This Agreement contains the terms and conditions for the use of First State Bank’s Big on Mobile Capture service and/or other remote deposit capture services that First State Bank may provide to you. Other agreements you have entered into with the bank, including the Deposit Account Agreement and Disclosures governing your First State Bank Account, are incorporated by reference and made a part of this Agreement.

1. **Services.** The mobile deposit capture services (the “Services”) are designed to allow you to make deposits to your First State Bank checking, savings, or money market accounts by delivering images to First State Bank through the use of your device and First State Bank’s Big on Mobile application.

2. **Acceptance and Modifications 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 e-mail or on our website by providing a link to the revised Agreement. Your continued use of the services will indicate your acceptance of the revised Agreement. Further, First State 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 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 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.

4. **Guarantee Specific to Deposits Received for Credit to a Consumer or Business Account.** The use of the Service for purpose of depositing to a Consumer or Business Account constitutes an understanding and agreement of personal liability for any expenses First State Bank incurs in attempting to obtain final payment for the item in question, outside the routine costs associated with item processing, in the event of a default by you or your Business. This includes but is not limited to recovery of the amount credited in the event of non-payment, collection costs and attorney’s fees as applicable, as well as any and all costs associated with First State Bank enforcing this Guarantee. This Guarantee shall benefit and inure to First State Bank and its successors.

5. **Compliance with Law, Rules, and Regulations**. You agree to comply with all existing and future operating procedures used by First State Bank in processing transactions. You further agree to comply with, and be bound by, all applicable state or federal laws, rules, regulations, orders, guidelines, operating circulars, and pronouncements affecting checks and ACH transactions, including, but not limited to all rules and procedural guidelines established by the Federal Trade Commission , the Board of Governors of the Federal Reserve, and any other clearinghouse or other organization in which First State Bank is a member or to which rules First State Bank has agreed to be bound (the “Rules”). The Rules are incorporated herein by reference. In the event of conflict between the terms of the Agreement and the Rules, the Rules will control. You also agree that you will not engage in activity directly or indirectly related to the use of the product that is illegal or fraudulent.

6. **Eligible items**. You agree to scan and deposit only “checks” as that term is defined in the Federal Regulation CC (“Reg CC”). You agree that the image of the check transmitted to First State Bank 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. Check 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 signor 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, is fraudulent or otherwise not authorized by the owner of the account on which 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. Check or items not payable in United States currency.

h. Check or items dated more than six (6) months prior to the date of deposit.

i. Checks or items prohibited by First State Bank’s current policies and procedures relating to the Service or which are otherwise not acceptable under the terms of your First State Bank account.

7. **Image quality.**The image of an item transmitted to First State Bank using the Services must be legible. The image quality of the item(s) must comply with the requirements established from the time to time by ANSI, the Board of Governors of the Federal Reserve Board, or any other regulatory agency, clearing house, or association.

8. **Endorsements and Procedures.** You agree to restrictively endorse any item transmitted through the Service as “For deposit only, FSB account #\_\_\_\_\_\_” or as otherwise instructed by First State Bank. You agree to follow any and all other procedures and instructions for use of the Services as First State Bank may establish from time to time.

9. **Receipt of Items**. We reserve the right to reject any item transmitted through the Services, 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 First State Bank that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or complete.

10. **Rejection of Deposit**. You are not liable for any service or late fee levied against you due to the rejection of any item. In all cases, you are responsible for any loss or overdraft plus any applicable fee to your Account due to an item being returned.

11. **Items Returned Unpaid**. A notice will be sent to you of transactions that are unable to process due to returned items. With respect to any item that you transmit via mobile capture that is credited to your account, in the event such item is dishonored, you authorize First State Bank to debit the amount of such item from the account. Check images that are returned for image quality adjustments will have to be submitted in paper to First State Bank upon receipt of notice of such, to be physically reprocessed, they may not be re-scanned.

12. **Business Day and Availability Disclosure.** The Service is available Monday through Friday between 8:00 am and 2:45 p.m. Mountain Standard Time, except during Federal Holiday, and any other day that First State Bank is not open for business, or such other hours as established by First State Bank. Transmissions processed after these business hours on a business day, or any other day that is not a business day are treated as occurring the next business day.

13. **Availability of Funds**. You agree that items transmitted using the Service are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. Funds deposited using the Services will be available after First State Bank receives payment for the funds submitted. First State Bank may make such funds available sooner based on such factors as credit worthiness, the length and extent of your relationship with us, transaction and experience information, and such other factors as First State Bank, in its sole discretion, deems relevant.

14. **Disposal of Transmitted Items**. Upon your receipt of a confirmation from First State Bank that we have received the image of an item, you agree to mark the item as “Electronically Presented” or “Void” and to properly dispose of an item to ensure that it is not represented for payment and you agree never to represent the item. You agree to maintain the original item for a period of two weeks from the date of deposit. You will promptly provide any retained item, or sufficient copy of the front and the bank of the item to First State Bank as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any items or First State Bank’s auditing purposes.

15. **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.

16. **Hardware and Software**. In order to use the Services, you must obtain and maintain, at your expense, compatible hardware and software as specified by First State Bank. See [www.SocorroBanking.com](https://www.socorrobanking.com/Personal/Services/Big-On-Mobile) for current hardware and software specifications. First State Bank is not responsible for any third party software you may need to use the Service. 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 the time of download and installation.

17. **Errors.** You agree to notify First State Bank immediately of any suspected errors regarding items deposited through the Services right away, and in any event not later than 60 days after the applicable First State Bank account statement is sent. Unless you notify First State Bank within 60 days, such statement regarding all deposits made through the use of the Service shall be deemed correct, and you are barred from bringing a claim against First State Bank for any alleged error.

18. **Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in First State Bank’s sole discretion subject to the Depository Agreement and Disclosures governing your account.

19. **Ownership & License**. You agree that First State Bank 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 restrictions of the foregoing, you may not use the Services (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to First State Bank’s business interest, or (iii) to First State Bank’s actual or potential economic disadvantages 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 to not reverse engineer or reverse compile any of the technology used to provide the Service.

20. **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. First State Bank disclaims all warranties of any kind arising out of or relating to 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 non-infringement. First State 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 error in the services or technology will be corrected.

21. **Limitation of Liability.** You agree that First State Bank is not liable for any direct, indirect, special, or consequential losses of damages in any way related to your use of the Service, including, but not limited to our rejection of a deposit made using the Service and technical problems you have while using the Service (for example, poor image quality or problems with your hardware or software).

22. **User warranties and indemnification.** You warrant to First State 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 First State Bank is accurate and true; and

f. You will comply with the Agreement and all applicable rules, laws and regulations

You agree to indemnify and hold harmless First State Bank from any loss for breach of this warranty provision.

23. **Other terms**. You may not assign this Agreement. This Agreement is entered into in the state of 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.

24. **Termination**. You may, by written request, terminate the Service provided for in this Agreement. At our sole discretion, First State Bank reserves the right to terminate the use of the Service at any time. In the event of termination of the Services, you will remain liable for all transactions preformed on your Account.