



## Remote Deposit Capture User Agreement ("Agreement")

This Agreement contains the terms and conditions for the use of remote deposit capture services that Fortress Bank or its affiliates ("the Bank", "us," or "we") may provide to you ("you," or "User"). Other agreements you have entered into with the Bank, including the Depository Agreement and Disclosures governing your account, are incorporated by reference and made a part of this Agreement.

- 1. Services.** The remote deposit capture services ("Services") are designed to allow you to make deposits to your checking, savings, or money market savings accounts from home or other remote locations by scanning checks and delivering the images and associated deposit information to the Bank or the designated processor. 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. You will be notified of any material change via e-mail or on our website(s) by providing a link to the revised Agreement. Your continued use of the Services will indicate your acceptance of the revised Agreement. Further, the Bank 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. The Bank 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 without 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. Eligible items.** You agree to scan and deposit only checks as that term is defined in Federal Reserve Regulation CC ("Reg CC"). You agree that the image of the check transmitted to the Bank shall be deemed an "item" within the meaning of Article 4 of the Uniform Commercial Code as adopted in Illinois. You agree that you will not use the Services to scan and deposit any checks or other items as shown below:
  - a. Checks or items payable to any person or entity other than you.
  - b. Checks or items drawn or otherwise issued by you or any other person on any of your accounts or any account on which you are an authorized signer or joint account holder.
  - c. Checks or items containing obvious alteration to any of the fields on the front of the check or item, 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.
  - d. Checks or items previously converted to a substitute check, as defined in Reg CC.
  - e. Checks or items drawn on a financial institution located outside the United States.
  - f. Checks or items that are remotely created checks, as defined in Reg CC.
  - g. Checks or items not payable in United States currency.
  - h. Checks or items dated more than 6 months prior to the date of deposit.
  - i. Checks or items prohibited by the Bank's current procedures relating to the Services or which are otherwise not acceptable under the terms of your account.

- 5. Image Quality.** The image of an item transmitted to the Bank using the Services must be legible. The image quality of the items must comply with the requirements established from time to time by ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house or association.
- 6. Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Services as “For mobile deposit only” as well as the date deposited or as otherwise instructed by the Bank. You agree to follow any and all other procedures and instructions for use of the Services as the Bank may establish from time to time.
- 7. Receipt of Items.** The Bank reserves the right to reject any item transmitted through the Services, at our discretion, without liability to you. The Bank is 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 receive a confirmation that the Bank has received the image for the deposit. Receipt of such confirmation does not mean that the transmission was error free or complete.
- 8. 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. Funds deposited using the Services will be available after the Bank receives payment for the funds submitted. The Bank may make such funds available sooner based on such factors as credit worthiness, the length and extent of your relationship with the Bank, transaction and experience information, and such other factors as the Bank, in its sole discretion, deems relevant.
- 9. Disposal of Transmitted Items.** Upon your receipt of a confirmation from the Bank that we have received the image of an item, you agree to prominently mark the item as “Electronically Presented” or “VOID” and to properly store the item to ensure that it is not represented for payment. And, you agree never to represent the item. You will promptly provide any retained item, or a sufficient copy of the front and back of the item, to the Bank as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for the Bank’s audit purposes.
- 10. Deposit Limits.** The Bank reserves 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.
- 11. Hardware and Software.** In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by the Bank from time to time. See Mobile Banking Agreement and Disclosure at [www.FirstStateIL.com/disclosures](http://www.FirstStateIL.com/disclosures) for current hardware and software specifications. The Bank is not responsible for any third party software you may need to use the Services. 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.
- 12. Errors.** You agree to notify the Bank of any suspected errors regarding items deposited through the Services right away, and in no event later than 60 days after the applicable Bank account statement is sent. Unless you notify the Bank 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 the Bank for such alleged error.
- 13. Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in the Bank’s sole discretion subject to the Depository Agreement and Disclosures governing your account.

**14. Ownership & License.** You agree that the Bank 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 the Bank's business interest, or (iii) to the Bank's 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.

**15. DISCLAIMER OF WARRANTIES.** YOU AGREE YOUR USE OF THE SERVICES AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE BANK DISCLAIMS ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. THE BANK MAKES NO WARRANTY THAT THE SERVICES (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.

**16. LIMITATION OF LIABILITY.** YOU AGREE NOT TO HOLD THE BANK 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 OR OTHERWISE), EVEN IF THE BANK HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

**17. User warranties and indemnification.** You warrant to the Bank that:

- a. You will only transmit eligible items.
  - b. Images will meet the image quality standards.
  - c. You will not transmit duplicate items.
  - d. You will not deposit or represent the original item.
  - e. All information you provide to the Bank is accurate and true.
  - f. You will comply with this Agreement and all applicable rules, laws and regulations.
- You agree to indemnify and hold harmless the Bank from any loss for breach of this warranty provision.

**18. Other terms.** You may not assign this Agreement. This Agreement is entered into in Illinois, and shall be governed by the laws of the State of Illinois and of the United States. A determination that any provision of this Agreement is unenforceable or invalid shall not render any other provision of this Agreement unenforceable or invalid.