

## **Remote Deposit Capture User Agreement (“Agreement”):**

This Agreement contains the terms and conditions for the use of Kleberg Mobile Deposit and/or other remote deposit capture product that Kleberg First National Bank or its affiliates (“Kleberg Bank”, “us,” or “we”) may provide to you (“you,” or “User”). Other agreements you have entered into with Kleberg Bank, including the Depository Agreement and Disclosures governing your Kleberg Bank account, are incorporated by reference and made a part of this Agreement.

- 1. Product.** The remote deposit capture product (“Product”) are designed to allow you to make deposits to your checking, savings, or money market accounts from your mobile phone by taking a picture of the front and back of the check and delivering the images and associated deposit information to Kleberg Bank or Kleberg Bank’s designated processor. There is currently no charge for the Product, however Kleberg Bank reserves the right to charge for this Product with proper notice.
- 2. Acceptance of these Terms.** Your use of the Product 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 Product will indicate your acceptance of the revised Agreement. Further, Kleberg Bank reserves the right, in its sole discretion, to change, modify, add, or remove portions from the Product. Your continued use of the Product will indicate your acceptance of any such changes to the Product.
- 3. Limitations of Service.** When using the Product, 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. Product may 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 Product, in whole or in part, or your use of the Product, in whole or in part, immediately and at any time without prior notice to you.
- 4. Eligible items.** You agree to deposit only checks as defined in Federal Reserve Regulation CC (“Reg CC”). You agree that the image of the check transmitted to Kleberg Bank shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code as adopted in Texas. You agree that you will not use the Product 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 Kleberg Bank’s current procedures relating to the Product or which are otherwise not acceptable under the terms of your Kleberg Bank account.
- 5. Image Quality.** The image of an item transmitted to Kleberg Bank using the Product 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 endorse any item transmitted through the Product as “For deposit only, Kleberg Bank, Acct # (\_\_\_\_\_) or as otherwise instructed by Kleberg Bank. You agree to follow any and all other procedures and instructions for use of Product as Kleberg Bank may establish from time to time.
- 7. Receipt of Items.** We reserve the right to reject any item transmitted through the Product, 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 Kleberg Bank that we have received the image. 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 Product are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. Funds deposited using the Product will be available after Kleberg Bank receives payment for the funds submitted. Kleberg 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 Kleberg Bank, in its sole discretion, deems relevant.
- 9. Disposal of Transmitted Items.** Upon your receipt of a confirmation from Kleberg Bank that we have received the image of an item, you agree to prominently mark the item as “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 Kleberg Bank as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any item, or for Kleberg Bank’s audit purposes.
- 10. Deposit Limits.** We reserve the right to impose limits on the amount(s) and/or number of deposits that you transmit using the Product and to modify such limits from time to time. You will be notified via email if such limits are imposed.
- 11. Hardware and Software.** In order to use the Product, you must obtain and maintain, at your expense, compatible hardware and software as specified by Kleberg Bank from time to time. See [www.KlebergBank.com](http://www.KlebergBank.com) for current hardware and software specifications. Kleberg Bank is not responsible for any third party software you may need to use the Product. 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 Kleberg Bank of any suspected errors regarding items deposited through the Product right away, and in no event later than 60 days after the applicable Kleberg Bank account statement is sent. Unless you notify Kleberg Bank within 60 days, such statement regarding all deposits made through the Product shall be deemed correct, and you are prohibited from bringing a claim against Kleberg Bank for such alleged error.
- 13. Presentment.** The manner in which the items are cleared, presented for payment, and collected shall be in Kleberg Bank’s sole discretion subject to the Depository Agreement governing your account.
- 14. Ownership & License.** You agree that Kleberg Bank’s retains all ownership and proprietary rights in the Product, associated content, technology, and website(s). Your use of the Product 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 Product. Without limiting the restriction of the foregoing, you may not use the Product (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to Kleberg Bank’s business interest, or (iii) to Kleberg Bank’s actual or potential economic disadvantage in any aspect. You may use the Product 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 Product.

- 15. DISCLAIMER OF WARRANTIES.** YOU AGREE YOUR USE OF THE PRODUCT 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 PRODUCT, 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 PRODUCT (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 PRODUCT OR TECHNOLOGY WILL BE CORRECTED.
- 16. 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 PRODUCT 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 PRODUCT, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF KLEBERG BANK HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.
- 17. User warranties and indemnification.**  
You warrant to Kleberg 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 Kleberg 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 Kleberg 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 Texas, and shall be governed by the laws of the State of Texas 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.