

**FIRST STATE BANK OF FORSYTH**  
**MOBILE REMOTE DEPOSIT CAPTURE AGREEMENT**

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This Mobile Check Deposit User Agreement ("Agreement") contains the terms and conditions for the use of First State Bank of Forsyth ("the Bank") Mobile Check Deposit capture services that First State Bank of Forsyth may provide to you ("you," or "User"). Other agreements you have entered into with First State Bank of Forsyth, including the **MOBILE BANKING GENERAL TERMS & CONDITIONS**, as applicable to your First State Bank of Forsyth account(s), are incorporated by reference and made a part of this Agreement.

**1. Services.** The mobile 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 or taking pictures with mobile devices and delivering the images and associated deposit information to First State Bank of Forsyth or First State Bank of Forsyth's designated processor.

**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 mail, e-mail or on our website by providing a link to the revised Agreement or by an online secure message. You must accept or reject any material change to this Agreement the next time you use the Service after First State Bank of Forsyth has made the change. 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, First State Bank of Forsyth 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 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. 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. 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.

**5. Fees.** A fee may be charged for the Service. You are responsible for paying the fees for the use of the Service. Any fee that is charged will be disclosed prior to your deposit. The Bank may change the fees for use of the Service at any time pursuant to the section titled "Acceptance of these Terms" above. You authorize the Bank to deduct any such fees from any account in your name.

**6. Eligible items.** You agree to scan and deposit only "checks" as that term is defined in Federal Reserve Regulation CC ("Reg. CC"). When the image of the check transmitted to the Bank 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.

**7. Ineligible Items for Deposits.** 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:

- Any third-party check, i.e., any item that is made payable to another party and then endorsed to you by such party.
- Any item drawn on your personal account at the Bank.

- Any item that contains evidence of alteration to the information on the check.
- Any check previously converted to a “substitute check,” as defined in Regulation CC.
- Any item issued to you by a financial institution in a foreign country.
- A “remotely created check.”
- Any item that is “non-negotiable” (whether stamped in print or as a watermark).
- Any item that has been re-deposited or returned such as “non-sufficient funds” or “refer to maker” or returned for any other reason.
- Any item that is incomplete.
- Cash.
- Savings Bonds
- Counter Checks

Deposits of this nature are grounds for the immediate termination of the Services and an immediate reversal of the transaction or credit to your account. A reversal means the amount of the item(s) deposited will be removed from your account and will reduce your account balance. The reversal may also result in a negative balance on your account.

**8. Check Requirements.** You agree to restrictively endorse any item transmitted through the Services as “FSBF Mobile Deposit Only” 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. The scanned image of the check transmitted to us using the Services must accurately and legibly provide, among other things, the following information: (1) your endorsement; (2) the information identifying the drawer and the paying bank that is preprinted on the check, including complete and accurate MICR information and the signatures; and (3) other information placed on the check prior to the time an image of the check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check. The image quality of the check must comply with the requirements established from time to time by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve Board, including the requirements under federal Regulation CC, or any other regulatory agency, clearing house or association. The Service may reject your deposit if the image is not satisfactory. Receipt of the image does not guarantee we can accept the image.

**9. Receipt of Items.** Upon receipt of the digital image, we will review the image for acceptability. You understand and agree that receipt of an image does not occur until after we notify you of receipt of the image by a confirmation screen upon the conclusion of your transaction. You understand that, in the event you receive a notification from us confirming receipt of an image, such notification does not mean that the image contains no errors or that we are responsible for any information you transmit to us. We are not responsible for any image that we do not receive. Following receipt of the image, we will process the image. Notwithstanding anything to the contrary, we reserve the right, within our sole and absolute discretion, to accept or reject any item for remote deposit into your account and, in the event we reject an item for remote deposit, you understand and agree that you must deposit the original item. You understand and agree that even if we do not initially reject an item you deposit through the Services, we may ask you to provide the original item, because, among other reasons, the paying bank deems the electronic image illegible. Our failure to reject such an item shall not limit your liability to us. You understand that any amount credited to your account for items deposited using the Services is a provisional credit and you agree to indemnify us against any loss we suffer because of our acceptance of the remotely deposited check.

**10. Availability of Funds.** For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before 3:00 pm on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after 3:00 pm or on a day we are not open, we will consider that the deposit was made on the next business day we are open. You understand that following our receipt and processing of the image, funds from the check will be made available for your withdrawal and/or use on the **NEXT** business day after we receive your deposit; however, longer delays may apply. You also understand that credit is provisional until settlement is final. Refer to our Funds Availability Policy for complete information.

**11. Retention and 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 “**RDC and the date**” to ensure that it is not re-presented for payment.

- You agree to securely store each original check that you deposit using the Services for a period of at least thirty (30) days after transmission to us. After thirty (30) days and no later than sixty (60) days after you transmit the original check, you will safely destroy the original check.
- You understand and agree that you are responsible for any loss caused by your failure to secure the original checks.
- You agree never to re-present the check for deposit.
- You will promptly provide any retained check, or a sufficient copy of the front and back of the check, to the Bank as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any check, or for our audit purposes. If you are unable to provide a sufficient copy of the front and back of the check you will be liable for any unresolved claims by third parties.

**12. Deposit Limits.** We may establish limits on the dollar amount and/or number of items or deposits from time to time. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. 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 to allow such a deposit at other times. The current daily dollar limit is \$2,500.00 per business day for banking clients. There is no daily or monthly statement cycle limit on the number of items, as long as the respective dollar limits are not exceeded. Daily deposit limits may vary for users of other services with the Bank.

**13. 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 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.

**14. Errors in Transmission.** By using the Services, you accept the risk that an item may be intercepted or misdirected during transmission. The Bank bears no liability to you or others for any such intercepted or misdirected items or information disclosed through such errors.

**15. User Warranties and Indemnification.** You make the following warranties and representations with respect to your use of the Services and each image of an original check you transmit to us using the Services:

- Each image of a check transmitted to us is a true and accurate rendition of the front and back of the original check, without any alteration, and the drawer of the check has no defense against payment of the check.
- The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate.
- Each check that you submit to us for deposit will not be resubmitted in any format to us or to any other person for payment and will not cause the same drawer's account to be debited twice.

- Other than the digital image of an original check that you remotely deposit through the Services, there are no other duplicate images of the original check.
- Each original check was authorized by the drawer in the amount stated on the original check and to the payee stated on the original check.
- You have not knowingly failed to communicate any material information to us.
- You will retain possession of each original check deposited using the Services for the required retention period and neither you nor any other party will submit the original check for payment.
- You will not use the Services and/or your accounts for any illegal activity or transactions.
- Files and images transmitted to us will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.

You understand and agree that you are required to indemnify us and hold us harmless against any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising out of your use of the Services and/or breach of this Agreement. You understand and agree that this paragraph shall survive termination of this Agreement.

**16. Cooperation with Investigations.** 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 deposited through the Service in your possession and your records relating to such items and transmissions.

**17. Termination.** You may, by written request, terminate the Services provided for in this Agreement. We may terminate your use of the Services at any time. In the event of termination of the Services, you will remain liable for all transactions performed on your account.

**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 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.

**21. 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. WE DISCLAIM 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. WE MAKE 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.

**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 OR OTHERWISE), EVEN IF BANK OF SOMEWHERE HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

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