

## MOBILE DEPOSIT CAPTURE AGREEMENT

This Agreement contains the terms and conditions for the use of Lea County State Bank mobile capture service that Lea County State Bank (“LCSB”, “us,” or “we”) may provide to you (“you,” or “User”).

- A. **Service.** Mobile capture service (“Service”) is designed to allow you to make deposits to your checking or savings accounts from home or other remote locations by scanning checks and delivering the images and associated deposit information to LCSB. There is currently no charge for the Service.
- B. **Acceptance of these Terms.** Your use of the Service constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change or on our website by providing a link to the revised Agreement. Your continued use of the Service will indicate your acceptance of the revised Agreement. Further, LCSB reserves the right, in its sole discretion, to change, modify, add, or remove portions from the Service. Your continued use of the Service will indicate your acceptance of any such changes to the Service.
- C. **Limitations of Service.** When using the 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. Some of the Service has 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 Service, in whole or in part, or your use of the Service, in whole or in part, immediately and at any time without prior notice to you.
- D. **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 LCSB shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code as adopted in New Mexico. You agree that you will not use the Service 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 LCSB’s current procedures relating to the Service or which are otherwise not acceptable under the terms of your LCSB account.
- E. **Image Quality.** The image of an item transmitted to LCSB using the Service 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.
- F. **Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Service as **“For mobile deposit only at LCSB”** on line one and your signature on line 2. You agree to follow any and all other procedures and instructions for use of the Service as LCSB may establish from time to time. **Checks without this endorsement will not be processed.**

- G.** Receipt of Items. We reserve the right to reject any item transmitted through the Service, at our discretion, without liability to you. 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 receive a confirmation from LCSB that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or complete.
- H. Deposit may be subject to a hold.** The hold duration is usually three (3) to five (5) business days after the date in which we accept your deposit. For determining the availability of your deposit, every day is a business day except Saturdays, Sundays, and Federal Holidays. Please note that the Expedited Funds Availability Act (Reg. CC) does apply to deposits made using the Service. **Funds not on hold will be available the next business day if received by 5:00 pm MST.**
- I.** Disposal of Transmitted Items. You can verify the image was successfully sent to LCSB by viewing the previous deposits in the Deposit Check menu. Upon the acceptance that we have received the image of an item, you agree to prominently mark the item as “Electronically Presented” or “VOID” and to properly dispose of 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 LCSB as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for LCSB’s audit purposes.
- J.** Deposit Limits. We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Service and to modify such limits from time to time.
- K.** Errors. You agree to notify LCSB of any suspected errors regarding items deposited through the Service right away, and in no event later than 60 days after the applicable LCSB account statement is sent. Unless you notify LCSB within 60 days, such statement regarding all deposits made through the Service shall be deemed correct, and you are prohibited from bringing a claim against LCSB for such alleged error.
- L.** Presentment. The manner in which the items are cleared, presented for payment, and collected shall be in LCSB’s sole discretion subject to the Depository Agreement and Disclosures governing your account.
- M.** Ownership & License. You agree that LCSB retains all ownership and proprietary rights in the Service, associated content, technology, and website(s). Your use of the Service 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 Service. Without limiting the restriction of the foregoing, you may not use the Service (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to LCSB’s business interest, or (iii) to LCSB’s actual or potential economic disadvantage in any aspect. You may use the Service 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 Service.
- N.** **DISCLAIMER OF WARRANTIES. YOU AGREE YOUR USE OF THE SERVICE 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 SERVICE, 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 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 SERVICE OR TECHNOLOGY WILL BE CORRECTED.

- O. 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 SERVICE 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 SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF LCSB HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.
- P. User warranties and indemnification. You warrant to LCSB 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 LCSB is accurate and true.
  - f. You will comply with this Agreement and all applicable rules, laws and regulations.
  - g. You agree to indemnify and hold harmless LCSB from any loss for breach of this warranty provision.
- Q. Other terms. You may not assign this Agreement. This Agreement is entered into in Hobbs, New Mexico, and shall be governed by the laws of the State of New Mexico 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.