any other bank to which an Image is sent to handle the Image or IRD. We reserve the right to reject and to refuse to process any Image you send to us through the Mobile Deposit Service at our sole discretion, without liability to you. We are not responsible for Images we do not receive or that are dropped during transmission.
- g. Limits. With regard to Checks deposited through the Mobile Deposit Service, the daily mobile deposit limit is \$3,500 with no single deposit to exceed \$2,500. The Bank reserves the right to adjust these limits based on account activity, abuse of the Mobile Deposit Service, or general risk parameters. If you attempt to initiate a deposit through the Mobile Deposit Service in excess of these limits, we may reject your deposit. If we permit you to make a deposit through the Mobile Deposit Service in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times.
- h. Returned Items. In the event that any Item you transmit to us through the Mobile Deposit Service is dishonored, rejected, or returned for any reason, you authorize us to debit the amount of the Item from your Account, or offset the amount from any of your other accounts with us, and assess appropriate fees per the Bank's fee schedule. You acknowledge that all credits received for deposits made through the Mobile Deposit Service are provisional, subject to verification and final settlement. You acknowledge we may reverse such provisional credit if we do not receive final payment from the drawer's financial institution. You understand and agree that returned deposit activity may result in the cancellation of your access to the Mobile Deposit Service. Any Item that we may return to you will be returned in the form of an Image or an IRD, and you acknowledge that such Image or IRD may not be used to re-present the Item.

- i. Disposal of Original Check. For any Image you transmit, you shall be responsible for preventing the transmission of another Image of the original Check or presentation of the original Check by any other means. After you transmit an Image, you agree to retain the original Check for at least fourteen (14) calendar days from the date you receive a memo post from us acknowledging our receipt of the Image, and after the fourteen-day period expires, you agree to mark the original Check "VOID" and destroy the original Check in a manner that protects your sensitive information and renders the original Check incapable of further transmission, deposit, or presentation. During this fourteen-day period, you agree you will promptly provide the original Check to us upon request. You also agree during the fourteen-day period to keep the original Check in a safe and secure location and to safeguard the information on the Check. You are responsible for any loss that is incurred if you fail to keep the Check safe and secure. To minimize your damages, you should contact us as soon as you discover that any original Check has been lost or stolen.
- j. Errors; Cooperation with Investigations. You agree to notify us of any suspected errors regarding Items deposited through the Mobile Deposit Service right away, and in no event later than 30 days after the applicable Account statement has been made available to you. Unless you notify us within 30 days, the statement listing all deposits made through the Mobile Deposit Service shall be deemed correct, and you are prohibited from bringing a claim against us for such alleged error. 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 originals or copies of Items in your possession and your records relating to Items and transmissions.
- k. Payment Processing.
  - i. Item Processing. At our sole discretion, we may process the Images you send to us electronically through other banks, or we may create Image Replacement Documents that will be processed through traditional check processing methods. If you send us Images that are incomplete, that fail to satisfy our image quality requirements, or that otherwise do not allow us to meet the requirements of Check 21 or any image exchange agreement that would cover our further electronic transmission of Images that you send us, or we are otherwise unable to process Images that you send us, we may charge the Images back to your Account. You agree to be bound by any clearinghouse agreements, operating circulars, and image exchange agreements to which we are a party.
  - ii. Transmission of Items. The Images you send us are not considered received by us until you see a memo post acknowledging that we have accepted your deposit. However, this memo post confirmation does not mean that the transmission was complete, error free, or will be considered a deposit and credited to your Account. As stated in Section 12(f) of this Agreement, we may refuse to process any Image you send to us for any reason or no reason. Likewise, an Image may be returned to us upon submission into the payment stream for a variety of reasons, including, but not limited to, poor image quality, duplicate entry, fraud, forged items, etc. The Bank reserves the right to charge a service fee for any Item that is presented more than once for collection. See the Bank's fee schedule for related details.
  - iii. Funds Availability. You agree that Items transmitted using the Mobile Deposit Service are not subject to the funds availability requirements of Regulation CC. In general, if an Image you transmit through the Mobile Deposit Service is received and accepted before 3:00 PM 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 from Items deposited through the Mobile Deposit Service will generally be made available to you pursuant to our Funds Availability Policy, although there may be delays in the availability of the funds, and we are not responsible for any loss, costs or fees that you may incur as a result of any such delay. See the section entitled "Funds Availability" in your Deposit Account Agreement for additional information on funds availability.
  - iv. Notices. You consent to the electronic delivery of hold and error in deposit notices. Notices may be sent to your e-mail address.
  - v. Problems in Transmission. By using the Mobile Deposit Service you accept the risk that an Image may be intercepted or misdirected during transmission. You understand that, while we and our service providers have established certain security procedures, such as firewalls, codes and data encryption designed to prevent unauthorized access to your Accounts or transactions, there can be no assurance that the Mobile Deposit Service will be completely secure. You also understand that access to the Mobile Deposit Service will not be free from delays, malfunctions, or other inconveniences generally associated with the Internet. You agree that we are not responsible for any such unauthorized access, delays or malfunctions, and we are not responsible for the acts of third parties or for any delay or interruption in the Mobile Deposit Service beyond our control. The Bank bears no liability to you or others for any such intercepted or misdirected Images or information disclosed through such errors or other problems in the course of transmission of the Images.
- l. Fees. You may use the Mobile Deposit Service to make up to twelve (12) deposits per statement cycle (the "Deposit Threshold") without incurring a fee. You will be charged a \$1.00 fee for each deposit you make in excess of the Deposit Threshold in any statement cycle. For example, if you make 14 deposits using the Mobile Deposit Service in a statement cycle, you will be assessed a \$2.00 fee for your use of the Service in that statement cycle. You are responsible for paying the fees for use of the Mobile Deposit Service as the Bank may charge them from time to time. The Bank may change the fees for use of the Mobile Deposit Service at any time pursuant to Section 17 below. You authorize the Bank to deduct any such fees from any account in your name.
- m. Representations and Warranties. You make the following representations and warranties to us:

- i. You and any user you authorize will use the Mobile Deposit Service only for lawful purposes and in compliance with all applicable rules and regulations and with our reasonable instructions, rules, policies, specifications, and operating procedures and will not violate any law of any country or the intellectual property rights of any third party.
  - ii. You will use the Mobile Deposit Service to transmit and deposit Images of original Checks only.
  - iii. You will not transmit duplicate Checks to us or any other person for deposit.
  - iv. You will not re-deposit or re-present the original Check after transmitting an Image of the Check to us for deposit. If any Check is presented or deposited more than once, whether by Image or by any other means, we may, at our discretion, reject it or return it and charge it against your Account without prior notice to you.
  - v. You will transmit only Images of Checks eligible for deposit through the Mobile Deposit Service and will handle Items as agreed herein.
  - vi. You are a person authorized to enforce each Check or are authorized to obtain payment of each Check on behalf of a person entitled to enforce a Check.
  - vii. Checks have not been altered and you are not aware of any factor which may impair the collectability of the Check.
  - viii. Each Check bears authentic and authorized signatures and endorsements.
  - ix. Each Check has been endorsed as **"FOR MOBILE DEPOSIT"**.
  - x. You will not knowingly or unknowingly transmit or cause to be transmitted to us any computer virus or malicious code.
  - xi. All Images accurately and legibly represent all of the information on the front and back of the Check.
  - xii. No depository bank, drawee, drawer, or endorser will receive presentment or return of, or otherwise be charged for, a substitute check, the original check, or a paper or electronic representation of a substitute check or the original check such that that person will be asked to make a payment based on a check that it has already paid.
  - xiii. You will use the Mobile Deposit Service as required by the User Guide.
  - xiv. You understand that acceptance of the End User License Agreement is required for use of the Mobile Deposit Service.
  - xv. You, if acting on behalf of a small business entity, are fully authorized to execute this Agreement.
- n. Third-Party Service Provider. Items and other related information may be processed on our behalf through any agent or third-party service provider ("Service Provider") of us. Performance of services through a Service Provider does not affect any of your obligations under this Agreement.
- o. Termination. If you want to terminate your access to the Mobile Deposit Service for any reason, you may call the Bank at 605-995-1116 and speak to an Operations representative. The Bank reserves the right to terminate or suspend the Mobile Deposit Service, at any time with or without cause and without prior written notice. This Agreement shall remain in full force and effect unless and until it is terminated by you or us. Without limiting the foregoing, this Agreement may be terminated if you breach any term of this Agreement, if you use the Mobile Deposit Service for any unauthorized or illegal purposes, or you use the Mobile Deposit Service in a manner inconsistent with the terms of your Deposit Account Agreement or any other agreement with us. You agree that Sections 12(b), 12(f), 12(h), 12(i), 12(j), 12(k), 12(m), 12(o), 13, 14, 15, 16 and 18 will survive and remain in effect even after termination of the Agreement. You will remain liable for any Image transmitted through the Mobile Deposit Service as set forth this Agreement, even if the Agreement is subsequently terminated by either party.
- p. Limitations of Mobile Deposit Service. When using the Mobile Deposit Service, you may experience technical or other difficulties. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. You agree to use other channels that we offer, such as deposit via a branch, ATM, or bank by mail when the Mobile Deposit Service may not be available.. Use of the Mobile Deposit Service is subject to certain qualification requirements, and we reserve the right to limit or prohibit your access to the Mobile Deposit Service, or to change the qualifications at any time without prior notice. We reserve the right to change, suspend or discontinue the Mobile Deposit Service, in whole or in part, or your use of the Mobile Deposit Service, in whole or in part, immediately and at any time without prior notice to you.

13. Indemnification. In addition to the indemnification obligations set forth in your Deposit Account Agreement, you hereby agree to indemnify, defend, and hold us, our employees, agents, and affiliates harmless from and against any claim, expense, liability, cost, loss or damage (including reasonable attorneys' fees and litigation expenses) caused directly or indirectly by:

- a. Your failure to comply with the terms of this Agreement.
- b. Your breach of any representation or warranty contained in this Agreement.
- c. The dishonor or return of any Item for any reason or our presentment of the Item for payment.
- d. Your failure to maintain the security of your Mobile Device.
- e. Your negligent or intentional acts or omissions in utilizing the Mobile Banking Services, including, but not limited to, (i) the submission of two or more Images from the same original Item, and (ii) calculation or numerical errors made during the submission of Items through the Service.
- f. Your violation of any applicable law, statute, or regulation relating to your use of the Mobile Banking Services.

14. LIMITATION OF LIABILITY. YOU AGREE THAT TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, 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 MOBILE BANKING 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 ANY MOBILE BANKING SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF.

15. DISCLAIMER OF WARRANTIES. YOU AGREE YOUR USE OF THE MOBILE BANKING SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR OWN 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 MOBILE BANKING SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE

IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT THE MOBILE BANKING SERVICE (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE MOBILE BANKING SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE MOBILE BANKING SERVICE OR TECHNOLOGY WILL BE CORRECTED.

16. Intellectual Property. This Agreement does not transfer to you any ownership or proprietary rights in the Mobile Banking Services or any associated content, technology, Software or any part thereof. We or our agents retain all intellectual property rights, title and interest in and to the Mobile Banking Services and any associated content, technology, and Software. Neither you nor any user you authorize will:

- a. Sell, lease, distribute, license or sub-license the Mobile Banking Service.
- b. Modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Mobile Banking Service or any part of it in any way for any reason.
- c. Provide, disclose, divulge or make available to or permit use of the Mobile Banking Service by any third party.
- d. Copy or reproduce all or any part of the Mobile Banking Service.
- e. Interfere, or attempt to interfere, with the Mobile Banking Service in any way.
- f. Use the Mobile Banking Service in any anti-competitive manner or for any purpose that would be contrary to the Bank's business interests.

17. Acceptance of Agreement; Amendment. Your use of the Mobile Banking Services constitutes your acceptance of this Agreement. From time to time, the Bank may amend any of the terms and conditions contained in this Agreement, including without limitation, any cut-off time, any business day, and any part of the Schedules referenced herein. We will notify you of any material change to the Agreement via e-mail or by providing a link to the revised Agreement on our website. Such amendments shall become effective upon your receipt of notice or such later date as may be stated in the notice. If a change is made for security purposes, we may implement the change without prior notice to you. If you do not agree with the change, you may discontinue using the Mobile Banking Service. However, your continued use of the Mobile Banking Service will indicate your acceptance of and agreement to any changes to the Service.

18. Governing Law. This Agreement, and your rights and our obligations under this Agreement, are governed by and interpreted according to federal law and the law of the State of South Dakota. If state and federal law are inconsistent, or if the state law is preempted by the federal law, federal law governs.

19. Miscellaneous. We may waive enforcement of any provision of this Agreement. Any such waiver shall not affect our rights with respect to any other transaction or modify the terms of this Agreement. No waiver of any breach of this Agreement shall constitute a waiver of any prior or subsequent breach of this Agreement. In the event that any provision of this Agreement is held to be unenforceable or invalid by any court or regulatory authority of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected, and in lieu of such invalid or unenforceable provision there shall be added automatically, as part of this Agreement, a provision as similar in terms as may be valid and enforceable, if possible.