

Arrow Bank National Association

Business Remote Deposit Service Terms & Conditions

By using the Business Remote Deposit Service, you accept all of the Terms & Conditions outlined below. Please read all parts carefully.

Customer has authorized the Bank to provide certain electronic capture services ("Business Remote Deposit" or "BRD") to the Customer as herein described. Customer receives payments by paper checks from its customers (the "Indirect Customers"); and the Bank has agreed to provide such services to the Customer on the terms and conditions herein described. NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

1. SERVICES

Bank agrees to provide Business Remote Deposit based on the terms of these Terms & Conditions that will enable Customer to electronically deposit Indirect Customer checks into a Customer account at Bank and to have such checks processed using the procedures permitted by the Federal Check Clearing For The 21st Century Act ("Check 21 Act"). Such services shall include the furnishing of a check scanning device ("Scanner"), access to a browser based software program and all necessary related materials and documentation (such materials and documentation collectively referred to as the "Program") that the Bank determines will be needed to enable Customer to make the electronic deposits. The BRD shall make it possible for the Customer, subject to any limitations herein, to scan paper checks and electronically transmit the resulting electronic information and images to a third party processor ("Vendor") selected by the Bank. The Vendor is authorized by the parties to use the electronic information captured from the checks to process transactions. The services may use, to the extent determined by the Bank, the procedures authorized by Check 21 Act ("Check 21 Transactions").

2. LAWS, RULES, AND REGULATIONS

Customer agrees to comply with all existing and future operating procedures used by the Bank for processing of transactions. Customer further agrees to comply with all applicable state or federal laws, rules and regulations affecting the use of checks, drafts, and Check 21 Transactions, including but not limited to rules and procedural guidelines established by the Federal Trade Commission (FTC). These laws, procedures, rules, regulations, and definitions (collectively the "Rules") shall be incorporated herein by reference. In the event of conflict between the terms of these Terms & Conditions and the Rules, the Rules will control the interpretation of these Terms & Conditions.

3. DEPOSITED CHECKS

Customer will retain the original paper checks in a secure location for a period of 30 days before being destroyed. The customer agrees to use a shredder or other equivalent destruction mechanism to assure secure, complete and absolute destruction of the original checks. The Customer will not attempt to make duplicative deposits using the same check either through the Business Remote Deposit service or through other means. Customer will maintain possession of the original check as stated in these Terms & Conditions and Customer and no other party will resubmit the original check for payment. Customer agrees to indemnify and hold harmless the Bank from any loss for breach of this provision. Customer agrees to notify the bank of a security breach at the Customer's site. The Customer also agrees to review and validate the accuracy of the check data captured including the amount of the check and the legibility of the check image through the Business Remote Deposit service. The Bank has the right to audit Customer site at any time. Customer agrees to only deposit checks drawn on United States financial institutions through BRD. The images of these checks will be maintained by the Bank for a period of seven years.

4. CUSTOMER'S OBLIGATIONS TO INDIRECT CUSTOMERS

As the Customer will be receiving the Indirect Customers' paper checks, and creating Images from these checks to process as Check 21 Transactions, and as the Customer will be retaining and then destroying the Indirect Customers' paper checks, the Customer must comply with the following responsibilities.

[a] Retain Paper Checks after Converting to Images. Paper checks will be handled and retained as stated in Section 3 above.

[b] Compliance with Rules; Non-Disclosure and Confidentiality. Customer agrees both to comply with and cooperate and assist the Bank and its vendors in complying in a complete and timely manner with the Rules. Customer agrees to execute and deliver to the Bank all such instruments, as the Bank may from time to time reasonably deem necessary. Customer shall not disclose to any third party other than the Bank, or any agent of Customer for the purpose of assisting Customer in completing a transaction, or as specifically required by law, any account information or other personal information. Customer, in an area limited to select personnel, and prior to discarding, shall destroy in a manner rendering data unreadable all material containing account information after it has been retained for a period specified by the Bank.

5. RIGHT TO USE PROGRAM/LIMITED SUBLICENSE

The Bank hereby grants to the Customer a nontransferable and non-exclusive sublicense for use of the Program, subject to the terms and conditions set forth in these Terms & Conditions. Customer acknowledges and agrees that the Program is valuable, confidential, and proprietary property of The Vendor and agrees not to transfer, distribute, copy, reverse compile, modify or alter the Program. Customer acknowledges and agrees that all rights, title and interest in and to any software and the Program, together with modifications, enhancements and derivative works and all intellectual property rights, such as copyrights, patents and trade secrets pertaining to the software and Program are and shall remain owned exclusively by the Bank or its Vendor and these Terms & Conditions does not give the Customer any rights to any such software, program or materials.

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6. DELIVERY AND INSTALLATION

The Bank shall deliver to the Customer a Scanner and access to the Program. The Bank agrees to further provide instruction and consultation to assist Customer in its initial installation of the Scanner and setup of the Program.

7. MAINTENANCE

After delivery and installation of the Scanner and Program and until the termination of these Terms & Conditions pursuant to Section 8, the Bank will assist the Customer in obtaining from the Vendor technical support and other information for the operation and use of the Scanner and Program, and will provide to the Customer any modifications, refinements and enhancements to the Scanner or Program which the Vendor may hereafter implement and which the Bank has received notification from the Vendor.

8. TERM

These Terms & Conditions are effective from the date the Scanner and the Program are received by Customer and shall remain in force until termination.

TERMINATION BY THE CUSTOMER: Customer may terminate these Terms & Conditions at any time. Such termination shall be effective within five (5) business days following the day of Bank's receipt of written notice of such termination or such later date as is specified in that notice. The Customer agrees to return the Scanner in good working order, if provided by the Bank, and all written and/or electronic documentation related to the Scanner and/or Program to the Bank, together with all copies thereof, upon termination. The provisions of these Terms & Conditions protecting the proprietary rights of the Vendor and the Bank will continue in force after termination. Failure to return the provided scanner upon termination will result in a Termination Fee.

TERMINATION BY THE BANK: Bank reserves the right to terminate these Terms & Conditions at any time. Termination is immediate by providing written notice of such termination to Customer via email and / or first-class mail, both of which shall be effective upon mailing. Reasons for termination may include but are not limited to: willful misconduct by the Customer or its agents, a breach of security, or unauthorized activity involving the account. The Bank is not required to have a reason for termination or provide any reason to the Customer. Termination of services does not nullify any obligations set forth prior to termination, including indemnification of the Bank while acting on the Customer's behalf. Customer must return provided scanner in good working order upon termination to avoid being assessed a Termination Fee.

9. FEES

Customer agrees to pay the fees for access to and use of the Scanner and the Program at the rates specified by the Bank's Fee Schedule that accompanies these Terms & Conditions as presently exist or as may hereafter be amended and provided to the Customer. The Bank may change the fees charged to the business Customer any time during the term of these Terms & Conditions and to a consumer after providing thirty (30) days written notice to Customer. The Bank may deduct all fees due from any account of the Customer at the Bank. The fees in effect at the start of these Terms & Conditions have been provided to the Customer. Failure to return the provided scanner upon termination will result in a Termination fee of **\$500**.

10. ACCOUNT

The Customer will maintain with the Bank at least one demand deposit or commercial checking account (the "Account(s)") for the purpose of providing available funds and for deposit of received funds in connection with the use of the services. In addition to the terms of these Terms & Conditions, the Account will be subject to a separate Account Agreement. Unless the Bank otherwise requires the Customer to maintain collected funds, the Customer agrees to maintain sufficient available funds in the Account(s) to support any transaction initiated under the services and to cover any fees the Customer is obligated to pay under these Terms & Conditions. If at any time there are not sufficient collected funds in the Account to cover all outstanding transactions and other payment obligations of the Customer under these Terms & Conditions, Customer agrees to immediately pay the Bank, on demand, the amount of any deficiency in such outstanding transactions and obligations. The Bank may, without prior notice or demand, obtain payment from Customer for any of its obligations under these Terms & Conditions by debiting any account of the Customer at the Bank.

11. RIGHT OF OFFSET

Customer hereby acknowledges and agrees that the Bank shall have a right of offset against any and all fees, Returns and Refunds owed the Bank by Customer under these Terms & Conditions.

12. AUTHORIZATION

The Customer will provide to the Bank properly executed authorizations from Customer (which may be designated by resolution executed in conjunction to the establishment of Customers deposit account), in form acceptable to the Bank identifying by name and title the officers of the Customer who are authorized to sign and perform the obligations of the Customer under these Terms & Conditions. In the absence of such authorizations, Customer agrees that individuals authorized to sign on Customers deposit account are authorized to perform the obligations of the Customer under these Terms & Conditions. From time to time hereafter, the Customer may identify other persons who are authorized to provide instructions or directions to the Bank, to sign any document or instruction on behalf of the Customer relating to these Terms & Conditions, and to take any action on behalf of the Customer, provided, however, that the Bank may rely upon, as authentic and duly authorized, any written or other communication from any person purporting to be an officer of the Customer or other representative of the Customer regardless of whether the Customer shall have provided to the Bank any evidence of such person's authority.

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13. ACCOUNT RECONCILIATION

All transactions which result in a debit or credit to the Account initiated by the Customer using the services will be reflected on the Customer's monthly account statements. The Customer will notify the Bank, within thirty (30) days after the mailing of the account statements by the Bank of any discrepancies between the account statements and the Customer's records of transactions initiated through the services. Failure of the Customer to notify the Bank within said time period of any such discrepancies will preclude the Customer from asserting any claims for damages or other liabilities against the Bank by reason of such discrepancies.

14. ENTRIES

Customer shall be responsible for the accuracy and propriety of all entries submitted to the Bank for processing, as well as responsible for obtaining all required approvals for the processing, of the entry from the Indirect Customer. Customer shall be liable for each entry and warrants that it complies with the Rules.

15. DISCREPANCIES

In the event of any conflicts in the instructions received by the Bank regarding the Customer or any entries relating to them, the Bank may at its option and with or without notice, hold or interplead, comply with the legal process or other order, or otherwise limit access by the Customer or by the Bank to the funds, entries, or proceeds thereof.

16. PROCESSING DEADLINE

The Bank has specific processing deadlines. Data received after the deadline will be processed the next business day. A business day is Monday through Friday, 9:00AM to 6:00PM, excluding Federal holidays, subject to change at the Bank's discretion.

17. UNAUTHORIZED ACCESS SECURITY PROCEDURES

The Customer shall be solely responsible for protecting against unauthorized access to the Scanner and the Program and any and all losses and damages arising from any unauthorized access to the Scanner and the Program. The Customer shall establish physical security, passwords and other security procedures as reasonably necessary to ensure the confidentiality of access features. The Customer shall make such procedures and security features known only to those authorized representatives of the Customers who will use the Scanner and the Program. The Bank shall have no obligation, liability or control, either directly or indirectly over said procedures or the failure of Customer to maintain said procedures. The Customer shall be solely responsible for designating its authorized representatives and disclosing the identity of said representatives, and all changes thereof, to the Bank, provided, however, the Bank shall not be responsible for verifying the authenticity of any person claiming to be a representative of the Customer or the authenticity of any instruction, direction or information provided to any said person. Any instructions, directions or other information provided by the Customer, or any representative of the Customer, under the services shall be deemed to have been authorized by the Customer, and the Bank shall be indemnified and held harmless by the Customer for acting upon any such direction, instruction or information.

- [a] The Bank will provide Customer with an Administrative User Name and Password and all necessary additional security information. Customer may appoint an individual ("Administrator") with the authority to: (a) determine who will be authorized to use the services; (b) establish separate user names and passwords for each user; and (c) establish limits on each user's authority to access information and conduct transactions. Customer is responsible for the actions of its Administrator, the authority the Administrator gives others to act on its behalf, and the actions of the persons designated by the Administrator to use the Bank service. Customer agrees to: (a) take reasonable steps to safeguard the confidentiality of all Passwords; (b) limit access to its passwords to persons who have a need to know such information (c) closely and regularly monitor the activities of employees who access the Bank service (d) prohibit its employees and agents from initiating entries without proper supervision and adequate controls; and (e) remove users they deem no longer authorized to use the services.
- [b] Customer understands that the use of Passwords and the Bank service instructions is confidential and agrees to assume all risks of accidental disclosure or inadvertent use by any party whatsoever, whether such disclosure of use are on account of Customer's negligence or are deliberate acts. Customer acknowledges that no person from the Bank will ever ask for any Passwords and that the Bank employees do not need and will not ask for passwords.
- [c] Customer shall change its passwords periodically and whenever anyone who has had access to a password is no longer employed or authorized by it to use the Bank service. The Bank may require Customer to change its passwords at any time. The Bank may deny access to the Bank service without prior notice if it is unable to confirm (to its satisfaction) any person's authority to access the service or if the Bank believes such action is necessary for security reasons.

18. CUSTOMER REPRESENTATIONS AND WARRANTIES

With respect to each and every check that the Customer scans into an Image using the BRD system, the Customer represents and warrants to the Bank that: (a) the Customer shall be bound by and comply with all procedures and operating guidelines established by the Bank, contained herein or subsequently created, and (b) the Customer assumes responsibility for any paper check that is transmitted which for any reason is not paid.

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19. INDEMNIFICATION

- [a] All disputes between Customer and any Indirect Customer relating to any transaction shall be settled between Customer and Indirect Customer. Customer agrees to indemnify and hold the Bank and its processors harmless from any claim, liability, loss, or expenditure relating to any such transaction and/or from Customer's breach of any of its obligations under these Terms & Conditions. The Bank retains the right to offset the Customer's account for amounts the Bank is damaged by Customer's actions.
- [b] The Customer will defend, indemnify and hold harmless the Bank and its processors and any bank in the funds transfer process against and in respect to any and all losses, liabilities, expenses and damages, including consequential, special and punitive damages, directly or indirectly resulting from: (i) the processing of any request received by the Bank under the BRD system; (ii) any breach of the provisions of these Terms & Conditions or the Rules by the customer or any of its directors, officers, employees, representatives or agents; (iii) any dispute between the Customer and any third party in connection with the use of the BRD system; (iv) any breach of the Customer's representations for any transaction submitted by the Customer described in these Terms & Conditions; (v) any loss or expenditure which results from any transaction submitted by the Customer caused by the Indirect Customer's inability to fund the transaction; and (vi) any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses (including attorney's fees) incident to the foregoing. The terms of this Section shall survive termination of these Terms & Conditions.
- [c] The Customer will indemnify and hold harmless the Bank and its processors against any claims or liabilities resulting from the loss or destruction of an indirect Customer's paper checks.

20. LIMITATIONS OF LIABILITY

THE BANK'S ENTIRE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE BANK'S DISCLAIMER OF WARRANTY (SET FORTH IN SECTION 21 BELOW) IS LIMITED TO THE REPLACEMENT OF ANY SCANNER THAT IS RETURNED TO THE BANK. IN NO EVENT SHALL THE BANK BE LIABLE TO CUSTOMER FOR ANY DAMAGES, INCLUDING LOST PROFITS, LOST SAVINGS OR OTHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE PROGRAM AND DOCUMENTATION, OR FOR ANY CLAIM BY ANOTHER PARTY. THE BANK'S DUTIES AND RESPONSIBILITIES IN CONNECTION WITH CHECK 21 TRANSACTIONS ARE LIMITED TO THOSE DESCRIBED IN THESE TERMS & CONDITIONS. THE BANK WILL BE DEEMED TO HAVE EXERCISED ORDINARY CARE AND TO HAVE ACTED REASONABLY IF THE BANK HAS ACTED IN ACCORDANCE WITH THE TERMS OF THESE TERMS & CONDITIONS AND WILL BE LIABLE FOR LOSS SUSTAINED BY CUSTOMER ONLY TO THE EXTENT SUCH LOSS IS CAUSED BY THE BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE BANK WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE BANK'S ACT OR OMISSION. THE BANK WILL HAVE NO LIABILITY FOR ANY LOSS OR DAMAGE: (A) RELATED TO THE DISHONESTY OF THE CUSTOMER'S EMPLOYEES, OFFICERS OR AGENTS; (B) RESULTING FROM ANY RECEIVING BANK'S FAILURE TO ACCEPT ANY CHECK 21 TRANSACTIONS; OR (C) RESULTING FROM ANY DELAY IN THE PERFORMANCE OF THESE TERMS & CONDITIONS, WHICH IS CAUSED BY AN ACT OF GOD, FIRE OR OTHER CASUALTY, ELECTRICAL OR COMPUTER FAILURE, DELAYS OR FAILURE TO ACT BY ANY CARRIER, MEDIUM OR AGENT OPERATING BETWEEN THE BANK AND THE CUSTOMER OR BETWEEN THE BANK AND THIRD PARTIES OR ANY OTHER CONDITION OUTSIDE THE BANK'S CONTROL. NO THIRD PARTY WILL HAVE RIGHTS OR CLAIMS AGAINST THE BANK UNDER THESE TERMS & CONDITIONS. THE TERMS OF THIS SECTION SHALL SURVIVE TERMINATION OF THESE TERMS & CONDITIONS.

21. DISCLAIMER OF WARRANTY

NO WARRANTIES WITH RESPECT TO THE SCANNER AND THE PROGRAM ARE MADE BY THE BANK NOR DOES THE BANK WARRANT THAT THE SCANNER AND THE PROGRAM WILL MEET SPECIFIC REQUIREMENTS OF THE CUSTOMER. THE BANK DOES NOT MAKE ANY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE USE OF THE SCANNER AND/OR THE PROGRAM. THE BANK DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF CUSTOMER'S ABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

22. EQUIPMENT

The Bank is not responsible for any loss, damage or injury resulting from (i) an interruption in Customer's electrical power, cable service, or telephone service; (ii) the disconnecting of Customer's cable or telephone line by Customer's local cable or telephone company or from deficiencies in Customer's line quality; (iii) any defect or malfunction of the Scanner or cable/telephone line; or (iv) for other reasons or events beyond the Bank's control.

23. THE BANK'S LIABILITY FOR FAILURE TO COMPLETE TRANSACTIONS

The Bank will process and complete all deposits properly initiated through the BRD system in accordance with the terms on the Image and the terms of these Terms & Conditions. If the Bank or its processors do not complete Check 21 Transaction on time or in the correct amount in accordance with terms on the Image and under the terms of these Terms & Conditions, the Bank's liability for Customer's losses and damages will be limited to those directly and caused by the Bank's failure, not to include indirect, consequential, special or exemplary damages. Further, the Bank will not be liable if:

- [a] The Scanner or the Program is not working properly, and Customer knew about the malfunction when Customer initiated use of the services.
- [b] Circumstances beyond the Bank's control (such as fire, flood, or delay in the U.S. Mail) prevent the proper completion of the

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transaction despite reasonable precautions by the Bank to avoid these circumstances.

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24. ENTIRE AGREEMENT; SEVERABILITY

These Terms & Conditions together with all exhibits, schedules, the Account Agreement and the Rules (as incorporated herein) represent the entire agreement and understanding of the parties. If any portion of these Terms & Conditions is found to be unenforceable, all remaining portions shall remain in full force and effect. In the event of any inconsistency or conflict between the terms of these Terms & Conditions and any present or future statute, regulation or governmental policy to which the Bank is subject and which governs or affects the transactions contemplated by these Terms & Conditions, then these Terms & Conditions shall be deemed amended to the extent necessary to comply with such statute, regulation or policy and the Bank shall incur no liability to the Customer as a result of such violation or amendment.

25. ASSIGNMENT; SUBLICENSE

Customer agrees not to assign, transfer or dispose of its rights and obligations under these Terms & Conditions and not to further sublicense, assign or transfer the Program, except as expressly provided in these Terms & Conditions.

26. GOVERNING LAW

These Terms & Conditions shall be governed by the laws of New York State and by applicable federal law. The Customer submits to the jurisdiction of the state courts located in Warren County of the State of New York and the United States District Court for the Northern District of New York, without prejudice to the Bank's right to bring an action in any other forum. The Customer waives personal service of process and consents to service of process by certified or registered mail, return receipt requested, directed to the Customer at its address set forth in the records of the Bank. The Customer waives trial by jury in any proceeding brought by either party involving, directly or indirectly, any matter in any way arising out of, related to, or connected with, these Terms & Conditions, and the Customer also waives any objection based on forum non-conveniens, improper venue or personal jurisdiction, for any proceeding brought in any federal or state court located in the State of New York.

27. WAIVER OF JURY TRIAL

The parties waive all rights to trial by jury in any litigation or other proceeding arising out of or relating to these Terms & Conditions or the services rendered hereunder.

BUSINESS REMOTE DEPOSIT FEE SCHEDULE

SERVICE FEES

Business Remote Deposit Service Fee: \$35.00 per month; Other fees may apply based on Account type
\$500.00 Termination fee unless scanner is returned in working condition.

Fees associated with this Business Remote Deposit Service are subject to change at the Bank's discretion at any and all times. The Bank will evaluate the fee(s) for these Services minimally on an annual basis. Notice of such change will be provided in accordance with Section SERVICE FEES of these Terms & Conditions.